

Planning Committee

Date: Wednesday, 15th December, 2021

Time: 11.00 am

Venue: Banqueting Room - Guildhall, Bath

Agenda

To: All Members of the Planning Committee

Councillors: - Sue Craig (Chair), Sally Davis (Vice Chair), Shelley Bromley, Vic Clarke, Paul Crossley, Lucy Hodge, Duncan Hounsell, Shaun Hughes, Dr Eleanor Jackson and Hal MacFie

Permanent Substitutes: - Councillors: Rob Appleyard, Michael Evans, Andrew Furse, Liz Hardman, Ruth Malloy, Vic Pritchard, Matt McCabe, Manda Rigby, Brian Simmons and Ryan Wills

Chief Executive and other appropriate officers
Press and Public

The agenda is set out overleaf.



Marie Todd

Democratic Services

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NOTES:

1. **Inspection of Papers:** Papers are available for inspection as follows:

Council's website: <https://democracy.bathnes.gov.uk/ieDocHome.aspx?bcr=1>

2. **Details of decisions taken at this meeting** can be found in the minutes which will be circulated with the agenda for the next meeting. In the meantime, details can be obtained by contacting as above.

3. **Recording at Meetings**

The Openness of Local Government Bodies Regulations 2014 now allows filming and recording by anyone attending a meeting. This is not within the Council's control. Some of our meetings are webcast. At the start of the meeting, the Chair will confirm if all or part of the meeting is to be filmed. If you would prefer not to be filmed for the webcast, please make yourself known to the camera operators. We request that those filming/recording meetings avoid filming public seating areas, children, vulnerable people etc; however, the Council cannot guarantee this will happen.

The Council will broadcast the images and sounds live via the internet www.bathnes.gov.uk/webcast. The Council may also use the images/sound recordings on its social media site or share with other organisations, such as broadcasters.

4. **Public Speaking at Meetings**

The Council has a scheme to encourage the public to make their views known at meetings. They may make a statement relevant to what the meeting has power to do. They may also present a petition or a deputation on behalf of a group.

Advance notice is required not less than two working days before the meeting. This means that for Planning Committee meetings held on Wednesdays, notice must be received in Democratic Services by 5.00pm the previous Monday.

Further details of the scheme can be found at:

<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=12942>

5. **Emergency Evacuation Procedure**

When the continuous alarm sounds, you must evacuate the building by one of the designated exits and proceed to the named assembly point. The designated exits are signposted. Arrangements are in place for the safe evacuation of disabled people.

6. **Supplementary information for meetings**

Additional information and Protocols and procedures relating to meetings

<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=13505>

Planning Committee- Wednesday, 15th December, 2021

at 11.00 am in the Banqueting Room - Guildhall, Bath

A G E N D A

1. EMERGENCY EVACUATION PROCEDURE

The Chairman will ask the Democratic Services Officer to draw attention to the emergency evacuation procedure.

2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

3. DECLARATIONS OF INTEREST

At this point in the meeting declarations of interest are received from Members in any of the agenda items under consideration at the meeting. Members are asked to indicate:

(a) The agenda item number and site in which they have an interest to declare.

(b) The nature of their interest.

(c) Whether their interest is **a disclosable pecuniary interest** *or* an **other interest**, (as defined in Part 2, A and B of the Code of Conduct and Rules for Registration of Interests)

Any Member who needs to clarify any matters relating to the declaration of interests is recommended to seek advice from the Council's Monitoring Officer before the meeting to expedite dealing with the item during the meeting.

4. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN

5. ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS

(1) At the time of publication, no items had been submitted.

(2) To note that, regarding planning applications to be considered, members of the public who have given the requisite notice to the Democratic Services Officer will be able to make a statement to the Committee immediately before their respective applications are considered. There will be a time limit of 3 minutes for each proposal, i.e. 3 minutes for the Parish and Town Councils, 3 minutes for the objectors to the proposal and 3 minutes for the applicant, agent and supporters. This allows a maximum of 9 minutes per proposal.

6. MINUTES OF THE PREVIOUS MEETING (Pages 5 - 22)

To confirm the minutes of the meeting held on 17 November 2021.

7. SITE VISIT LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE (Pages 23 - 56)

8. MAIN PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE (Pages 57 - 204)

The following applications will be considered in the morning session of the meeting (from 11am):

- 20/02479/OUT – Parcel 1991, Bath Road, Keynsham
- 18/02499/FUL and 18/02500/LBA – 32-33 Victoria Buildings, Westmoreland, Bath
- 21/04276/REG13 – 23 Grosvenor Place, Lambridge, Bath

The following applications will be considered in the afternoon session of the meeting (from 2pm):

- 21/00889/FUL - The Wharf, Greensbrook, Clutton
- 21/03981/FUL - 18 St Catherine's Close, Bathwick, Bath
- 21/04002/FUL - 97 Mount Road, Southdown, Bath
- 21/02654/FUL - 10 Grange Road, Saltford

9. NEW PLANNING APPEALS LODGED, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES (Pages 205 - 212)

The Committee is asked to note the report.

The Democratic Services Officer for this meeting is Marie Todd who can be contacted on 01225 394414.

Delegated List Web Link: <http://www.bathnes.gov.uk/services/planning-and-building-control/view-and-comment-planning-applications/delegated-report>

PLANNING COMMITTEE**Minutes of the Meeting held**

Wednesday, 17th November, 2021, 11.00 am

Councillors: Sue Craig (Chair), Sally Davis (Vice-Chair), Shelley Bromley, Vic Clarke, Paul Crossley, Lucy Hodge, Duncan Hounsell, Shaun Hughes, Dr Eleanor Jackson and Hal MacFie

66 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the emergency evacuation procedure.

67 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence.

68 DECLARATIONS OF INTEREST

Cllr Jackson stated that she is a member of the Radstock Co-operative Society. However, this has no connection with the Scala co-operative store and so there is no conflict of interest.

69 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN

There was no urgent business.

70 ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS

The Democratic Services Officer informed the meeting that there were a number of people wishing to make statements on planning applications and that they would be able to do so when these items were discussed.

71 MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 20 October 2021 were confirmed and signed as a correct record.

72 MAIN PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE

The Committee considered:

- A report by the Head of Planning on various planning applications.
- An update report by the Head of Planning on items 1 and 2 attached as

Appendix 1 to these minutes.

- Oral statements by members of the public and representatives. A copy of the speakers' list is attached as *Appendix 2* to these minutes.

RESOLVED that in accordance with the delegated powers, the applications be determined as set out in the decisions list attached as *Appendix 3* to these minutes.

Item No. 1

Application No. 20/02479/OUT

Site Location: Parcel 1991, Bath Road, Keynsham – Outline application for up to 5,700sqm (GEA) of flexible use commercial development falling within Use Classes B1(b), B1(c), B2, and B8 with primary access onto Bath Road. All matters reserved except access.

The Case Officer reported on the application and his recommendation to delegate to permit. He informed members that on page 44 of the report the reference to the "Somerdale" site should be disregarded as this was an error. He also advised that a further condition was required because of a recent update to the Use Classes Order to ensure that the agreed uses do not include the wider use classes permitted under the new Class E.

Two local residents spoke against the application.

The agent spoke in favour of the application.

Cllr Andy Wait, local ward member, spoke against the application. He expressed concern about the likely increase in traffic, the type of industrial activity that could move onto the site and the increase in carbon emissions which would be contrary to the Council's green agenda.

Officers then responded to questions as follows:

- Policy KE3a states that primary access to the employment land should be from Pixash Lane. It does not specify that there should be no access onto the A4 or that Pixash Lane should be the sole access point and so in the officer's view the application does not conflict with this policy. The applicant has explored other access arrangements but there are issues with third party land ownership and other solutions were found to be undeliverable. There are no highway safety concerns.
- No comments have been received from the Highways Authority about the Metro-Bus scheme and officers do not believe that the proposals would prejudice the scheme.
- The proposed s106 contribution makes up part of a package of contributions from developers of this site. It will provide funding for the improvement of the shared walkway/cycleway, upgraded pedestrian refuges and road upgrades.
- Vehicle restrictions will be in place to permit all operations, deliveries and despatches from the site only between 7am to 7pm Monday to Saturday and 9am to 5pm on Sundays and Bank Holidays. There is no restriction on the type of business within the use classes specified. Businesses are subject to environmental protection regulations relating to noise restrictions. The

proposed landscaping buffer will also provide an opportunity for some acoustic screening.

- The site is already allocated as an employment site for the use classes listed. Therefore, the amount of traffic that would be generated has already been taken into account following strategic assessments.
- The average wait time calculated for an HGV turning right onto the A4 (83 seconds) is felt to be appropriate.
- The £14k contribution for public transport is calculated based on the size and type of development.
- As part of the highways assessment a growth factor has been added to the survey results.
- The part of the buffer zone next to no. 279 Bath Road would be at least 10m.
- The masterplan submitted is policy compliant and does not require approval by other parties such as Town and Parish Councils.
- If there were an exit via Worlds End Lane, then HGVs would not have to pass any residential properties.
- The layout of the site will form part of the reserved matters application.

Cllr MacFie, local ward member on the committee, stated that the best solution would be for HGVs to access and exit the site via Worlds End Lane so that they would not drive past any residential properties. He felt that the proposal would create a large number of vehicle movements and to open up an access onto the A4 makes no sense. He also expressed concern about the B2 use class status because the site is so close to residential properties which could have a detrimental impact on residential amenity. He felt that it would be helpful for members to view the location and moved that consideration of the application be deferred pending a site visit.

Cllr Hounsell seconded the motion. He explained that the A4 is narrower at this junction and felt that it would be helpful for members to view the site to consider any highway safety issues that would be caused by vehicles turning, and by the creation of a third lane on the A4.

The motion was put to the vote and it was RESOLVED by 7 votes in favour and 3 votes against to DEFER consideration of the application pending a SITE VISIT.

Item No. 2

Application No. 21/04049/FUL

Site Location: The Scala, Shaftesbury Road, Oldfield Park, Bath – Redevelopment of The Scala site including the demolition of existing extensions and new extensions to improve retail store at ground floor level, provide a new community space and student accommodation (16 bed spaces) at first floor levels. Erection of student accommodation including 72 student bedrooms and associated ancillary space. Erection of a residential block (C3) including 9 apartments. Parking for cars and cycles and associated landscaping (Resubmission)

The Case Officer reported on the application and the recommendation to delegate to permit. He explained that this is a resubmission of an application that the committee had previously refused. The proposal is now one storey lower following concerns raised regarding bulk and massing.

The agent spoke in favour of the application.

The Case Officer then responded to questions as follows:

- The residential accommodation has been reduced from 16 to 9 units. The courtyard building has been reduced by one storey and the student accommodation has been reduced from 92 to 88 units.
- There is still a deficit of purpose-built student accommodation (PBSA) at the end of the plan period. New PBSA will reduce the need for private lettings and HMO properties in the city. The current policy seeks to prevent student accommodation in enterprise zones or the central area. There is no requirement for the applicant to prove there is a need for this type of accommodation.
- Policy CP10 requires a mix of accommodation but does not specify what this mix will be. This is an area of the city which has a high number of HMO properties, but the new development will add to this mix.
- There are no existing trees on this site and the landscaping detail will form part of the conditions.
- A sunlight assessment was submitted with the previous application and only minor impacts were identified.
- There would be a contribution towards the enhancement of public open space.

Cllr Bromley stated that the proposal is an improvement on the current 1960s building, will offer greater access and provide additional community space. She was disappointed that seven apartments had been lost but felt that overall, this will be an enhancement.

Cllr Hughes also felt that this is an improvement on the previous scheme. However, he felt that the housing mix is wrong as there are already many students and HMO properties in this area. He stated that the student block does not enhance the area.

Cllr Crossley stated that the applicant has listened to the concerns previously expressed by the committee and has made improvements. The proposal provides a good mix of accommodation, although more residential units would have been preferable. He noted the positive comments made by the Bath Preservation Trust.

Cllr Davis moved the officer recommendation to delegate to permit. This was seconded by Cllr Clarke.

Cllr Hodge felt that key worker and family accommodation is needed in this area rather than additional student accommodation. This is an important site, and the right development should be sought.

Cllr Jackson stated that the site will be improved but that the committee should aspire to the best development for the area. She would prefer to see key worker accommodation or affordable housing. However, she did not feel that there were policy reasons to refuse the application.

The motion was put to the vote and it was RESOLVED by 8 votes in favour and 2

votes against to DELEGATE TO PERMIT the application subject to conditions and the completion of a s106 agreement.

Item N. 3

Application No. 21/02929/FUL

Site Location: 2 Molly Close, Temple Cloud, BS39 5AE – Erection of rear extension with flat roof dormer built into the roof space (retrospective)

The Case Officer reported on the application and his recommendation to delegate to permit. He explained that updated plans have now been submitted which address the concerns raised by the objector relating to overlooking.

The Case Officer then responded to questions as follows:

- The window which has raised concerns regarding overlooking has now been removed and the remaining window shown on the updated plans has been reduced in size.
- The use of rooms can change but the window shown on the current bathroom must still consist of obscured glass which will prevent overlooking.
- If updated plans are received it is at the officer's discretion as to whether these are re-advertised for consultation. As the updated plans, in this case, address the concerns of the objector then it was considered to be unnecessary to re-advertise and there is no requirement to do so.
- The plans showing the parking arrangements are indicative only. Three parking spaces would be required for a five bedroomed property.

Cllr Crossley then moved the officer recommendation to delegate to permit. This was seconded by Cllr Davis.

The motion was put to the vote and it was RESOLVED unanimously to DELEGATE TO PERMIT the application subject to conditions.

73 NEW PLANNING APPEALS LODGED, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES

The Committee considered the appeals report.

The Deputy Head of Planning agreed to provide committee members with further information regarding the following matters:

- Details of whether any costs were awarded against the Council in relation to the three appeals that were allowed.
- Further information as to why the Planning Inspector over-ruled the committee decision to refuse the Wansdyke Business Centre application.
- An update regarding the potential appeal in respect of the Mineral Hospital application.

RESOLVED to NOTE the report.

The meeting ended at 2.25 pm

Chair

Date Confirmed and Signed

Prepared by Democratic Services

BATH AND NORTH EAST SOMERSET COUNCIL

Planning Committee

Date 17th November 2021

**OBSERVATIONS RECEIVED SINCE THE PREPARATION OF THE MAIN
AGENDA**

ITEMS FOR PLANNING PERMISSION

Item No.	Application No.	Address
01	20/02479/OUT	Parcel 1991 Bath Road Keynsham

Representations

One additional objection to the application has been received. No new issues where raised that haven't been addressed in the main committee report.

Ecology

The following ecology update is provided.

Whilst the proposals will impact existing linear habitat features which are may be used by bats, no roosts have been identified on the site (the trees located within the site are considered to offer negligible potential roosting features). A Natural England licence is therefore not required for the proposed development

Planning Obligations

Following a review and discussions with the applicant, it has been agreed that the Heads of Terms should be updated to incorporate the securing of a pedestrian and cycle link through the site between the A4 Bath Road and Worlds End Lane with the detail of this route to be identified as part of the reserved matters applications.

The first part of the officer recommendation (relating to planning obligations) is therefore updated as below:

RECOMMENDATION
DELEGATE TO PERMIT

1.) Authorise the Head of Legal and Democratic Services to enter into a Section 106 Agreement to secure:

1. A contribution of £104,103 towards improving the walking and cycle route on Bath Road or other sustainable transport measures to mitigate the increase in trips generated by the development
2. A contribution of £14,625 towards providing local bus services should be sought to provide access to public transport to residential areas of Keynsham and Saltford
3. A fee of £5,000 to amend the parking restriction TRO on Bath Road
4. A Full Travel Plan submitted to and approved in writing by the Local Planning Authority prior to occupation of the development.
5. Targeted Recruitment and Training obligations and contribution
6. Contribution of £3,000 towards 2 fire hydrants
7. *Securing a pedestrian and cycle link across the site from A4 Bath Road to Worlds End Lane*

Item No.	Application No.	Address
02	21/04049/FUL	The Scala Shaftesbury Road Oldfield Park Bath

Legislation

The committee report refers to the duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the preservation or enhancement of the character or appearance of the surrounding conservation area.

The site falls outside of the Conservation Area and therefore the duty does not apply. However, the impact of the proposals upon the setting of the Conservation Area remains a material consideration.

Similarly, the report refers to the duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 '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.'

There are no listed buildings within the immediate vicinity of the site. The nearest is the Oldfield Park Baptist Church (Grade II) which is approximately 180m to the north-west of the site. Given the height, scale and design of the proposals they are not considered to have any impact upon the setting of any listed buildings.

World Heritage Site

To clarify the assessment in the committee report, it is considered that the proposals, due to their height, scale, massing and design, would preserve the Outstanding Universal Value of the World Heritage Site and therefore are in accordance with policy B4 of the Core Strategy.

Environmental Impact Assessment

The Council has adopted a screening opinion in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and has concluded that it does not represent EIA development.

Other Matters

The recommendation references the 'Director of Legal and Democratic Services', but as this post no longer exists and this reference should be to the 'Head of Legal and Democratic Services'.

Planning Obligations

The Heads of Terms are updated to include the funding of a car club bay including all necessary TRO and all implementation costs.

The first part of the officer recommendation (relating to planning obligations) is therefore updated as below:

RECOMMENDATION DELEGATE TO PERMIT

1.) Authorise the Head of Legal and Democratic Services to enter into a Section 106 Agreement to secure:

1. A contribution of £104,880 for or towards the enhancement and maintenance of Public Open Space within the Westmoreland, Oldfield, Moorlands and Southdown wards;
2. Details of management company and operation of the site and open space;
3. Obligations to secure off-site highway works together with funding of the required Traffic Regulation Order together with implementation costs;
4. The phasing of the development to ensure the delivery of the retail unit and community use in the first phase;
5. The provision of fire hydrants on the development where necessary and a financial contribution towards their maintenance for 5 years.
6. *Funding and implementation of a car club bay*

Planning Conditions

Condition 5 (student management plan) has been updated to reflect current practice and to ensure that it covers all relevant matters relating to the management of the proposed student accommodation. Condition 5 is therefore updated as below:

5. Student Management Plan (Pre-occupation)

The student accommodation hereby approved shall not be occupied until a student management plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include the following:

- I. A restriction on the use of the parking spaces by students;*
- II. Measures to prevented student occupiers from parking cars within a 1km radius of the site;*
- III. The arrangements for student drop off / pick up at the start and end of each University semester;*
- IV. Details of refuse storage, management and collection;*
- V. Details of site security and access arrangements;*
- VI. Details of the 24hr on-site management of the student blocks;*

VII. *Contact information for third parties to report student behaviour complaints.*

The student accommodation use shall thereafter operate only in accordance with the approved student management plan.

Reason: In the interests of highways safety, residential amenity, to reduce potential noise and disturbance and to ensure the good management of the building in accordance with policies D6, ST7 and North East Somerset Placemaking Plan.

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TH AND NORTH EAST SOMERSET COUNCIL

**MEMBERS OF THE PUBLIC AND REPRESENTATIVES SPEAKING AT THE
MEETING OF THE PLANNING COMMITTEE ON WEDNESDAY 17 NOVEMBER
2021**

MAIN PLANS LIST			
ITEM NO.	SITE NAME	NAME	FOR/AGAINST
1	Parcel 1991, Bath Road, Keynsham	Mike Williams	Against (To share 3 minutes)
		Yvonne Gravell	
		Ralph Salmon (Agent)	For
		Cllr Andy Wait (Local Ward Member)	N/A
2	The Scala, Shaftesbury Road, Oldfield Park, Bath	Kit Stokes (Agent)	For

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BATH AND NORTH EAST SOMERSET COUNCIL

PLANNING COMMITTEE

17th November 2021

DECISIONS

Item No:	01	
Application No:	20/02479/OUT	
Site Location:	Parcel 1991, Bath Road, Keynsham, Bath And North East Somerset	
Ward: Keynsham East	Parish: Keynsham Town Council	LB Grade: N/A
Application Type:	Outline Application	
Proposal:	Outline application for up to 5,700 sqm (GEA) of flexible use commercial development falling within Use Classes B1(b), B1(c), B2, and B8 with primary access onto Bath Road. All matters reserved except access	
Constraints:	Saltford Airfield 3km buffer, Agric Land Class 1,2,3a, Agric Land Class 3b,4,5, Policy CP9 Affordable Housing Zones, Policy ED2A Strategic & Other Primary In, MOD Safeguarded Areas, SSSI - Impact Risk Zones, Policy ST8 Safeguarded Airport & Aerodro,	
Applicant:	Places For People Strategic Land	
Expiry Date:	12th March 2021	
Case Officer:	Chris Griggs-Trevarthen	

DECISION Deferred for site visit

Item No:	02
Application No:	21/04049/FUL
Site Location:	The Scala, Shaftesbury Road, Oldfield Park, Bath
Ward: Westmoreland	Parish: N/A LB Grade: N/A
Application Type:	Full Application
Proposal:	Redevelopment of The Scala site including the demolition of existing extensions and new extensions to improve retail store at ground floor level, provide a new community space and student accommodation (16no bed spaces) at first floor levels. Erection of student accommodation including 72no. student bedrooms and associated ancillary space. Erection of a residential block (C3) including 9 no. apartments. Parking for cars and cycles and associated landscaping (Resubmission).
Constraints:	Article 4 HMO, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Conservation Area, Policy CP12 Centres and Retailing, Policy CP9 Affordable Housing Zones, HMO Stage 1 Test Area (Stage 2 Test Req), LLFA - Flood Risk Management, MOD Safeguarded Areas, SSSI - Impact Risk Zones,
Applicant:	Rengen (Scala) Ltd
Expiry Date:	30th November 2021
Case Officer:	Emma Watts

DECISION Delegate to permit subject to Section 106 Agreement

Item No:	03
Application No:	21/02929/FUL
Site Location:	2 Molly Close, Temple Cloud, Bristol, Bath And North East Somerset
Ward: Mendip	Parish: Temple Cloud With Cameley Parish Council
LB Grade:	N/A
Application Type:	Full Application
Proposal:	Erection of rear extension with flat roof dormer built into the roof space (retrospective)
Constraints:	Bristol Airport Safeguarding, Agric Land Class 1,2,3a, Policy CP9 Affordable Housing Zones, Housing Development Boundary, Policy M1 Minerals Safeguarding Area, Policy PCS6 Unstable Land-Coal Mining Le, SSSI - Impact Risk Zones, Policy ST8 Safeguarded Airport & Aerodro,
Applicant:	Mr And Mrs Davis
Expiry Date:	6th October 2021
Case Officer:	Sam Grant

DECISION PERMIT

1 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:

This Decision relates to the following plans:

Drawing	21 Jun 2021	004 B	EXISTING ELEVATIONS
Drawing	21 Jun 2021	004 B	ROOF DETAILING
Revised Drawing	16 Nov 2021	004 C	PROPOSED ELEVATIONS
Revised Drawing	16 Nov 2021	PL 011 D	PLANS EXISTING AND PROPOSED
Drawing	28 Sep 2021	007 B	ROOF PLAN
Revised Drawing	28 Sep 2021	006 A	BLOCK PLAN PARKING
ARRANGEMENTS			
OS Extract	22 Jul 2021	001 B	LOCATION PLAN AND BLOCK PLANS

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.

Permit/Consent Decision Making Statement

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

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.

Bath & North East Somerset Council	
MEETING:	Planning Committee
MEETING DATE:	15th December 2021
RESPONSIBLE OFFICER:	Simon de Beer – Head of Planning
TITLE:	Site Visit Agenda
WARDS:	ALL
BACKGROUND PAPERS:	
AN OPEN PUBLIC ITEM	

AGENDA
ITEM
NUMBER

BACKGROUND PAPERS

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

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

The following notes are for information only:-

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

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

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ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
001	20/02479/OUT 17 December 2021	Places For People Strategic Land Parcel 1991, Bath Road, Keynsham, Bath And North East Somerset, Outline application for up to 5,700 sqm (GEA) of flexible use commercial development falling within Use Classes B1(b), B1(c), B2, and B8 with primary access onto Bath Road. All matters reserved except access	Keynsham East	Chris Griggs-Trevarthen	PERMIT

the application should be determined by Planning Committee and given the following reasons:

"I have studied the application and all related information and comments from both third party and statutory consultees, including both Keynsham Town Council and the Ward Councillor's planning committee request.

Whilst a number of issues have been addressed through negotiation and are policy compliant some concerns remain. Therefore, I recommend the application be determined by the planning committee so issues can be debated in the public arena."

The application was deferred from the November Planning Committee to enable members to undertake a site visit. The site visit was scheduled for the 6th December.

DESCRIPTION

The application site relates to a parcel of land bounded to the south by the A4 Bath Road and the north by World's End Lane. Broadlease Nursery lies to the east of the site and an Esso Petrol Filling Station lies on the western side of the proposed access from the A4. Numbers 274, 276, 278 and 280 Bath Road lie on the south side of the A4 opposite the proposed access.

The site is part of the wider KE3A policy allocation and is outside of the Green Belt which lies immediately to the east.

The application seeks outline consent for up to 5,700 sqm (GEA) of flexible use commercial development falling within Use Classes B1(b), B1(c), B2, and B8 with primary access onto Bath Road. This quantum of development has been reduced from 5,950 sqm (GEA) during the application process. Vehicular access is proposed from the A4 Bath Road with pedestrian and cycle access onto Worlds End Lane to the north.

All matters are reserved except for access. All plans except for those detailing the access proposals are therefore illustrative. A parameter plan has also been included which shows the extent of the developable area proposed.

PLANNING HISTORY

The site has no relevant planning history.

ENVIRONMENTAL IMPACT ASSESSMENT

A screening opinion for this development issued by the Council in July 2020 and concluded that it does not represent EIA development. Whilst there have been minor changes to the proposals since that date, these have not been of such significance to change the conclusion that the proposal is not EIA development.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

DRAINAGE AND FLOOD RISK: No objection, subject to conditions

HIGHWAYS: No objection, subject to conditions

ENVIRONMENTAL PROTECTION: No objection, subject to condition

ECOLOGY: No objection, subject to conditions

LANDSCAPE: Scope for revision (comments receive prior to latest parameter plan)

The current indicative layout may not include sufficient space to; enable the adequate mitigation of the developments landscape and visual impact; provide compensatory tree planting provision; allow for the enhancement of green infrastructure and the retention and strengthening of existing boundary vegetation.

PLANNING POLICY: Scope for revision

Planning Policy supports the principle of the development and indicate that the positive impact that the proposed development would have on the economy of Keynsham, the increase in job numbers and contribution to overall job and floorspace targets for the town all need to be given weight when reaching a balanced decision.

Notwithstanding the above, the masterplan referred to in KE3a(3) is required to encompass the whole of the employment land allocation, working with other landowners, in particular, those who are also actively developing proposals for other parts of the employment land allocation. There is no evidence of a comprehensive masterplan as part of the application documents submitted. Rather, all documents focus purely on land within the red line boundary of the site ownership, and do not address the wider KE3a site allocation.

ARBORICULTURE: No objection, subject to conditions

CONTAMINATED LAND: No objection, subject to conditions

PUBLIC RIGHTS OF WAY: No objection

NATURAL ENGLAND: No objection, subject to conditions

Natural England note the Revised Parameter Plan (Gaunt Francis Architects, September 2021) which has been submitted. This shows a 10m buffer zone which the applicant has committed to maintain below 0.5 lux and keep free of built development. This provides the confidence needed that lighting for the forthcoming reserved matters application will be able to be designed to maintain horseshoe bat commuting corridors on site. This revised plan also provides more scope for replacement planting to be incorporated into the proposals to compensate for the loss of the southern hedgerow.

It is possible that the lighting and layout for the forthcoming scheme can be designed to avoid a significant impact to the SAC provided that the proposals are in accordance with the parameters shown on the Revised Parameter Plan. Therefore, provided that the

Revised Parameter Plan is enforced at reserved matters stage, a Likely Significant Effect on the Bath and Bradford on Avon Bats SAC can be ruled out at this stage.

AVON FIRE AND RESCUE SERVICE: No objection, subject to fire hydrant contributions

AVON AND SOMERSET POLICE: No objection

SALTFORD PARISH COUNCIL: Object

Saltford Parish Council is seriously concerned that the application grossly underestimates the vehicle movements for this proposed development which would have significant consequences for the safety of pedestrians and cyclists including school students from Saltford attending local schools, etc. They also make the following points:

1. The proposals would add another junction to the busy A4 resulting in increased congestion, air and noise pollution and adversely affect road safety;
2. The number of road movements is underestimated given the number of parking spaces and the unknown final user;
3. The proposal should be considered alongside other recently consented and proposed developments as well as any changes arising from the Clean Air Zone in Bath;
4. Opposed to the removal of the refuge island on the A4 and the A4 layby;
5. Concerned related to proposed use of site by heavy goods vehicles and the congestion caused;
6. New development should be preceded, not followed, by new transport infrastructure to prevent further congestion and gridlock as economic activity recovers from Covid-19 lockdowns;
7. The proposal would result in the loss of valuable agricultural land;
8. The location of the proposed access and the size and location of the indicative buildings would clearly have an impact on existing landscape character and views;

KEYNSHAM TOWN COUNCIL: Object

Keynsham Town Council consider that the application is unacceptable on the grounds that it would fail to promote sustainable travel contrary to policy ST1 and be prejudicial to highway safety, contrary to policy ST7 of the Placemaking Plan. Keynsham Town Council request that any new development between Keynsham and Saltford must be preceded, not followed, by new transport infrastructure to prevent further congestion and gridlock at peak periods as economic activity recovers.

They make the following points:

1. Another junction onto the A4 will exasperate current traffic movements and increase congestion resulting in increased air and noise pollution and harming road safety. The number of movements associated with the development have been underestimated;
2. Access onto Bath Road is contrary to the parameters identified in the Placemaking Plan. It is too close to the petrol station entrance. The width of the access will cause safety concerns for all pavement users trying to cross including school children and cyclists;
3. There is no cycling link provision to the existing shared walking and cycling path on the south side of Bath Road and existing refuges are not suitable as cycle crossing points;
4. The loss of the pedestrian refuge and A4 layby is unacceptable;

5. There is insufficient road width on the A4 to support three lanes of traffic. The bend of the road with camber pushes traffic towards the centre of the road and causes serious highways safety issues;
6. The traffic impact of recently approved development and other proposals coming forward have not been taken into consideration;
7. No EIA has been submitted in respect of air pollution;
8. Insufficient space has been left on the boundaries of the site to allow for planting to mitigate the impact of the development on the landscape;
9. Proposal is out of keeping with this semi-rural landscape. The proposed access would remove an old hedge, tree line and a copse within the site. The proposals would also result in the loss of agricultural land;
10. The indicative layout may impact negatively on mitigation of the development's landscape and visual impact, compensatory tree planting provision, enhancement of green infrastructure and boundary vegetation;
11. Ecological assessment and lighting details are incomplete and the scheme does not demonstrate compliance with policy requirements in respect of protected species;
12. There is a diverse ecosystem within the pastureland that needs protecting from inconsiderate and insensitive planning applications. Bath & North East Somerset Council has declared an Ecological Emergency in response to the escalating threat to wildlife and ecosystems. The declaration recognises the essential role nature plays in society and the economy and provides a statement of intent to protect our wildlife and habitats, enabling residents to benefit from a green, nature rich environment.
13. The proposal is not within the Masterplan for Keynsham North East which includes proposed strategic housing development and further commercial sites connecting to this section of the A4. The proposal to move Avon Valley Country Park as part of the Masterplan towards this proposed development must be taken into consideration;
14. The nature of the Class B2 commercial use is unknown and would be unacceptable without further information as to the business intended in this locality

COUNCILLOR ANDY WAIT: Call in request

The reasons for me are to ensure that the objectors have the chance to speak, in terms of planning, my main concerns are around HGVs turning right across a very busy road and the inevitable increase in pollution and congestion for the residents. This together with a weak environmental statement which in no way accounts for a carbon neutral solution

SALTFORD ENVIRONMENT GROUP: Objection

Saltford Environment Group (SEG) shares the concerns of Saltford Parish Council and Keynsham Town Council over the impact these proposals will have on access to and from the A4. They make the following points:

1. The draft Local Plan would provide for additional road infrastructure to relieve pressure on the A4, but the proposals do not take account of this and would make the A4 more dangerous contribution to congestion and thereby air and noise pollution.
2. New transport infrastructure should precede, not follow, new development to prevent congestion and gridlock
3. Removal of the refuge island and layby in the A4 will reduce safety for road users and pedestrians

4. Concerns raised by the Council's Landscape Officer should be addressed. There is a need to mitigate the development's landscape and visual impact, compensatory tree planting provision, enhancement of green infrastructure and retention and strengthening of existing boundary vegetation.
5. Loss of agricultural land should be minimised where possible;
6. Previously developed land should be considered and developed for commercial use before green field land;
7. New commercial development should only proceed if it continues to be required as a result of changes to economic activity subsequent to the aftermath of Covid-19.

THIRD PARTIES/NEIGHBOURS: There have been 147 OBJECTION comments from third parties. The main issues raised were:

Most of the comments raised concerns about highways safety. The access onto the A4 was considered to be dangerous for a number of reasons; adding another access onto an already busy road, the access would be located on a bend with a camber, there is insufficient width for a ghost lane, there are conflicts with other existing access (e.g. petrol station, neighbouring residents), the width of the access will increase danger for pedestrians, cyclists and other vulnerable users (e.g. school children), dangers of HGVs using the access. It was suggested that the Road Safety Audit highlights shows that the development will increase risk. It was considered that the proposals would be contrary to policy ST7.

There was also concern that the proposals would result in the loss of a refuge island, making pedestrian crossing of the A4 more difficult, and the loss of a lay-by which was considered to be a vital facility used by emergency services and delivery drivers.

Many felt that access should be achieved off Worlds End Lane/Pixash Lane rather than the A4 in accordance with the Keynsham East Masterplan. It was also considered to be piecemeal development that did not accord with the Masterplan or the Core Strategy and Placemaking Plan.

There was concern that the proposals would increase congestion, resulting in gridlock on the A4. This would be worsened by the impact of HGVs turning in and out of the access and increase the risks of accidents. It would increase queuing and the time taken by residents to access the A4. It would also result in an increase in air pollution, noise and vibration disturbance. The impacts of the Bath Clean Air Zone upon traffic using the A4 has not been factored in and it was considered that the proposals would have a negative impact upon air quality, in particular the Keynsham and Salford Air Quality Monitoring Areas.

It was suggested that the recent traffic levels are not representative due to the covid-19 restrictions and lockdowns.

Several comments considered that the proposals need to take into account the cumulative impact of the development alongside other recently permitted and upcoming developments in the East Keynsham area. Future infrastructure improvements also needed to be taken into account. There was concern that the proposals would set a precedent for further developments in the area.

Many comments were concerned about the loss of a greenfield/greenspace and the loss of agricultural land. A few comments incorreced referred to the site as green belt. There was concern about the loss of the rural aspect and landscape character contrary to NE2. These spaces were also considered important to preserve the separation of Keynsham and Saltford.

Many were also concerned about the loss of hedgerow (described as an ancient hedgerow by some) as a result of the development and the adverse impacts upon wildlife and biodiversity. There was concern about the loss of habitat on the site and the site's use by a wide variety of ecology. The hedgerow was also considered to act as a sound and pollution barrier for the A4.

There were concerns about the impact upon soil quality and health.

Several comments suggested that the industrial site would create additional light pollution.

The proposals were considered to be contrary to the Climate and Ecological Emergency declarations. It was suggested that there was limited scope for renewables within the application, but that all industrial roof space needs to be covered with solar PV and EV rapid charging points provided at the development.

There were concerns that industrial development on this site would adversely impact upon the amenities of the neighbouring residential properties. HGV movements and industrial activities will result in noise and disruption and vehicles using the access will cause headlights to shine into neighbouring windows. It was noted that there was no screening with adjacent properties and that the impacts would be stressful and have an adverse impact upon mental health.

Some comments questioned the need for further employment/commercial uses on the site.

There was concern that the final users of the site were unknown and the flexible use classes might result in a wide variety of different impacts.

There were complaints about a lack of consultation and alleged inaccuracies in the submitted application, including issues with the noise and traffic surveys.

Concern that proposals will increase litter along the road and the surrounding areas.

There were concerns about the potential increase in run off resulting in localised flooding.

There has been 1 GENERAL COMMENT from third parties. The main issues raised were:

Access from the A4 should be avoided as it is already very busy. The Hygge Park development, new school and further housing developments have increased local congestion. The obvious solution would be to make access from World's End Lane thereby eliminating the need to remove the layby on the A4, destroy a hedge and wildlife

habitat, remove a road crossing point, restrict access to the petrol station and impact upon air/noise/traffic pollution.

POLICIES/LEGISLATION

The Development Plan for Bath and North East Somerset comprises:

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

RELEVANT CORE STRATEGY POLICIES

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:

- DW1 District Wide Spatial Strategy
- SD1 Presumption in favour of Sustainable Development
- KE1 Keynsham Spatial Strategy
- KE3a Land adjoining East Keynsham Strategic Site Allocation
- CP2 Sustainable Construction
- CP5 Flood Risk Management
- CP6 Environmental Quality
- CP9 Affordable Housing
- CP10 Housing Mix
- CO13 Infrastructure Provision

RELEVANT PLACEMAKING PLAN POLICIES

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:

- SCR1 On-site Renewable Energy Requirement
- SCR2 Roof-mounted/Building-integrated Scale Solar PV
- SCR5 Water Efficiency
- SU1 Sustainable Drainage
- D1 General Urban Design Principles
- D2 Local Character and Distinctiveness
- D3 Urban Fabric
- D4 Streets and Spaces
- D5 Building Design
- D6 Amenity
- D8 Lighting
- D9 Advertisements and Outdoor Street Furniture
- HE1 Historic Environment

NE1 Development and Green Infrastructure
NE2 Conserving and Enhancing Landscape and Landscape Character
NE2A Landscape Setting of Settlements
NE3 Sites, Species and Habitats
NE6 Trees and Woodland Conservation
PCS1 Pollution and Nuisance
PCS2 Noise and Vibration
PCS3 Air Quality
PCS5 Contamination
PCS7A Foul Sewage Infrastructure
H7 Housing Accessibility
LCR7B Broadband
LCR9 Increasing the Provision of Local Food Growing
ST1 Promoting Sustainable Travel
ST2 Sustainable Transport Routes
ST7 Transport Requirements for Managing Development

NATIONAL POLICY

National Planning Policy Framework and the National Planning Practice Guidance can be awarded significant weight.

SUPPLEMENTARY PLANNING DOCUMENTS AND ADDITIONAL GUIDANCE

Strategic Flood Risk Assessment (SFRA) of Bath and North East Somerset (2009)
Green Infrastructure Strategy (2013)
Planning Obligations SPD (2015)
West of England Sustainable Drainage Developer Guide (2015)

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. Masterplan
3. Highways
4. Design
5. Residential amenity
6. Ecology
7. Sustainable Construction
8. Drainage and flood risk
9. Contaminated land

10. Other matters

11. Conclusion

1. PRINCIPLE OF DEVELOPMENT

The application site lies within a larger site allocation at East Keynsham which was removed from the Green Belt in Policy KE3a of the Core Strategy for employment purposes. The KE3a site is allocated for around 30,000sqm of employment floorspace within Use Classes B1 (b) and (c), B2 and any employment use not falling within the NPPF definition of a main town centre use. The proposed development is in line with the uses allowed for within Policy KE3a. The principle of the development is therefore supported.

Policy KE3a includes a number of development and design requirements. These will be considered as part of the overall assessment.

In addition, policy KE1 plans for about 1,600 net additional jobs at Keynsham between 2011 and 2029, and increases in office floorspace (from about 13,000sqm in 2011 to about 20,200sqm in 2029) and industrial/warehouse floorspace (from about 52,000sqm in 2011 to 60,300sqm in 2029) to address future requirements arising in Keynsham and Bath. Policy KE1 has an overall aim to ensure that the scale and mix of development at Keynsham increases self-containment and helps develop the town as a more significant business location. A key element of this is delivery of the employment allocation within Policy KE3a.

The preamble to Policy KE1 states that the job growth figure of 1,600 and the related employment floorspace figures set out in Policy KE1 represent the minimum growth that it is considered will be delivered during the Plan period at Keynsham. The physical capacity for additional floorspace provided through the extension of the Broadmead/Ashmead/ Pixash Industrial Estate provides flexibility to accommodate higher economic growth rates across the whole District.

The Core Strategy Inspector accepted the justification that the allocation site is well suited for industrial uses displaced as a result of redevelopment of sites in Bath for more intensive, higher value uses; that it will help to support increased self-containment at Keynsham; and that it is a good business location, being in the favoured Bath-Bristol corridor and therefore has the potential to facilitate economic growth. Separate evidence provided in the Employment Land Review by Lambert Smith Hampton looked specifically at the KE3a allocation and concluded that the site is in a good location; displays market appeal; and whilst it has access constraints the area has shown good demand from a number of occupiers benefitting from being between Bath and Bristol.

The positive impact that the proposed development would have on the economy of Keynsham, the increase in job numbers and contribution to overall job and floorspace targets for the town are therefore factors which attractive significant weight in favour of the application.

2. MASTERPLAN

Policy KE3a(3) requires the preparation of a comprehensive masterplan which needs to be consulted on publicly, and agreed by the Council, reflecting best practice as embodied in 'By Design' (or successor guidance), ensuring that development is well integrated with neighbouring areas.

The submitted application does not include a 'comprehensive masterplan'. However, the applicant has engaged with and inputted into the 'Wider Masterplan' prepared in support of the Council's proposals for a mixed-use development adjoining Pixash Lane (ref: 21/00435/ERE03). This masterplan shows the current proposals, including the vehicular access onto the Bath Road, alongside the Council's proposals and demonstrates that proposals would not prejudice the future extension of World's End Lane or the other parts of the allocation which are yet to come forward.

The masterplan was previously deemed acceptable for the purposes of application 21/00435/REG03 and the current proposals are considered to significantly accord with it. The level of detail provided in the masterplan is considered to comply with the requirements of KE3a(3).

3. HIGHWAYS

Access

The allocation policy KE3a lists one of the development requirements as "Direct highway access from the employment site to be formed to Pixash Lane".

The application does not propose vehicular access from Pixash Lane, but instead seeks access off the A4 Bath Road. The reasons given for this is that third party land ownership constraints prevent a minimum 6.5m wide carriageway being providing into the site from Worlds End Lane (which leads to Pixash Lane). A variety of different alternative access options/configurations utilising different carriageway widths, layouts, design speeds and traffic management measures were also considered, but none of these were considered to be achievable or deliverable.

However, it is important to note that the policy does not preclude vehicular access from the A4 Bath Road and consideration must be given as to whether the access from Bath Road presents a safe option, and if so whether not accessing the site from Bath Road prejudices the delivery of the allocation or results in any other unacceptable harm.

The application was accompanied by a Transport Assessment (TA), and during the application additional documents have been provided including an addendum to this statement, updated plans, and a Stage 1 Road Safety Audit.

As originally proposed, there were two points of access onto the A4. However, the main vehicle access has been revised as a single point of access with a ghost right turn lane. The swept path analysis provided demonstrates that an articulated lorry can be safely accommodated with this arrangement. The Highways Officer considers that the single

junction is a better arrangement for road safety and accessibility than the one-way, dual vehicular access that was initially proposed.

A Stage 1 Road Safety Audit has been conducted on the revised access arrangements. The Highways Officer has accepted the findings of the Stage 1 Road Safety Audit and applicant's response to these. The proposed vehicular access onto the Bath Road A4 is therefore considered not to prejudice highways safety.

Furthermore, the information submitted with the application and the previous wider masterplan (submitted under ref: 21/00435/REG03) demonstrate that the proposals will not prejudice the future widening of World's End Land as and when the remaining land parcel in the northern part of the allocation comes forward for development. The remaining employment land to the north of WEL, not currently the subject of a planning application, could therefore be accessed via Pixash Lane in accordance with policy KE3a.

Concern has also been raised by third parties about the loss of the layby which is currently located on the A4 Bath Road immediately adjacent to the site. The existing layby is subject to a weight restriction and therefore cannot be used by HGVs. The Traffic Management and Network Team have confirmed to the Highways Officer that there is no objection to the loss of the layby and that it will not result in any highways safety or traffic issues. It is therefore considered that there are no grounds within planning policy to object to the loss of the layby.

Traffic Impact/Junction Capacity

As discussed, the site forms part of the wider KE3a allocation. As such the trips generated by the development have already been accounted for through the Council's strategic modelling and found to be acceptable, subject to appropriate mitigations.

An assessment of the capacity of the proposed junction has also been provided in the TA. This includes taking account of general traffic growth as well as taking into account an allowance for locally committed developments. The assessment model indicates that the junction will operate within capacity and that the greatest delay experienced by vehicles egressing the site in the AM peak is 83 seconds. There is no objection from the Highways Officer on these matters.

Accessibility, Public Transport, Walking and Cycling

Many comments received have been concerned about the removal of a pedestrian refuge island that is necessary to facilitate the access proposals. Following negotiations, it was agreed that the refuge island will be relocated further east, rather than removed. This relocated island is 2.65m wide and will include tactile paving.

The other existing substandard refuge island adjacent to the petrol filling station (on the opposite side of the proposed access) will be improved to feature tactile paving and widened to 2.8m. A 3m wide shared path will link the site access with the relocated refuge island and the shared use path on the south side of the A4 Bath Road.

The existing shared cycling and walking path on the south side of Bath Road between Broadmead roundabout and Grange Road does not meet design guidelines for strategic walking and cycling routes (see LTN 1/20) by nature of its width and lack of segregation between users.

The development will increase the number of pedestrians and cyclists using the path to reach the site and will also increase the number of heavy vehicles on Bath Road, which will lead to Bath Road becoming less attractive for cyclists who would otherwise have used the road. Increased trips on the shared path will result in increased risk of conflict between people walking and cycling on this route. Due to the proximity of two schools: Wellsway Secondary; and Saltford Primary, a significant proportion of people using the path will be younger road users. This is reflected in traffic surveys of the path which shows peak times coincide with school start/finish times.

In order to mitigate the impact of the development on this route, a proportionate contribution from the development towards cycling and walking improvements has been sought. The Transport Addendum estimates that the development will generate 11 two-way movements (3 bike and 8 pedestrians) in the a.m. network peak (8-9am) and 11 two-way movements (3 bike and 8 pedestrians) in the p.m. network peak (5- 6pm). A traffic survey of this route in 2016 found that there were: 103 two-way movements in the AM peak (7.45-8-45am); and 81 two-way movements in the PM peak 2.45pm on the path.

A proportionate contribution of £104,103 towards improving the shared walking and cycling route on Bath Road (between Broadmead roundabout and Grange Road) has therefore been agreed and can be secured as part of a s106 agreement.

In terms of public transport, the commercial bus network does not serve residential areas of Keynsham and Saltford well. These commercial services, with the exception of the 19A, only serve Keynsham High Street and the level of service from Chandag area and the estates to the south west is poor. It is therefore considered that the development should contribute towards supporting the operation of local services 663, 665 and 665. These services would link between the residential areas in Keynsham and Saltford not served by the commercial bus network. These services stop at the closest bus stops to the development. A contribution of £14,625, based upon the scale and impact of the development, has therefore been agreed and can be secured as part of a s106 agreement.

Parking

Parking will be considered fully at reserved matter stage. Parking will need to comply with the guidance set out in Policy ST7 of the Placemaking Plan.

Travel Plan

Given that the exact scale and split of uses cannot be identified at the outline planning application stage, an Outline/Interim Travel Plan has been submitted with this application. Full details of a Travel Plan can be secured through as part of a s106 agreement

Construction Management Plan

Given the busy nature of the A4 Bath Road and the proximity of nearby residents, it is considered that a construction management plan would be required to avoid unacceptable impacts upon amenity and highways safety. This can be secured by condition.

4. DESIGN

The proposal is currently in outline with all matters reserved except access. This means that matters of landscaping, scale, layout and appearance are to be dealt with at reserved matters stage.

Layout

The illustrative masterplan provided with the application indicates one example of how the proposed development could be laid out on the site. However, a parameter plan was subsequently submitted which incorporates a 10m buffer zone around the majority of the site boundaries which it is indicated will remain free from built development/vehicle circulation space. The ecological implications of this buffer are discussed further in the ecology section below, but the effect of this buffer is to limit the developable land within the site.

Despite this reduction in the area available for built development there has been no corresponding reduction in the proposed quantum of development which remains for 'up to 5,700 sqm (GEA)' as per the description. No corresponding update to the illustrative masterplan has been provided. It is therefore not entirely clear that the maximum development of 5,700sqm can be comfortably accommodated on the site.

However, the description refers to 'up to' 5,700sqm and therefore provides flexibility that should it not be possible to accommodate all of this floorspace in an acceptable manner at the reserved matters stage, then a lower quantum of development could be required. Furthermore, there are inefficiencies in the indicative masterplan which mean it may still be possible to accommodate the entire quantum of development within the slightly reduced developable area presented by the latest parameter plan by utilising a more efficient layout.

Policy KE3a (5) requires that the employment industrial buildings should have a positive frontage onto the A4 and all publicly accessible routes. It also seeks to avoid creating corridors of parking and yards along the roadside. The parameters plan presented gives sufficient scope for any subsequent reserved matters to achieve these requirements.

Scale

The scale of development is a reserved matter and no details have been provided within this outline application. However, given the proposed uses it can be expected that the

development on this site will be of industrial scale and therefore may include warehouses, workshops or factories which would typically be single storey or contain mezzanines.

The appropriate scale of development will therefore be assessed at the reserved matters stage.

Landscaping

Details of landscaping are reserved. However, the Landscape Officer raised concerns that there was insufficient space provided within the scheme to enable the adequate mitigation of the developments landscape and visual impact and to provide compensatory tree planting provision, as well as allowing for the enhancement of green infrastructure and the retention and strengthening of existing boundary vegetation.

In response to these concerns, the applicant has produced the revised parameter plan which introduces a 10m buffer around the boundaries of the site for landscape and ecological mitigation. Whilst the detailed planting proposals are not yet known, the additional land given over to landscaping is now considered to be sufficient to enable the mitigation of the landscape impacts of the development including space for compensatory tree planting (if required) and to enable replacement of the hedgerow that would need to be removed to facilitate the access onto the A4 Bath Road.

Whilst landscaping details will be assessed at the reserved matters stage, it is considered that there is likely to be sufficient space to enable the proposals to comply with policy NE2 of the Placemaking Plan.

Appearance

Policy KE3a (6) requires that developments within the allocation should incorporate an element of traditional materials, including natural lias limestone, in key locations to be determined through the masterplan.

The appearance of the development remains a reserved matter and therefore does not fall to be determined at this stage.

Access

Access is not a reserved matter. The main vehicular access is proposed from the A4 Bath Road and is discussed in detail in the Highways section above. The proposals also include a pedestrian and cycle access off Worlds End Lane. The proposals for access are considered acceptable.

5. RESIDENTIAL AMENITY

The application site is located in close proximity to a number of residential properties. Policy D6 requires that development must allow for appropriate levels of amenity and

allow existing and proposed development to achieve appropriate levels of privacy, outlook and natural light. Furthermore, it should not cause significant harm to the amenities of existing or proposed occupiers of, or visitors to, residential or other sensitive premises by reason of loss of light, increased noise, smell, overlooking, traffic or other disturbances.

Careful consideration has been given to the third-party representations. A number of occupiers of the nearest residential properties have significant concerns in relation to how the development will impact upon their amenity, through matters including loss of light and an increase in noise and disturbance through the operation of the site and large vehicles using an access at Bath Road.

It is recognised that the development will change how the nearby residents experience of the site, but it must be noted that this is an allocated site, and therefore the principle of development has been accepted. Careful consideration must be given as to the management of the site and any mitigation required. The Council's Environmental Health Officer has raised some concerns with the assessment that have been undertaken with regards to the impact of HGVS. If HGVS are manoeuvring around the site, and reversing late at night, there is the potential for an unacceptable level of noise and disturbance. The applicant has therefore agreed to a condition on any permission which would limit the operation of the site to be between the hours of 7am and 7pm. This is considered to be acceptable and will ensure that the site is not operational at unsociable hours.

It is recognised that by locating the access at Bath Road, there will be an increase in vehicular movements taking place to the side of 279 Bath Road. However, the access will not be set directly against the boundary with the submitted plans illustrating a small buffer area between the access. Given the existing noise levels on Bath Road, the principle of development on this allocated site already being accepted and subject to these movements not being at unsociable hours, it is not considered to be unduly harmful.

At this stage, the layout is indicative, but any future layout should place the noisier activities away from the boundaries with the neighbouring occupiers. It is unlikely to be appropriate to locate B2 uses on the boundary with residential properties, but other uses are more likely to be acceptable.

Additionally, revisions to the parameters plan have introduced a 10m buffer around the boundary of the site. Although intended to provide space for landscaping and ecological mitigation, this buffer will also help to mitigate and screen any impacts that might be otherwise be directed towards 279 Bath Road.

Some concern has been raised about the headlights of HGVs using the access causing light disturbance to 279 Bath Road. However, given the distances involved and the ecological/landscape buffer provided by the parameters plan, it is considered that there will not be any significant loss of amenity.

6. ECOLOGY

The application has been supported by an ecological appraisal which has been reviewed by the Council's Ecologist and Natural England. There are no nationally or locally designations on or adjoining the site, although there are a number of designated sites

within a 2km radius of the site. The ecology appraisal also sets out the habitat and wildlife value of the site.

Bat surveys confirmed use of the site and the adjacent land by both lesser and greater horseshoe bats, considered to be associated with the local "bat" Special Areas of Conservation (SACs) including the Bath and Bradford on Avon Bats SAC.

The revised parameter plan provides a 10m buffer zone around the boundary of the site within which there shall be no built development and within which the applicant commits to avoidance of light spill such that within the buffer zone, light levels shall not exceed a maximum threshold of 0.5 lux (calculated at intervals on both vertical and horizontal planes, at and above ground level).

The provision of this wider buffer zone provides more flexibility and increases the area available for protection of retained habitats, and replacement / new habitat provision. There is now more realistic scope for the scheme to deliver replacement habitat of equivalent (or greater) ecological value to habitats that will be removed or reduced. This is particularly relevant to the southern boundary hedgerow which will be removed. Based on the revised parameter plan there is now also greater confidence in the ability of the scheme to deliver "no net loss" of biodiversity and to achieve the required standards of lighting design and light spill avoidance to avoid harm to bat activity including use of the site and linear habitats within the proposed buffer zone by horseshoe bats associated with the Bath and Bradford on Avon Bats SAC.

This has allowed the Council's Ecologist to conclude that at this stage it is considered that the "Likely significant effect" of the proposal on the Bath and Bradford on Avon Bats SAC can be ruled out, based on the scheme as it currently stands as an outline application only, but subject to the proposed parameter plan which shall be secured by condition and at reserved matters stage. This is because it is considered possible for the forthcoming scheme to be designed in such a way that avoids impacts on horseshoe bats and their flight lines, and no adverse impacts are identified at this stage. Therefore, a full "appropriate assessment" is not considered necessary prior to determining the outline application.

Natural England have confirmed that they agree with these conclusions and have raised no objection to the proposals.

7. SUSTAINABLE CONSTRUCTION

Policy CP2 of the Core Strategy requires sustainable design and construction to be integral to all new developments. Policy SCR1 requires major developments to provide sufficient renewable energy generation to reduce carbon emissions from anticipated energy use in the building by at least 10%.

As the application is in outline, with only access being considered, it only needs to include a summary of the energy strategy. Detailed calculations of carbon savings will form part of a reserved matters application. The submitted energy strategy suggests that the development will include the following sustainable construction measures:

- o Optimised floor/wall ratios to limit energy volume
- o Fabric first approach
- o Electric vehicle charging points
- o Solar PV or solar thermal installations
- o Mechanical ventilation heat recovery
- o Grey water recycling
- o Rainwater harvesting

8. DRAINAGE AND FLOOD RISK

A Flood Risk Assessment and Drainage Strategy has been submitted with the application. The site is located within flood zone 1 and is therefore at a low risk of flooding. The river Avon is located 600m to the north.

It is proposed to discharge surface water runoff to the network of existing ditches on the site. This approach has been reviewed by the Flood Risk and Drainage Team who are satisfied that the proposed strategy is acceptable, subject to conditions requiring further detail including ground investigations and details of maintenance and management of any drainage system.

9. CONTAMINATED LAND

The application has been reviewed by the Council's Contaminated Land Officer. Taking account of the proposed redevelopment of the site and the potentially contaminative historical uses adjacent to the site as Works and later Garage/Petrol Filling Station, they have advised that conditions for further investigation and risk assessment, remediation and verification (as appropriate) are required.

10. OTHER MATTERS

Planning Obligations

The wider Somerdale site is subject to a s106 agreement which secures a number of matters across the whole allocation. This new planning application would need to be subject to a new s106 agreement to secure several matters relevant to the current proposals including:

1. A contribution of £104,103 towards improving the shared walking and cycle route on Bath Road to mitigate the increase in trips generated by the development
2. A contribution of £14,625 towards providing local bus services should be sought to provide access to public transport to residential areas of Keynsham and Saltford
3. A contribution of £5,000 to amend the parking restriction TRO on Bath Road
4. A Full Travel Plan submitted to and approved in writing by the Local Planning Authority prior to occupation of the development.
5. Targeted Recruitment and Training obligations and contribution
6. Contribution of £3,000 towards 2 fire hydrants

Public Sector Equality Duty

The Public Sector Equality Duty requires public authorities to have regard to section 149 of the Equality Act 2010. The proposals do not raise any particularly significant issues in respect of equalities duty, but a couple of points are noted.

The proposals involve the upgrading of the pedestrian refuge islands near to the site to include tactile paving. This will allow these crossings to become more accessible to those with a visual impairment.

Elderly, disabled and otherwise vulnerable residents in the local area are likely to be more reliant on public transport than other groups. The proposals include a contribution towards public transport which can be put towards improving bus services within the Keynsham and Saltford area which would provide accessibility benefits to these protected groups.

11. CONCLUSION

The positive impact that the proposed development would have on the economy of Keynsham, the increase in job numbers and contribution to overall job and floorspace targets for the town all need to be given weight when reaching a balanced decision. The delivery of this part of the KE3a employment is important in allowing Keynsham to meet its requirements for employment provision within the Development Plan and contributes positively to the objectives set out in Policy KE1 for Keynsham to increase self-containment and develop as a more significant business location.

Whilst the access is not to be sited from Pixash Lane as stipulated in the policy, the access from Bath Road has been considered to be safe from a highway safety perspective. Whilst this results in a less integrated approach, it does not prejudice the successful delivery of the rest of the allocation and is not considered to result in any significant harm. The economic benefits of this development are considered to be significant and outweigh any harm identified.

The proposed development is therefore considered to comply with the allocation policy and all other relevant aspects of the development plan, and, in accordance with paragraph 11 of the National Planning Policy Framework, should be approved without delay.

RECOMMENDATION

PERMIT

CONDITIONS

0 1.) Authorise the Head of Legal and Democratic Services to enter into a Section 106 Agreement to secure:

1. A contribution of £104,103 towards improving the walking and cycle route on Bath Road or other sustainable transport measures to mitigate the increase in trips generated by the development

2. A contribution of £14,625 towards providing local bus services should be sought to provide access to public transport to residential areas of Keynsham and Saltford
3. A fee of £5,000 to amend the parking restriction TRO on Bath Road
4. A Full Travel Plan submitted to and approved in writing by the Local Planning Authority prior to occupation of the development.
5. Targeted Recruitment and Training obligations and contribution
6. Contribution of £3,000 towards 2 fire hydrants
7. Securing a pedestrian and cycle link across the site from A4 Bath Road to Worlds End Lane

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

1 Outline Time Limit (Compliance)

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

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

2 Reserved Matters Time Limit (Compliance)

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: As required by Section 92 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permissions.

3 Reserved Matters (Pre-commencement)

Approval of the details of the layout, scale, appearance and landscaping of the site (hereinafter called the reserved matters) shall be obtained from the Local Planning Authority before any development is commenced.

Reason: This is an outline planning permission and these matters have been reserved for the subsequent approval of the Local Planning Authority under the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended) and Parts 1 and 3 of the Development Management Procedure Order 2015.

4 Parameter Plan (Compliance)

All reserved matters applications pursuant to this planning permission shall be strictly in accordance with the approved parameter plan (drawing number 8023/GA(A)003 Rev04).

Reason: To ensure that a buffer around the development is available to provide sufficient landscape and ecological mitigation in accordance with policies NE2 and NE3 of the Placemaking Plan

5 Landscaping Reserved Matters (Compliance)

Any reserved matters application for landscaping shall include full details of both hard and soft landscape proposals and a programme of implementation. 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)
8. Retained historic landscape features and proposals for restoration, where relevant

Soft landscape details shall include:

1. Planting plans
2. Written specifications (including cultivation and other operations associated with plant and grass establishment)
3. Schedules of plants, noting species, planting sizes and proposed numbers / densities

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

6 External Lighting (Pre-commencement)

Prior to approval of reserved matters and prior to installation of new lighting, full details of a proposed external lighting scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall provide details of:

1. Proposed lamp models and manufacturer's specifications, positions, numbers and heights;
2. Details of predicted lux levels and light spill levels (with predicted lux level calculations to be provided on both the horizontal and vertical planes);
3. All the above details must be shown on a plan;
4. Proposed lighting controls, hours of use, and proposed measures to limit levels of brightness and use of lights when not required, and to minimise glare and prevent upward light spill and light spill onto trees and boundary vegetation and adjacent land, and to avoid harm to wildlife and bat activity.

The lighting scheme shall demonstrate light spill levels not exceeding 0.5 lux within the 10m buffer zone as defined on the approved parameter plan (drawing no 8023/GA(A)003 Rev04 dated 16th Sept 2021). The lighting shall be installed maintained and operated thereafter fully in accordance with the approved details.

Reason: To avoid harm to wildlife and bats including light-sensitive bats associated with the Bath and Bradford on Avon Bats Special Area of Conservation, in accordance with policies NE3 and D8 of the Placemaking Plan.

7 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;
9. Temporary arrangements for householder refuse and recycling collection during construction.

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

Reason: To ensure that safe operation of the highway and in the interests of protecting residential amenity in accordance with policies D6 and ST7 of the Bath and North East Somerset Placemaking Plan. 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.

8 Highway Works (Pre-commencement)

No development shall commence, except for ground investigations and demolition, until detailed GA drawings of the highway and access works have been agreed with the Highway Authority. To include:

1. Revised highway access to Bath Road and Worlds End Lane;
2. Relocated / improved refuges on Bath Road;
3. Widened footway on Bath Road; and
4. A street lighting design to BS5489-1:2020 necessary to increase the light levels to allow for the additional traffic movements, accessing/egressing the A4 Bath Road.

Where applicable, indicating proposals for:

1. Existing levels of the finished highway tying into building threshold levels;
2. Alterations to waiting restrictions or other Traffic Regulation Orders to enable the works;
3. Signing, lining, street furniture, street trees and pits;
4. Structures on or adjacent to the highway; and
5. Extent of any stopping up, diversion or dedication of new highway (including all public rights of way shown on the definitive map and statement).

The detailed design of the new access and relocated/improved refuges will be subject to an independent Stage 2 Road Safety Audit (RSA) in accordance with the requirements of

GG 119 and that the completed works are subject to a Stage 3 RSA. No occupation or use hereby permitted shall commence until the approved works have been completed.

Reason: To ensure that the development is served by an adequate means of access in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan. This is a condition precedent because any initial construction or demolition works could have a detrimental impact upon highways safety and/or residential amenity.

9 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 (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.

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 Placemaking Plan. This is a condition precedent because the works comprising the development have the potential to harm retained trees. Therefore these details need to be agreed before work commences.

10 Wildlife Protection and Enhancement (Pre-commencement)

No development shall take place until full details of a Wildlife Protection and Enhancement Scheme have been submitted to and approved in writing by the local planning authority. These details shall be in accordance with, but not limited to, the measures described in Section 4 of the approved "Ecological Appraisal" v3 dated November 2020 by First Ecology and shall include:

1. Method statement for pre-construction and construction phases, to provide full details of all necessary protection and mitigation measures, including, where applicable, proposed pre-commencement checks and update surveys, and proposed reporting of findings to the LPA prior to commencement of works; for the avoidance of harm to retained habitats and to bats, reptiles, amphibians, nesting birds, and other wildlife as applicable;

2. Information and net gain calculations using Biodiversity Metric 3.0 to demonstrate measurable avoidance of net loss of biodiversity, and provision of net gain (with a target of 10%+), in accordance with current methods guidelines and best practice standards

3. Detailed proposals for ecological and habitat mitigation, creation and enhancement, including: provision of replacement mixed native species tree and hedgerow planting; provision of habitat connectivity and suitability of habitat for bat flight lines and movement of wildlife; pond restoration and enhancement; species-rich grassland and wetland; provision of animal homes, bat and bird boxes.

4. details shall include proposed plant species and/or species compositions, numbers, spacing, positions, materials, fixings, models as applicable.

5. Proposed long term management and maintenance prescriptions and responsibilities

All measures and details shall be fully incorporated into the scheme and shown on all relevant plans and drawings and landscape drawings. All works within the scheme shall be carried out in accordance with the approved details and completed in accordance with specified timescales and prior to the occupation or operation of the development, and retained and maintained thereafter for the purposes of wildlife conservation and maintaining biodiversity.

Reason: To prevent ecological harm and to provide biodiversity gain in accordance with policies NE3 and D5e of the Placemaking Plan. The above condition is required to be pre-commencement as it involves approval of measures to ensure protection of wildlife that would be otherwise harmed during site preparation and construction phases.

11 Contaminated Land - Investigation and Risk Assessment (Pre-commencement)

No development shall commence, except for ground investigations and demolition, required to undertake such investigations, until an investigation and risk assessment of the nature and extent of contamination on site and its findings has been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a competent person, and shall assess any contamination on the site, whether or not it originates on the site. The assessment must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and shall include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- o human health,
- o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- o adjoining land,
- o groundwaters and surface waters,
- o ecological systems,
- o archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

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 Placemaking Plan and chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition because the initial works comprising the development have the potential to uncover harmful contamination.

12 Contaminated Land - Remediation Scheme (Pre-commencement)

No development shall commence, except for ground investigations and demolition required to undertake such investigations, until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment, 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. The scheme shall include:

- (i) all works to be undertaken;
- (ii) proposed remediation objectives and remediation criteria;
- (iii) timetable of works and site management procedures; and,
- (iv) where required, a monitoring and maintenance scheme to monitor the long-term effectiveness of the proposed remediation and a timetable for the submission of reports that demonstrate the effectiveness of the monitoring and maintenance carried out.

The remediation scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The approved remediation scheme shall be carried out prior to the commencement of development, other than that required to carry out remediation, or in accordance with the approved timetable of works.

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 Placemaking Plan and chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition because the initial works comprising the development have the potential to uncover harmful contamination.

13 Detailed Drainage Strategy (Pre-commencement)

No development shall commence, except ground investigations and remediation, until a detailed drainage design based on the agreed outline drainage strategy (WIE15368-100-6-3-3 - Flood; Nov 2020) has been submitted to and approved in writing by the Local Planning Authority. The detailed design shall include plans, sections, detailed drawings of all relevant structures and calculations demonstrating performance at the critical 1:1, 1:30 and 1:100+40% storm events.

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 pre-commencement condition because the drainage strategy may have implications for any initial ground works that need to take place which may otherwise prejudice the most appropriate drainage solution.

14 Off-site Culvert Condition (Pre-commencement)

No development shall commence, except ground investigations and remediation, until evidence has been submitted to and agreed in writing by the Local Planning Authority that the offsite culvert downstream of the development site is in serviceable condition to receive the flows from the development.

Reason: To ensure that an appropriate method of surface water drainage is installed and in the interests of flood risk management in accordance with Policy CP5 of the Bath and North East Somerset Core Strategy and Policy SU1 of the Bath and North East Somerset Placemaking Plan. This is a pre-commencement condition because the condition of the off-site culvert may affect the most appropriate drainage solution.

15 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 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 in accordance with policies D1, D2 and NE2 of the Bath and North East Somerset Placemaking Plan.

16 Materials - Submission of Materials Schedule (Bespoke Trigger)

No construction of the external walls of the development shall commence until a schedule of materials and finishes to be used in the construction of the external surfaces, including roofs, has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include:

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

Samples of any of the materials in the submitted schedule shall be made available at the request of the Local Planning Authority.

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

Reason: In the interests of the appearance of the development and the surrounding area in accordance with policies D1, D2, D3 and D5 of the Bath and North East Somerset Placemaking Plan and policies CP6 and KE3a of the Bath and North East Somerset Core Strategy.

17 Contaminated Land - Verification Report (Pre-occupation)

No occupation shall commence until a verification report 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 Placemaking Plan and chapter 15 of the National Planning Policy Framework.

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

No occupation of the development shall commence until a signed certificate of compliance with the Arboricultural Method Statement and tree protection plan by the appointed Arboriculturalist has been submitted to and approved in writing by the Local Planning Authority

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 Placemaking Plan and to ensure that the approved method statement is complied with for the duration of the development.

19 Ecology Follow-up Report (Pre-occupation)

No occupation or operation of the development hereby approved shall commence until a report produced by a suitably experienced professional ecologist (based on post-construction on-site inspection by the ecologist) confirming and demonstrating, using photographs, adherence to and completion of the Wildlife Protection and Enhancement Scheme in accordance with approved details, has been submitted to and approved in writing by the Local Planning Authority.

Reason: To demonstrate compliance with the approved Wildlife Protection and Enhancement Scheme, to prevent ecological harm and to provide biodiversity gain in accordance with NPPF and policies NE3 and D5e of the Placemaking Plan

20 Landscape Management Plan (Pre-occupation)

A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas shall be submitted to and approved by the local planning authority prior to the occupation of the development for its permitted use. The landscape management plan shall be carried out as approved.

Reason: To ensure that the landscape works are implemented and maintained to ensure the continued provision of amenity and environmental quality in accordance with policies D1, D2 and NE2 of the Bath and North East Somerset Placemaking Plan.

21 Landscape Maintenance (Pre-occupation)

No occupation of the development for its permitted use shall take place until a schedule of landscape maintenance for a minimum period of 10 years has been submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.

Reason: To ensure that the landscape works are implemented and maintained to ensure the continued provision of amenity and environmental quality in accordance with policies D1, D2 and NE2 of the Bath and North East Somerset Placemaking Plan.

22 Drainage Operation and Maintenance (Pre-occupation)

No occupation of the development for its permitted use shall take place until an Operation and Maintenance Manual for the agreed drainage scheme has been submitted to and approved in writing by the Local Planning Authority. This document should demonstrate how the drainage system will be managed so that it performs to its design parameters for the lifetime of the development.

Reason: To ensure that an appropriate method of surface water drainage is installed and in the interests of flood risk management in accordance with Policy CP5 of the Bath and North East Somerset Core Strategy and Policy SU1 of the Bath and North East Somerset Placemaking Plan.

23 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 policy PCS5 of the Bath and North East Somerset Placemaking Plan and chapter 15 of the National Planning Policy Framework.

24 Hours of operation - Industrial (Compliance)

No machinery shall be operated, no process shall be carried out and no deliveries shall arrive, be received or despatched from the site outside the hours of 0700 to 1900 Monday to Saturday and 0900 to 1700 on Sundays and Bank Holidays.

Reason: To safeguard the amenities of nearby occupiers in accordance with Policy D6 of the Bath and North East Somerset Placemaking Plan.

25 Bound/Compacted Vehicle Access (Pre-occupation)

No occupation of the development for the permitted use shall commence until the vehicular access has been constructed with a bound and compacted surfacing material (not loose stone or gravel).

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

26 Use Classes (Compliance)

Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (as amended) and the Town and Country Planning (Use Classes) Order 1987 (as amended), the development hereby approved shall be for uses falling within use classes B1(b), B1(c), B2, and B8 only.

For the purposes of this condition, the definition of use classes B1(b) and B1(c) are set out below and consist of uses for the following purposes-

B1(b) for research and development of products or processes, or
B1(c) for any industrial process,

being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Reason: To clarify the proposed uses and to ensure that they comply with policy KE3a and the strategic aims of the Keynsham Spatial Strategy to support job growth and employment.

27 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 EX(G)001 REV 03	Site Location Plan
18023 GA(A)003 REV 4	Parameter Plan
20 A	Proposed Access Arrangements (Swept Path Analysis)
19 C	Proposed Site Access

DECISION MAKING STATEMENT

In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Framework. For the reasons given, and expanded upon in a related case officer's report, a positive view of the submitted proposals was taken and consent was recommended.

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 This permission is accompanied by an agreement under Section 106 of the Town and Country Planning Act 1990.

6 Local Highway Authority require an agreement (Section 278)

The Local Highway Authority (LHA) requires the developer to enter into a legally binding agreement to secure the proposed Highway improvements. Further information in this respect may be obtained by contacting the LHA.

The Local Highway Authority requires Road Safety Audits

The detailed design of the access works shall be subject of an independent Stage 2 Road Safety Audit (RSA) and the completed works shall be the subject of a Stage 3 RSA. Both audits will be undertaken in accordance with GG119. Both audit briefs together with the CV of the Audit Team Leader and Audit Team Member shall be submitted to and approved in writing by the LHA. A representative of the LHA shall be present at the Stage 2 RSA site visit as an observer and a representative of the LHA and Avon and Somerset Police shall be invited to attend the daytime and night-time Stage 3 RSA site visits.

Traffic Regulation Order (TRO)

You are advised that a Traffic Regulation Order (TRO) is required. You must submit a plan to a scale of 1:1000 of an indicative scheme for a TRO, along with timescales for commencement and completion of the development. Please be aware that the statutory TRO process is not straightforward; involving the public advertisement of the proposal(s) and the resolution of any objections.

You should expect a minimum of six months to elapse between the Highway Authority's TRO Team confirming that it has all the information necessary to enable it to proceed and the TRO being advertised. You will not be permitted to implement the TRO measures until the TRO has been sealed, and we cannot always guarantee the outcome of the process.

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Bath & North East Somerset Council	
MEETING:	Planning Committee
MEETING DATE:	15th December 2021
RESPONSIBLE OFFICER:	Simon de Beer – Head of Planning
TITLE:	Main Agenda
WARDS:	ALL
BACKGROUND PAPERS:	
AN OPEN PUBLIC ITEM	

AGENDA
ITEM
NUMBER

BACKGROUND PAPERS

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

- [1] Application forms, letters or other consultation documents, certificates, notices, correspondence and all drawings submitted by and/or on behalf of applicants, Government Departments, agencies or Bath and North East Somerset Council in connection with each application/proposal referred to in this Report.

- [2] Department work sheets relating to each application/proposal as above.

- [3] Responses on the application/proposals as above and any subsequent relevant correspondence from:
 - (i) Sections and officers of the Council, including:
 - Building Control
 - Environmental Services
 - Transport Development
 - Planning Policy, Environment and Projects, Urban Design (Sustainability)

 - (ii) The Environment Agency
 - (iii) Wessex Water
 - (iv) Bristol Water
 - (v) Health and Safety Executive
 - (vi) British Gas
 - (vii) Historic Buildings and Monuments Commission for England (English Heritage)
 - (viii) The Garden History Society
 - (ix) Royal Fine Arts Commission
 - (x) Department of Environment, Food and Rural Affairs
 - (xi) Nature Conservancy Council
 - (xii) Natural England
 - (xiii) National and local amenity societies
 - (xiv) Other interested organisations
 - (xv) Neighbours, residents and other interested persons
 - (xvi) Any other document or correspondence specifically identified with an application/proposal

- [4] The relevant provisions of Acts of Parliament, Statutory Instruments or Government Circulars, or documents produced by the Council or another statutory body such as the Bath and North East Somerset Local Plan (including waste and minerals policies) adopted October 2007

The following notes are for information only:-

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

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

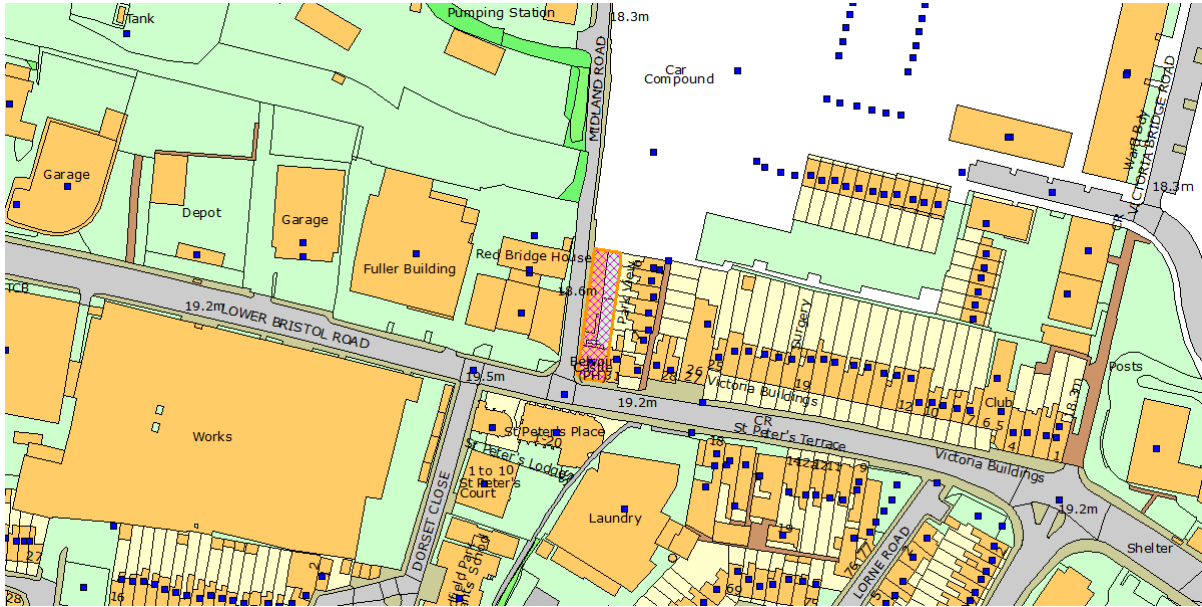
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ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
01	18/02499/FUL 18 April 2019	Rengen Development Limited 32-33 Victoria Buildings, Westmoreland, Bath, Bath And North East Somerset, Provision of new skittle alley, a new community room, provision of new accessible toilets, refurbishment of the public house and the provision of 9 apartments at the Belvoir Castle Bath.	Westmoreland	Emma Watts	REFUSE
02	18/02500/LBA 18 April 2019	Rengen Development Limited 32-33 Victoria Buildings, Westmoreland, Bath, Bath And North East Somerset, Provision of new skittle alley, a new community room, provision of new accessible toilets, refurbishment of the public house and the provision of 9no apartments at the Belvior Castle Bath.	Westmoreland	Emma Watts	REFUSE
03	21/04276/REG13 3 December 2021	Bath And North East Somerset Council 23 Grosvenor Place, Lambridge, Bath, Bath And North East Somerset, BA1 6BA Internal and external alterations for the installation of secondary glazing to windows to flats, installation of PV panels on hidden roof slope, installation of security camera on south elevation, additions and alterations to staircase balustrades, alterations to lower ground floor to provide building management offices, laundry room, stores and bin store including installation of secondary glazing.	Walcot	Laura Batham	CONSENT
04	21/00889/FUL 18 November 2021	Freemantle Developments Ltd The Wharf, Greensbrook, Clutton, Bristol, Bath And North East Somerset Development of 18no. dwelling houses with associated access improvements, hard/soft landscaping, drainage works and parking.	Clutton And Farmborough	Samantha Mason	PERMIT

05	21/03981/FUL 17 December 2021	Mr And Mrs Bunn 18 St Catherine's Close, Bathwick, Bath, Bath And North East Somerset, BA2 6BS Erection of two storey side and rear extension and single storey rear extension following demolition of existing structures.	Bathwick	Samantha Mason	PERMIT
06	21/04002/FUL 17 December 2021	Long 97 Mount Road, Southdown, Bath, Bath And North East Somerset, BA2 1LL Change of use from a 3 bedroom dwelling (Use Class C3) to a 9 bedroom House in Multiple Occupation (HMO) (Use Class Sui Generis). Erection of 3m two storey side extension and loft conversion.	Southdown	Samantha Mason	PERMIT
07	21/02654/FUL 30 July 2021	Mr And Mrs Rumball 10 Grange Road, Saltford, Bristol, Bath And North East Somerset, BS31 3AH Erection of a 2 bed detached 1.5 storey dwelling with a home office and store outbuilding at the rear.	Saltford	Dominic Batrick	PERMIT

REPORT OF THE HEAD OF PLANNING ON APPLICATIONS FOR DEVELOPMENT

Item No: 01
Application No: 18/02499/FUL
Site Location: 32-33 Victoria Buildings Westmoreland Bath Bath And North East Somerset



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

Ward Members: Councillor Colin Blackburn Councillor June Player

Application Type: Full Application

Proposal: Provision of new skittle alley, a new community room, provision of new accessible toilets, refurbishment of the public house and the provision of 9 apartments at the Belvoir Castle Bath.

Constraints: Article 4 HMO, Agric Land Class 3b,4,5, Air Quality Management Area, Policy B1 Bath Enterprise Zone, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Policy CP9 Affordable Housing Zones, District Heating Priority Area, Flood Zone 2, Flood Zone 3, HMO Stage 1 Test Area (Stage 2 Test Req), Listed Building, MOD Safeguarded Areas, Policy NE5 Ecological Networks, SSSI - Impact Risk Zones,

Applicant: Rengen Development Limited

Expiry Date: 18th April 2019

Case Officer: Emma Watts

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

REPORT

Reason for referring the application to Committee

On 26 September 2018 the Development Management Committee resolved to delegate to permit applications 18/02499/FUL and 18/02500/LBA contrary to officer recommendation.

The permissions were issued on 17 April 2019. Following the determination of these applications, the decisions were challenged by judicial review in *R. (on the application of Walker) v Bath and North East Somerset Council* (2020). Mrs Justice Jefford DBE, sitting in the Planning Court, in a judgment handed down on 9 July 2020 (and contained in full in the annex to this report), quashed the grants of planning permission and listed building consent on the following grounds:

- 1) The Council had failed to provide sufficient reasons for granting permission having departed from the officer's recommendation that the development fails the sequential test in respect to Flood Risk and is further contrary to Core Strategy Policy CP5.
- 2) The Council erred in law having taken into account immaterial considerations in granting permission in respect of the development, namely the retention of the public house as a result of the same which was not supported by evidence.
- 3) The Council acted irrationally in concluding that the public benefits identified in the minutes of the Committee meeting outweigh the Development Plan and material considerations identified by the Planning Officer in her report to the Committee.

The Court stated that:

"87. The nature of scope of that duty [*to give reasons*] must then have been one in which, as a minimum, the Council was required to give reasons which demonstrated that they had taken into account the matters that weighed on each side of the balance and, in this case, that included the Officer's reasons for refusal. Looked at another way that is the same exercise as giving reasons for the main points of difference. One of those reasons for refusal was the failure to follow the sequential test [*with respect to flooding*] and departure from Placemaking Policy CP5.

88. Put in that way, it is clear, in my view, that the Council did not give any or any adequate reasons. The minutes of the meeting say nothing about the flood risk or the sequential test other than the comment of an individual councillor that he did not think the site would flood.

.....

90. In any case, the Officer's Report concluded that the sequential test had not been followed and that was the view articulated as one of the reasons for refusal. The Officer's Report itself explained the purpose of the sequential test as identifying whether there might be other sites for the development. The short point, so far as the Officer was concerned, is that that sequential test had not been undertaken at all. The sequential test itself is, in principle, a different point from the flood risk to the site itself. The Flood Risk Assessment itself referred to the sequential test but proceeded on the basis that it was met by the strategic test for development in Flood Zones 2 and 3. The Officer clearly held a different view and it was an express reason for refusal and not just a minor point of difference.

91. There is nothing in the minutes to indicate that the Council gave any consideration to these issues, namely whether the sequential test had been followed or the failure to follow the sequential test. There is nothing to indicate that the Committee had come to the

conclusion that the test had been followed or that failure to follow the test was irrelevant because they had come to the conclusion that there was no flood risk. Although I have accepted that the views on the Council on this application are no more than arguments, the reasons given for the concession of Ground 1 entirely reflect the same points.

92. Therefore, as I have indicated, in my view it is clear that the duty to give reasons was not discharged because it is not possible to see whether this reason for refusal was even considered.

.....

95. I recognise that it may be said that it is clear that the Council must have reached its decision to delegate to permit on the basis that conditions could be attached to the grant of planning permission to secure the long term future of the pub. That does not change the position, however, because the same absence of reasons for rejecting the Officer's reason for refusal based on the flooding risk would arise, as would the same absence of explanation for linking the development to the long term future of the pub. The decision then made to grant full planning permission suffers from the same failing.

.....

100. It is not at all apparent that the Committee had any regard to that *[Carter Jonas]* report. It was referred to in the Officer's report but not in the minutes. The point made by the Officer, and indeed by members of the public and the majority of Councillors, was that there was no intrinsic or any link between the development and the future of the pub. The simple statement in the Carter Jonas report that the proposal realised sufficient profitability to fund the proposed works to the pub did not provide that link. The Councillors' local knowledge was similarly at best of the role and business of the pub and not of the link to the development.

101. I do not, therefore, accept the submission that there was a rational basis for the Council, in this case, to have regarded the future of the pub as a material consideration. The section 106 agreement was not the basis for the decision to delegate to permit. To the extent that it was the basis of the decision notices, it addressed the future of the pub solely in terms of the disabled WCs.

.....

111. Rengen submits that there was nothing irrational about the ultimate decision in light of the range of factors capable of being weighed in favour of the development. However, those factors were, for the reasons I have set out above, very largely a matter of assertion, and assertion that was demonstrably wrong or questionable, and cannot rationally have outweighed the multiple departures from the development plan that the Officer identified. The burden on the claimant, particularly where matters of planning judgment are concerned, is a high one but, in my judgment, in this case it is met.

.....

114. [.....] The failure to meet the sequential test *[with respect to flooding]* was not a formality and nor was it the same as a flood risk assessment. The Council appears to

have had no regard to it at all; the minutes disclose virtually no discussion or consideration of the flood risk; and any suggestion as to how the Council approached this is a suggestion and no more. Even if the Council might have concluded that there was no other available site and that the exception test was met, there is nothing in the minutes to lead to the conclusion that it was highly likely that the Council would have reached the same decision if it had given proper consideration to the issue and it is the absence of reasons which casts doubt on whether such proper consideration was given."

[Edits in italics and brackets - officer additions]

Members are advised that, if they were to be minded to overturn the officer recommendation and grant permission, then Committee must give clear reasons as to how each of the principal points of difference have been resolved, in particular with respect to the recommended reasons for refusal. The Courts have stated that the public have a reasonable expectation that development plans and national policy will usually be complied with and may indeed have taken decisions having such considerations in mind, for instance when deciding where to buy a house. The giving of reasons is a way of ensuring that the decision-maker has given careful consideration to how the principal planning issues are resolved (Paraphrasing Lord Justice Sales in *R (on the application of Oakley) v South Cambridgeshire District Council* [2017] EWCA Civ 71). Reasons can be succinct, but they must address the issues in a comprehensive and meaningful way, and be based upon evidence and policy. The Planning Court was clear that it is unlawful for reasons to be based upon unsubstantiated assertions.

The current application and linked application 18/02500/LBA are therefore referred back to the Committee for re-determination. As the applications are linked and will be considered together, in the interests of brevity, the legal background is not repeated in the listed building report.

Site Description and Proposal

The application relates to the Belvoir Castle Public House, on the Lower Bristol Road in Bath. The public house is a Grade II listed building located within the City of Bath Conservation Area and the World Heritage Site. The adjacent terrace Park View is also Grade II listed. The site is located within Flood Zone 2 and 3a.

The application seeks planning permission for the provision of a new skittle alley, a new community room, provision of new accessible toilets, refurbishment of the public house and the provision of 9 apartments at the Belvoir Castle. The number of apartments has been reduced during the planning application process from 10 to 9. The amendments comprised changes to the floorplans and no external amendments to the scheme.

A parallel listed building application is being considered alongside this application.

The application was advertised as a Departure from the Development Plan on 4 October 2018. All representations from all consultations have been fully considered in this report.

The application has been screened for EIA and the Council has adopted a Screening Opinion that an Environmental Impact Assessment is not required in this case.

Relevant Planning History

17/04265/FUL - Provision of a new skittle alley, a new community room, provision of new accessible toilets, refurbishment of the public house and the demolition of the existing skittle alley to in order provide 10 no. studio apartments at the Belvoir Castle, Bath. Withdrawn 12 December 2017

17/04266/LBA - Provision of a new skittle alley, a new community room, provision of new accessible toilets, refurbishment of the public house the demolition of the existing skittle alley to in order provide 10 no. studio apartments at the Belvoir Castle, Bath. Withdrawn 12 December 2017

08/00732/FUL - Change of use from public house (use class A4) to 3no. residential units (use class C3). Withdrawn 16 April 2008

08/00735/LBA - Internal and external alterations to include creation of three residential units at the Belvoir Castle Public House. Withdrawn 14 April 2008

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Highway Development: Object to the development due to the lack of parking provision.

Sustainable Construction: Development complies with the relevant policies.

Ecology: Object due to insufficient information (no up to date protected species survey).

Conservation: Object due to the impact upon the listed building, the setting of adjacent listed buildings and the character and appearance of the Conservation Area.

Contaminated Land: No objection subject to conditions.

Drainage and Flooding: No objection subject to conditions.

Waste Services: Revised plans required to demonstrate appropriate refuse storage.

Urban Design: Not acceptable in current form. Massing and height facing residential Victorian terrace to the east is of concern; proposals are too high and should be reduced in scale. Amenity of residents should be improved.

Economic Development: No objection subject to target training and recruitment Obligations.

Historic England: No comments.

Environment Agency: No objection subject to condition.

Cllr Blackburn: Requests that this application is heard at committee. The comments can be summarised as follows: the issues regarding Grade 2 listing and how to enhance and retain this asset become ever more focused when the existing building use is under threat and how that might impact the long term sustainability of the asset in the community. The community issues over social provision and the solutions to knitting 'old with new' means

this community asset is vital to how the area comes together. As the only disabled accessible community space in my ward, this application seeks to preserve that and give provision for the community to meet. The refreshing of the skittle alley is preserving a community use that brings people together. This plan seeks to preserve its status in the community and provide 21st century facilities that are vitally needed and if the plans don't go through I fear for its long term existence

Cllr Player: Objects to the development and requests that the development is referred to Committee if minded to approve. The negatives around the provision of the 10 studio apartments outweigh the positives of the new community room and provision of new accessible toilets and refurbishment of the Belvoir Castle. Overdevelopment, lack of parking, impact upon neighbouring occupiers, impact upon setting of listed buildings, lack of appropriate waste management.

Cllr Crossley: Requests referral to Committee if minded to refuse. This will help ensure the survival in an area of the community facility which is seeing a large amount of house building without the provision of community spaces. The development addresses the listed building constraints in an interesting way. It provides a number of studio flats for young working people and this is something that the city desperately needs. Its lack of car provision should be seen as an opportunity and not a problem because it is not policy compliant. Discussing this issue in public will be helpful to the LDF process.

Bath Preservation Trust: Object. The comments can be summarised as follows: this scheme is harmful to the listed pub and adjacent heritage assets at Park View. The Trust are sceptical of the justification given by the applicant that the addition of 10 studio apartments is needed to essentially keep this well-placed pub as financially viable and to provide a community room. This is overdevelopment on a significant scale, without regard for the setting of heritage assets and also harmful to the special historic and communal interest of the public house. The loss of both the amenity of the garden and the skittle alley, both of which contribute to the pub offering, should be weighed against the benefits of the development itself. The community room could be achieved without this level of development occurring on the site. The proposed scheme, regardless of its nominal separation to the primary listed building, is too high and of a massing that dominates the surrounding heritage assets, it is not subservient in any way but instead is an oppressive and discordant element that sits high and wide on the site, piggy backing a heritage asset, obliterating any sense of the historic group (pub, skittle alley, beer garden) and further reducing the ability of the pub to offer space and outside amenity in an already built up area. A high level of harm is also caused to the setting, views and outlook of Park View.

The use of a dockside design idiom is also out of place. The character of the emerging urban townscape in this area provides much justification for not developing this pub site, as to retain the openness, human scale and sense of place of this historic site ensures that a welcome breathing space remains in a heavily developed urban landscape.

Transition Bath: The application doesn't conform with B&NES policy SCR1 (10% renewables) and doesn't contain a Sustainable Construction Checklist. It is therefore an invalid application. [Officer note: a completed Sustainable Construction Checklist was received on 10 August 2018].

Bath Heritage Watchdog: Object to the development. The works, by virtue of the lack of justification of the damage to listed structures, the scale, massing, design, height and materials are considered to be detrimental to the special architectural and historic character and interest of adjacent listed buildings and the conservation area contrary to S16 and S72 of the Planning (Listed Buildings & Conservation Areas) Act 1990, Section 12 'Conserving & Enhancing the Historic Environment of the NPPF clarified by retained policies BH2 and BH3, and Policies SD1, CP5, CP6, D1, D2, D3, D4, D5, D6, D7, HE1 of the Core Strategy and Placemaking Plan as well as LCR1, and should be refused. It is also a reason for refusal that the Exception Test is not passed despite the Flood Risk Assessment arbitrarily deeming that it is. Note that the FRA only states that EA has been consulted, not that they are happy with the application. Further concerns with lack of parking, refuse collection, residential amenity.

14 objection comments have been received. These can be summarised as follows:

- Unnecessary demolition of listed building;
- Impact upon setting of listed buildings adjacent;
- Overdevelopment of the site;
- Unacceptable scale and mass and development out of character with surrounding development;
- Dwellings at risk of flooding;
- Car free development is not acceptable, resultant highway safety issues;
- Access for service vehicles, refuse/recycling etc. not suitable;
- Impact upon the residential amenity of occupiers at Park View: loss of light, overbearing impact, light spill etc;
- Noise and disturbance from all users;
- Lack of mixed community.

2 support comments have been received. These can be summarised as follows:

- Retains the important local social asset of the public house, meeting facilities and skittle alley provides much needed affordable accommodation in a highly sustainable location;
- The existing building is a total eyesore and something has to be done with it before it falls down. The proposal would bring it into line with its new surroundings and compliment both the listed buildings to the Lower Bristol Road frontage and the new developments springing up in this part of our City;
- No flooding issues;
- Development will enable improvements to the Belvoir and will secure important community facilities.

A petition supporting the development has been submitted with 71 signatures.

POLICIES/LEGISLATION

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that for the purposes of making decisions under the Town and Country Planning Acts, the decision must be made in accordance with the Development Plan for the area, unless other material considerations indicate otherwise.

The Development Plan for Bath and North East Somerset comprises:

- Bath and North East Somerset Core Strategy (July 2014);
- Bath and North East Somerset Placemaking Plan (July 2017);
- Saved policies from the Bath and North East Somerset Local Plan (2007);

- West of England Joint Waste Core Strategy (2011).
- Relevant 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:

- DW1: District Wide Spatial Strategy
- B1: Bath Spatial Strategy
- B4: The World Heritage Site and its Setting
- SD1: Presumption in Favour of Sustainable Development
- CP1: Retrofitting Existing Buildings
- CP2: Sustainable Construction
- CP3: Renewable Energy
- CP4: District Heating
- CP5: Flood Risk Management
- CP6: Environmental Quality
- CP13: Infrastructure Provision

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:

- SCR1: On-site Renewable Energy Requirement
- SCR5: Water Efficiency
- SU1: Sustainable Drainage Policy
- D1: General Urban Design Principles
- D2: Local Character and Distinctiveness
- D3: Urban Fabric
- D4: Streets and Spaces
- D5: Building Design
- D6: Amenity
- D7: Infill and Backland Development
- NE3: Sites, Species and Habitats
- NE4: Ecosystem Services
- NE5: Ecological Networks
- HE1: Historic Environment
- PCS1: Pollution and Nuisance
- PCS2: Noise and Vibration
- PCS3: Air Quality
- PCS5: Contamination
- PCS7A: Sewage Infrastructure
- PCS8: Bath Hot Springs
- H1: Housing
- H7: Housing Accessibility
- LCR1: Safeguarding Local Community Facilities
- LCR1A: Public Houses
- LCR2: New or Replacement Community Facilities

ST1: Promoting Sustainable Travel
ST7: Transport, access and development management
BD1: Bath Design Policy

National Policy:

The National Planning Policy Framework (July 2021) and National Planning Practice Guidance.

Supplementary Planning Documents:

The City of Bath World Heritage Site Setting SPD (2013)
Sustainable Construction Checklist SPD (2018)

Additional Guidance:

Bath City Wide Character Appraisal (2005)
Bath Building Heights Strategy (2010)

Bath and North East Somerset Local Plan Review:

The Local Plan Partial Update submission draft was recently published for consultation alongside the draft Energy Efficiency Retrofit and Sustainable Construction SPD, draft Transport and Development SPD. The consultation closed on 8th October 2021. The draft document can currently be afforded very little weight in decision making.

There is a duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 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.

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.

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 key matters for consideration in the assessment of this application are: the principle of development; protection of a community use; flood risk; highway matters; heritage impact, character and appearance; residential amenity; ecology; sustainable construction and district heating; housing accessibility; the public sector equality duty; and planning obligations.

Principle of the Development

The development is located within the built-up area of Bath where new residential development can be considered to be acceptable subject to compliance with other relevant policies of the Development Plan. The site is within the Enterprise Area, where new residential development can also be supported and the provision of additional dwellings within this area complies with the overall strategic objectives of the Development Plan.

Protection of a Community Use

The development includes the renovation of the public house which is considered to play an important community role. This development proposes enhancements to the public house and the benefits of these will be weighed up in the overall Planning Balance section at the end of the report. The development would result in a substantial reduction in the garden area available for the patrons of the public house, but this is not considered to significantly jeopardise the long term retention of the facility.

Flood Risk

The site is predominantly located in Flood Zone 3a, with the remainder lying within Flood Zone 2. The submitted Flood Risk Assessment (FRA) has been reviewed by the Environment Agency who are satisfied that, subject to a number of conditions, the development would not increase flood risk.

Residential dwellings are classified as a 'more vulnerable' use. Given the location of the site within Flood Zones 2 and 3, the development must be subject to the Sequential and Exception Tests. The National Planning Policy Framework (NPPF) advises that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

The submitted FRA references the strategic-level Sequential Test appraisal for Bath. It explains that it is reasonable to conclude that even if all sites with planning permission and allocation in Flood Zone 1 are developed, the identified need for housing within Bath would not be met. The FRA argues that there continues to be a clear need and rationale for future housing sites to be provided within Flood Zones 2 and 3a.

However, the above argument is based upon a strategic district level flood risk assessment. The applicant is still required to carry out a site-specific Sequential Test in accordance with the guidance set out in the National Planning Practice Guidance (NPPG). It is considered important that they do so because, whilst the Strategic Flood Risk Assessment provides the starting point for applying the Sequential Test, it must then be demonstrated by the applicant that there are no reasonably available sites with a lower probability of flooding in order to steer new development towards areas with the lowest flood risk. The NPPG is clear that only where there are no reasonably available sites in Flood Zone 1 should reasonably available sites in Flood Zone 2 be considered for new development, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required. Likewise, only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 (areas with a high

probability of river or sea flooding) be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required.

The site-specific Sequential Test should therefore include an audit of any reasonably available alternative sites. This would involve looking at sites allocated for development through the Development Plan, sites that have been granted planning permission for a development that is the same or similar to the development proposed and any windfall sites. The Sequential Test should conclude whether any of the alternative sites identified have a lower risk of flooding than the proposed site.

The applicant has not carried out the above assessment and the development therefore fails the Sequential Test. As the Sequential Test has not been passed, it is not necessary to consider the Exception Test. Since it has not been demonstrated that the development passes the necessary Sequential Test for flood risk, the proposed development is contrary to Core Strategy Policy CP5.

The Court in *Walker v Bath & NE Somerset Council* concluded that in resolving to grant planning permission previously, the Committee gave no consideration as to whether the Sequential Test had either been followed or met and consequently failed to provide sufficient reasons for granting permission contrary to the officer's recommendation that the development fails the Sequential Test in respect to flood risk and conflicts with Policy CP5. The Planning Committee is therefore advised that, if the Committee were minded to grant permission, members would need to engage specifically with this issue and explain why permission should be granted notwithstanding the applicant's refusal to submit a site specific Sequential Test for flooding.

Highway Matters

No car parking provision is proposed to be provided for the future occupiers of the development. There is significant concern that a car-free development at this location would result in overspill parking occurring in areas that already suffer from high levels of on-street parking.

The Placemaking Plan contains minimum parking standards, which is an evidence-based approach to parking requirements. To accord with the standards set within the Placemaking Plan, the development would need to provide 1 parking space per dwelling and 0.2 visitor spaces per dwelling, totalling 12 spaces. Any reduction in parking provision below the minimum levels must be justified by the submission of an accessibility assessment. This takes into account the sustainability of the site's location when ascertaining appropriate parking levels, considering factors such as proximity to local facilities, employment opportunities and public transport provisions.

The application submission includes an accessibility assessment, although it is noted that the content has been disputed by third parties. Even if a 50% reduction in parking provision were accepted, the development would still require 6 parking spaces. The proposed development would provide no on-site car parking. The development therefore conflicts with Placemaking Plan Policy ST7. It must be considered whether the additional justification provided for a car-free development is sufficient to justify departing from this adopted policy.

The application is supported by a parking provision technical note which presents the case that a car-free development would be appropriate at this location and that there would be no demand from residents for car ownership. Whilst it is acknowledged that not all home owners would need to park a car at this location, it is probable that there would be some parking and that visitors to the residential units would also generate a parking demand. It is agreed that the commercial elements of the proposal would not require car parking, and this is consistent with the operation that has occurred for some time.

There is no evidence that there is sufficient on-street parking conveniently located that could accommodate the parking demand of future residents and visitors. There is unrestricted parking within 200 metres of the application site and any overspill parking resulting from this development could become a road safety problem if parking were then to occur at inappropriate locations. Due to the nature of the route and the need to access other land uses from the road, it would be entirely inappropriate for parking to occur on Midland Road, even for a temporary period of time. Furthermore, the operation of the A36 Lower Bristol Road needs to be protected due to the importance of the route.

The development is therefore considered unacceptable due to the failure of the scheme to provide an appropriate level of on-site parking spaces in accordance with the adopted minimum parking standards. The additional on-street parking that would result from the proposed development would exacerbate highway safety issues. Overall, the proposed development is contrary to Placemaking Plan Policy ST7.

Heritage Impact, Character and Appearance

There is a duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, 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. Similarly, the Council has a statutory duty under Section 72 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 conservation areas.

Together the main pub, former cart shed and stable and skittle alley form a functionally related assemblage of buildings of considerable significance. The long low skittle alley makes a distinctive contribution to the overall character of the site. The curved roof is a quirky and characterful aspect of the building. Victoria Buildings taken together with Park View terrace immediately to the east of the pub, are an example of relatively unaltered artisan housing (Grade II listed), and are important evidence of the 19th century working class development in the city. The group of buildings makes a positive contribution to this part of the Conservation Area as well as providing a counterpoint to the Bath Riverside development. The Heritage Statement acknowledges the collective role of the Belvoir Castle and Park View.

The application comprises alterations and extensions to the existing two storey building to create accessible toilets and a community room and the demolition of the attached skittle alley to make way for residential new build and a new skittle alley. The new build would retain the rubblestone wall facing Midland Road and build above and behind the wall. A

three storey building comprising the flats would be constructed over the footprint of the existing skittle alley and incorporating part of the existing garden area of the pub, moving the built form closer to Park View. This would be constructed in natural stone under a slate roof.

The three storey building would incorporate a pitched roof design which would allow for a successful articulation of the roofs. It is acknowledged that, when taken in isolation, the revised design approach has produced a more considered design when compared to the previous withdrawn scheme. However, the overall scale of the development is considered to be excessive in this context, harming the setting of the Belvoir Castle Pub and Park View, both designated heritage assets.

The Design and Access Statement presents the application as managing the transition between the scale of Riverside and the Belvoir Castle/Park View. Whilst the scale of these buildings is clearly very different, introducing more multi-storey development into the actual curtilage of the Belvoir would exacerbate the impact of the other taller buildings rather than mitigate it. This already small parcel of land provides a limited but critical buffer to the Riverside development for both the Belvoir Castle and Park View. Breaching the curtilage with a three storey development would inflict unacceptable harm on the character and setting of both these heritage assets and the City of Bath Conservation Area.

The submitted Heritage Statement places emphasis on the pub frontage as the only significant part of the listed building and consequently undervalues the significance of the skittle alley. Its loss through demolition would unacceptably compromise the overall significance and integrity of the listed building. Retaining the rubblestone wall divorced from the alley building would not sufficiently mitigate the harm. By adding a two storey extension, the proposed development would subsume the existing small cart shed to a degree, contributing further harm to the character and setting of the listed building.

It is clear from the floor plans that other works to the public house are proposed which would entail significant changes to floor levels. No survey/proposed sections have been submitted to explain this work. Although the documents refer to like-for-like refurbishment, details are not included with the listed building consent application. Any refurbishment is very likely to require further listed building consent and would be likely to have an impact on the character and appearance of the listed building.

The City of Bath was first inscribed as a World Heritage Site in 1987. The main reasons for the inscription of the World Heritage Site as defined in the Statement of Outstanding Universal Value are: the city's Roman archaeology; its hot springs; as an example of Georgian town planning; the Georgian architecture; the green setting of the City in a hollow in the hills; and the reflection of 18th century social ambitions in the Georgian architecture. Policy B4 of the Core Strategy states that consideration must be given to impacts on the World Heritage Site and its setting. The proposal would result in considerable change to the site. However, the effects of the proposal would largely be in views close to the site. Given the scale, height and massing of the proposed development and the context of surrounding buildings, it is not considered that the proposal would cause notable harm to the OUV of the World Heritage Site, its relationship with the surrounding green hillsides or the sweeping views across the city.

There is a duty placed on the Council under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 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. Here it is considered that, owing to the scale, design and close proximity of the proposed development to the designated heritage assets, together with the substantial demolition of the skittle alley, the proposal would seriously harm the significance and setting of both the Belvoir Castle public house and Park View terrace. This proposal therefore fails to meet this requirement.

There is a duty placed on the Council under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the preservation or enhancement of the character and appearance of the surrounding Conservation Area. In this case, given the impact on the character and appearance of the street scene resulting from the scale, design and siting of the proposed three storey building together with the substantial demolition of the skittle alley, it is considered that the proposal would fail to preserve the character and appearance of the Bath Conservation Area. As such, the proposal fails to meet this requirement.

The NPPF distinguishes between 'substantial harm' and 'less than substantial harm' when referring to the impact upon the significance of a heritage asset. In this case the harm to the listed building itself and its setting, the setting of the adjacent listed building and the character and appearance of the Conservation Area is considered, in the language of the NPPF, to be less than substantial but towards the upper end of this range. Paragraph 199 of the NPPF states that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance." Paragraph 202 of the NPPF directs that where a development proposal would 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. This will be addressed in the Planning Balance section of this report.

Residential Amenity

The development sits in close proximity to the residential terrace at Park View, which runs parallel to the existing skittle alley and the garden of the Belvoir Castle. The proposed development would result in built form being brought closer to the boundary with Park View, and at a much greater scale than the existing development.

The proposed three storey building would sit approximately 2.8 metres from the boundary of the rear gardens at Park View, and around 7.5 metres from their rear elevation. The three storey building would have an eaves height of approximately 9.7 metres, and a ridge height of approximately 11 metres. The eaves height of Park View is approximately 6.2 metres. Due to the proximity to Park View and the overall scale of the development proposed, it is considered that the development would result in a form that would dominate the outlook of the occupiers of Park View, have an overbearing impact and result in a loss of light to the gardens and rear windows. Cumulatively this harm would have a significant detrimental impact upon the residential amenity

The windows on the eastern elevation which overlook Park View would be obscurely glazed, which would prevent any significant loss of privacy for the neighbouring occupiers at Park View. Whilst the development would result in intensification in the use of the site, any increase in the noise and disturbance when compared to the use as a pub garden is not considered to be significant.

Whilst it is noted that the occupiers of Park View have gardens to the front of the dwellings, these are separated from the houses by a shared access and do not appear to be well used. However, the rear gardens which adjoin the application site are limited in size, directly connected to the rear doors of the dwellings, and are the primary outdoor amenity space for these occupiers. The manner in which these gardens are used would be severely compromised by the proposed development. The development is therefore considered to be contrary to Placemaking Plan Policy D6.

In terms of the residential amenity of the future occupiers of the development, it is noted that bedrooms are proposed to be located to the front where the site is noisiest and most hostile. The close relationship between the residential and commercial uses also has the potential to cause conflict and this relationship would benefit from improvement.

Ecology

Since the application was last referred to the Planning Committee the Council has declared an Ecological Emergency, resolving to, amongst other things, resist the destruction of habitats through planning policy and development management, identify appropriate areas for habitat restoration and encourage greater biodiversity, tree-planting and management. The Council also has statutory duties in relation to the conservation of protected species, especially bats, under the Conservation of Habitats and Species Regulations 2017.

The site comprises a historic building within Bath that supports conditions and features that are often used by wildlife such as bats and birds. The site lies less than 300m from the River Avon which is known to be well used by bats, and there is at least one known bat roost in a building to the south within 300m from the site.

A bat survey report (CSW 2018) was submitted at the original time of the planning application but is now out of date. The survey report concluded that there were negligible bat roosting opportunities at the time of survey. The findings of the report were accepted at that time. The report does, however, include photos of the building showing cracks and crevices in some locations and a roof void, and there is reasonable potential for such features to increase, become more suitable for wildlife, or to become used by wildlife such as bats in the intervening period. Therefore due to the passage of time, conditions at the site, the position of the site near to the River Avon and other known bat roosts in buildings, and as its use by wildlife may have changed since the time of the last survey, up to date bat survey is considered necessary prior to a consent.

Up to date protected species survey and assessment is therefore required and should be completed by a suitably experienced professional ecologist (licenced bat worker) in accordance with current best practice guidelines and standards. Any necessary further bat survey requirements identified would also need to be completed and mitigation and compensation measures incorporated into the scheme if applicable.

The proposal should also be expected to demonstrate "no net loss" of biodiversity and where possible should also show how it achieves "net gain" for biodiversity, with additional measures incorporated to provide benefit for wildlife.

In the absence of up to date protected species survey and assessment, the application fails to demonstrate compliance with Placemaking Plan Policies NE3, NE4 and NE5 or the Conservation of Habitats and Species Regulations 2017.

Sustainable Construction & District Heating

Core Strategy Policy CP1 states that the Council will seek to encourage and enable the sensitive retrofitting of energy efficiency measures and the appropriate use of micro-renewables in historic buildings (including listed buildings and buildings of solid wall or traditional construction) and in conservation areas, whilst safeguarding the special characteristics of these heritage assets for the future. Core Strategy Policy CP2 requires all planning applications to include evidence that sustainable construction standards have been addressed, including maximising energy efficiency and integrating the use of renewable and low-carbon energy. Regarding works to historic buildings, the Sustainable Construction Checklist SPD states that proposals will be judged on their own merits, taking into account the significance and character of the building and its setting.

The application was submitted prior to the adoption of the B&NES Sustainable Construction Checklist SPD and is therefore accompanied by a completed draft version of the Checklist. The submissions demonstrate that energy efficiency is integral to the design of the proposal. The Sustainable Construction Checklist SPD sets the benchmark for demonstrating that energy efficiency has been maximised as a 19% reduction in regulated carbon emissions. The completed Checklist demonstrates that the proposal would exceed the required 19% reduction in regulated carbon emissions. The proposal complies with Core Strategy Policy CP2.

The application site is located within a District Heating Priority Area. Policy CP4 requires development in this location to incorporate infrastructure for district heating, and will be expected to connect to existing systems where and when this is available, unless demonstrated that this would render development unviable. The proposals have been future-proofed with the inclusion of a single communal satellite heating system which could later be replaced with a connection to the district heating network.

PMP Policy LCR9 requires all new residential developments to incorporate opportunities for informal food growing, wherever possible (e.g. window boxes, balcony gardens, external courtyards). The proposal includes a small rear courtyard. Although it is noted that this would not be communal, it would provide some of the occupiers with the opportunity for informal food growing.

Housing Accessibility

Placemaking Plan Policy H7 requires that market housing should have enhanced accessibility standards and should meet the optional technical standard 4(2) in the Building Regulations Approved Document M. The Council can demonstrate a need for 19% of all new market housing to meet enhanced accessibility standards arising during

the Plan period. The submission has not confirmed that the development would comply with this requirement. Compliance with Policy H7 has therefore not been demonstrated.

Public Sector Equality Duty

Section 149 of the Equality Act 2010 requires public authorities, in the exercise of their functions, to have due regard to the need to: eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Act; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The Belvoir Castle does not currently have adequate disabled facilities and the current access is unlikely to be acceptable under the requirements of the Equality Act 2010. The proposed development would provide level access between the pub and the proposed community room to ensure that it is accessible to those with mobility issues. New accessible toilets would be created off the proposed community room, which would also have level access from the main bar area and community room. This element of the proposal would provide a significant equality benefit to the users of the Belvoir Castle which must be weighed in the overall planning balance.

Planning Obligations

The proposed development would provide 9 residential units. There is therefore no requirement to provide obligations in relation to affordable housing. No other planning obligations are sought.

Planning Balance and Conclusion

Clear harm has been identified above. However, the harm resulting from the proposal needs to be weighed against the benefits of the scheme, recognising that the conservation of designated heritage assets should be afforded considerable importance and weight. One key benefit put forward by the applicant in their submission relates to improvements to the public house to purportedly secure the long term future of the public house. Other benefits put forward by the applicant include the provision of housing, Community Infrastructure Levy receipts and the provision of accessible toilets for the public house. The proposed development would also generate some short term economic benefits through the construction period such as construction jobs, although these would be transient only.

The submission argues that the Belvoir Castle Pub requires significant investment to secure its future. At the time the Planning Committee previously considered the application, The Belvoir Castle was being advertised for sale. The advertisement (the accuracy of which is unverified by officers) stated that the public house was currently generating a £40,000 net profit. It stated, however, that there is plenty of growth available by extending the opening hours of the pub, particularly at lunchtimes. It also highlighted that there will be an increase in local walk-in customers living in the new residential developments that form part of the Riverside Development. The advert confirmed that the current owners do not actively canvass the student trade and do not market the business extensively to the local area. They currently rely on regular repeat custom.

An Appraisal Report prepared by Carter Jonas dated 3 September 2018 assesses the viability of the Belvoir Castle. It notes that the £40,000 net profit includes that from the integral fish and chip shop, and this overall is 50% less than would be expected from a small pub. The report considers that in order for the property to be a successful competitor with nearby businesses, it needs to provide accommodation similar or better than its peers. The report advises that the Belvoir Castle was marketed in its current format for over 12 months, has poor profitability with turnover levels at half of minimum sector expectations, has significant local competition limiting alternative income strategies and needs significant investment to improve trading. It concludes that these factors demonstrate that the property is likely to be undesirable to a public house operator unless there is potential for a significant cash investment to be made to facilitate the required re-investment.

The Belvoir Castle would visibly benefit from upgrading, and its deficiencies are outlined within the submission. Whilst it is noted that the development may generate funds which the owners could decide to use to improve the facilities of the pub to increase customers and profitability in the future, no tangible evidence has been submitted to demonstrate that this will happen. The new skittle alley and community room would replace existing facilities as opposed to adding to those facilities already offered. Whilst it would improve their relationship with the main bar area and increase the trading area, it has not been demonstrated how this would attract significant numbers of new customers. The property does not currently have adequate disabled facilities and access. The proposed improvements to create a community room and accessible toilets on the same level as the main bar area weigh in favour of the proposed development as an equality benefit and, more broadly, a public benefit.

Whilst the conclusions of the Carter Jonas report are noted and the proposed improvements to the Belvoir Castle are acknowledged, it is not considered that the development and the long term viability of the pub are intrinsically linked. If the development is permitted, the approved flats would not be in the same ownership as the Belvoir and it is therefore questioned as to how the development would sustain the viability of the Belvoir Castle in the long term. Income generated from the flats, for example through their rental, would not be fed into the pub in perpetuity. The Belvoir Castle and the flat development would become two separate planning units. Members are advised that it would not be possible to impose a planning condition or require a S106 agreement to secure such a link because the relevant tests are not met. In particular, tying together two separate and unrelated planning units and requiring the income stream from one to subsidise the other in perpetuity would be neither reasonable nor enforceable to meet the NPPF tests for conditions, nor would such a S106 obligation be fairly and reasonably related in scale and kind to the development. Furthermore, it is not clear how any such condition or S106 agreement would work on a practical level.

Whilst the Belvoir Castle is not currently maximising its potential, it is considered likely that other business models could be explored to generate additional profits such as those that were outlined within the sales brochure. It is not considered that it has been justified that the redevelopment of the site and the subdivision of the plot to build 9 residential units is intrinsically linked to the long term success and the retention of the Belvoir Castle. The Belvoir has been marketed for 12 months without any success. The improvement works, whilst potentially increasing the interest in the Belvoir, does not guarantee that the pub will

continue to be run in the future. As there is no link between the development and the future of the pub, limited weight can be given to the benefits outlined within the submission in relation to the retention of the pub.

In relation to the harm to the Conservation Area, the setting of Park View and the Belvoir public house itself, it has been identified that the harm is towards the upper end of 'less than substantial' and this is given great weight. Paragraph 202 of the NPPF directs that this harm must be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. In this case the public benefits of the proposal, which include the economic benefits, provision of new housing, and the improvement to the facilities within the pub, are not considered to outweigh the harm identified.

Regarding flood risk and the Sequential Test, as set out above the applicant has not carried out a Sequential Test as required by the NPPG. The application therefore fails to demonstrate that there are no reasonably available alternative sites with a lower flood risk which could be developed in preference to the application site, which falls within Flood Zones 3a and 2. Since it has not been demonstrated that the development passes the necessary Sequential Test for flood risk, the proposed development is contrary to Core Strategy Policy CP5. The benefits of the development described above are not considered to outweigh the harm identified by the conflict of the proposed development with Policy CP5 and the NPPF, and therefore do not justify granting planning permission as a departure from the Development Plan.

In conclusion, there are multiple and significant conflicts with the Development Plan resulting from this development, and any benefits generated from the development proposal are not considered to outweigh the harm identified. The development is therefore recommended for refusal.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 The proposed development by reason of its scale, design and close proximity to designated heritage assets will seriously harm the significance and setting of the Belvoir Castle public house and Park View Terrace and would fail to preserve the character and appearance of the Bath Conservation Area. The development is considered to be contrary to Bath and North East Somerset Core Strategy Policy CP6 and Placemaking Plan Policy HE1. The harm identified is considered to be less than substantial but the public benefits of the proposal are not considered to outweigh this harm.

2 The proposed development would result in substantial demolition of the skittle alley which forms part of the historic building assemblage at the Belvoir Castle public house which would seriously harm the significance and setting of this Grade II listed building contrary to Bath and North East Somerset Core Strategy Policy CP6 and Placemaking Plan Policy HE1. The harm identified is considered to be less than substantial but the public benefits of the proposal are not considered to outweigh this harm.

3 Due to the scale of the development and the proximity of the built form to the neighbouring boundary at Park View, the development is considered to result in a form that would dominate the outlook of the neighbouring occupiers, have an overbearing impact and result in a loss of light to the gardens and rear windows. It is considered that the development would have a significant detrimental impact upon the residential amenity of the occupiers of Park View and is contrary to Bath and North East Somerset Placemaking Plan Policy D6.

4 The proposed development would not provide an appropriate level of on-site parking spaces which would exacerbate highway safety and residential amenity issues associated with additional on-street parking, and is therefore contrary to Policy ST7 of the Bath and North East Somerset Placemaking Plan.

5 The application site is located within Flood Zone 2 and 3a, and the development has not been subject to a satisfactory sequential test. It has not been demonstrated that there are no reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The development is therefore considered to be contrary to Policy CP5 of the Bath and North East Somerset Core Strategy.

6 In the absence of up to date protected species survey and assessment the application fails to demonstrate that the development is ecologically acceptable. The development is therefore considered to be contrary to Policies NE3, NE4 and NE5 of the Bath and North East Somerset Placemaking Plan and the Conservation of Habitats and Species Regulations 2017.

7 The submission fails to demonstrate that two of the units would have enhanced accessibility standards and meet the optional technical standard 4(2) in the Building Regulations. The development therefore fails to comply with Policy H7 of the Bath and North East Somerset Placemaking Plan.

PLANS LIST:

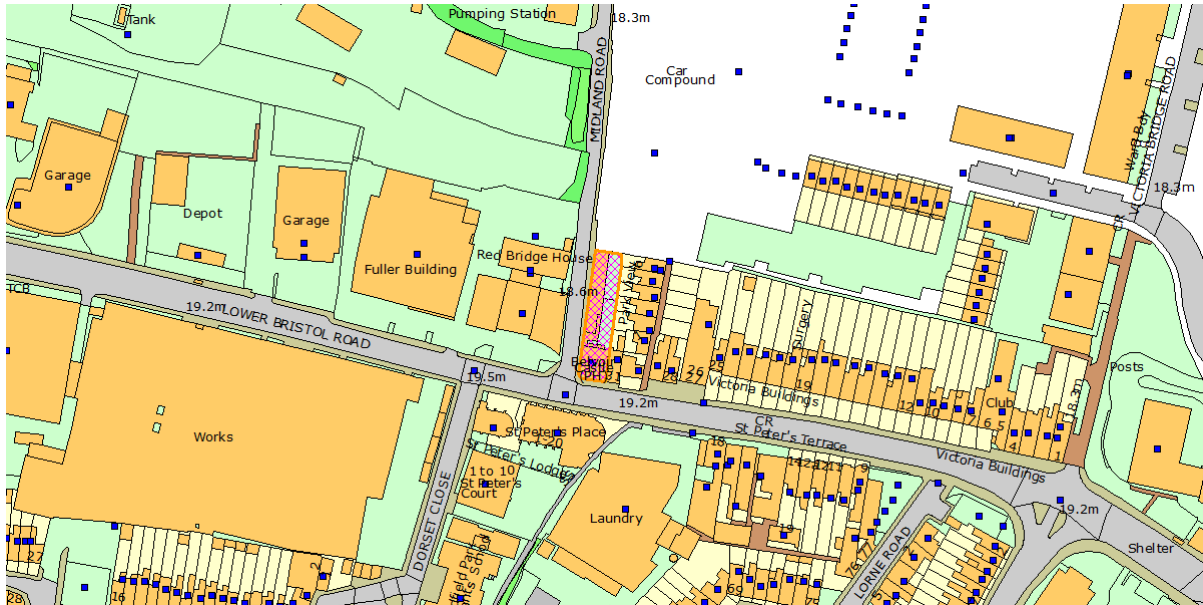
1 7 Jun 2018 1701 AL(0)02 Rev A Existing Site Plan
7 Jun 2018 1701 AL(0)03 Existing Lower and Ground Floor Plans
7 Jun 2018 1701 AL(0)04 Existing First Floor Plan
7 Jun 2018 1701 AL(0)05 Existing Roof Plan
7 Jun 2018 1701 AL(0)06 Existing Elevations
7 Jun 2018 1701 AL(0)11 Rev E Proposed Site Plan
7 Jun 2018 1701 AL(0)14 Rev D Proposed Roof Plan
7 Jun 2018 1701 AL(0)15 Demolition Floor Plans Basement & Ground Floor
7 Jun 2018 1701 AL(0)16 Proposed Alterations Floor Plans Basement & Ground Floor
7 Jun 2018 1701 AL(0)22 Rev D Proposed North/South Elevations
7 Jun 2018 1701 AL(0)24 Rev B Proposed Elevations Community Room
7 Jun 2018 1701 AL(0)25 Proposed Context Elevations
7 Jun 2018 1701 AL(0)30 Rev B Proposed Sections
7 Jun 2018 1701 AL(0)31 Rev A Proposed Sections
7 Jun 2018 1701 AL(0)01 Rev A Existing Location Plan
10 Aug 2018 1701 AL(0)12 Rev H Proposed Floor Plans Basement & Ground Floor
10 Aug 2018 1701 AL(0)21 Rev G Proposed Elevations East & West
5 Sep 2018 1701 AL(0)13 Rev A Proposed Floor Plans First & Second

2 Community Infrastructure Levy

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority please note that CIL applies to all relevant planning permissions granted on or after this date. Thus any successful appeal against this decision may become subject to CIL. Full details are available on the Council's website www.bathnes.gov.uk/cil

3 In determining this application, the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Framework. The Council has worked positively and proactively with the applicant to seek to resolve the issues identified. However, for the reasons given, and expanded upon in a related case officer's report, no agreeable solution could be found, and the application has been recommended for refusal.

Item No: 02
Application No: 18/02500/LBA
Site Location: 32-33 Victoria Buildings Westmoreland Bath Bath And North East Somerset



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

Ward Members: Councillor Colin Blackburn Councillor June Player

Application Type: Listed Building Consent (Alts/exts)

Proposal: Provision of new skittle alley, a new community room, provision of new accessible toilets, refurbishment of the public house and the provision of 9no apartments at the Belvoir Castle Bath.

Constraints: Article 4 HMO, Agric Land Class 3b,4,5, Air Quality Management Area, Policy B1 Bath Enterprise Zone, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Policy CP9 Affordable Housing Zones, District Heating Priority Area, Flood Zone 2, Flood Zone 3, HMO Stage 1 Test Area (Stage 2 Test Req), Listed Building, MOD Safeguarded Areas, Policy NE5 Ecological Networks, SSSI - Impact Risk Zones,

Applicant: Rengen Development Limited

Expiry Date: 18th April 2019

Case Officer: Emma Watts

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

REPORT

Reason for referring the application to Committee

On 26 September 2018 the Development Management Committee resolved to delegate to permit applications 18/02499/FUL and 18/02500/LBA contrary to officer recommendation.

As detailed in the related planning report, the permissions were subsequently quashed by the Planning Court.

The current application and linked application 18/02499/FUL are therefore referred back to the Committee for re-determination. Members are referred to the planning report which sets out in detail the history of these applications and the judgment of the Court.

Site Description and Proposal

The application relates to the Belvoir Castle Public House, on the Lower Bristol Road in Bath. The public house is a Grade II listed building located within the City of Bath Conservation Area and the World Heritage Site. The adjacent terrace Park View is also Grade II listed. The site is located within Flood Zone 2 and 3a.

The application seeks listed building consent for the provision of a new skittle alley, a new community room, provision of new accessible toilets, refurbishment of the public house and the provision of 9 apartments at the Belvoir Castle. The number of apartments has been reduced during the planning application process from 10 to 9. The amendments comprised changes to the floorplans and no external amendments to the scheme.

A parallel planning application is being considered alongside this application.

The application was advertised as a Departure from the Development Plan on 4 October 2018. All representations from all consultations have been fully considered in this report.

Relevant Planning History

17/04265/FUL - Provision of a new skittle alley, a new community room, provision of new accessible toilets, refurbishment of the public house and the demolition of the existing skittle alley to in order provide 10 no. studio apartments at the Belvoir Castle, Bath. Withdrawn 12 December 2017

17/04266/LBA - Provision of a new skittle alley, a new community room, provision of new accessible toilets, refurbishment of the public house the demolition of the existing skittle alley to in order provide 10 no. studio apartments at the Belvoir Castle, Bath. Withdrawn 12 December 2017

08/00732/FUL - Change of use from public house (use class A4) to 3no. residential units (use class C3). Withdrawn 16 April 2008

08/00735/LBA - Internal and external alterations to include creation of three residential units at the Belvoir Castle Public House. Withdrawn 14 April 2008

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Conservation: Object due to the impact upon the listed building, the setting of adjacent listed buildings and the character and appearance of the Conservation Area.

Historic England: No comments.

Cllr Blackburn: Requests that this application is heard at committee. The comments can be summarised as follows: the issues regarding Grade 2 listing and how to enhance and retain this asset become ever more focused when the existing building use is under threat and how that might impact the long term sustainability of the asset in the community. The community issues over social provision and the solutions to knitting 'old with new' means this community asset is vital to how the area comes together. As the only disabled accessible community space in my ward, this application seeks to preserve that and give provision for the community to meet. The refreshing of the skittle alley is preserving a community use that brings people together. This plan seeks to preserve its status in the community and provide 21st century facilities that are vitally needed and if the plans don't go through I fear for its long term existence

Cllr Player: Objects to the development and requests that the development is referred to Committee if minded to approve. The negatives around the provision of the 10 studio apartments outweigh the positives of the new community room and provision of new accessible toilets and refurbishment of the Belvoir Castle. Overdevelopment, lack of parking, impact upon neighbouring occupiers, impact upon setting of listed buildings, lack of appropriate waste management.

Cllr Crossley: Requests referral to Committee if minded to refuse. This will help ensure the survival in an area of the community facility which is seeing a large amount of house building without the provision of community spaces. The development addresses the listed building constraints in an interesting way. It provides a number of studio flats for young working people and this is something that the city desperately needs. Its lack of car provision should be seen as an opportunity and not a problem because it is not policy compliant. Discussing this issue in public will be helpful to the LDF process.

Bath Preservation Trust: Object. The comments can be summarised as follows: this scheme is harmful to the listed pub and adjacent heritage assets at Park View. The Trust are sceptical of the justification given by the applicant that the addition of 10 studio apartments is needed to essentially keep this well-placed pub as financially viable and to provide a community room. This is overdevelopment on a significant scale, without regard for the setting of heritage assets and also harmful to the special historic and communal interest of the public house. The loss of both the amenity of the garden and the skittle alley, both of which contribute to the pub offering, should be weighed against the benefits of the development itself. The community room could be achieved without this level of development occurring on the site. The proposed scheme, regardless of its nominal separation to the primary listed building, is too high and of a massing that dominates the surrounding heritage assets, it is not subservient in any way but instead is an oppressive and discordant element that sits high and wide on the site, piggy backing a heritage asset, obliterating any sense of the historic group (pub, skittle alley, beer garden) and further reducing the ability of the pub to offer space and outside amenity in an already built up area. A high level of harm is also caused to the setting, views and outlook of Park View. The use of a dockside design idiom is also out of place. The character of the emerging urban townscape in this area provides much justification for not developing this pub site, as to retain the openness, human scale and sense of place of this historic site ensures that a welcome breathing space remains in a heavily developed urban landscape.

Bath Heritage Watchdog: Object to the development. The works, by virtue of the lack of justification of the damage to listed structures, the scale, massing, design, height and

materials are considered to be detrimental to the special architectural and historic character and interest of adjacent listed buildings and the conservation area contrary to S16 and S72 of the Planning (Listed Buildings & Conservation Areas) Act 1990, Section 12 'Conserving & Enhancing the Historic Environment of the NPPF clarified by retained policies BH2 and BH3, and Policies SD1, CP5, CP6, D1, D2, D3, D4, D5, D6, D7, HE1 of the Core Strategy and Placemaking Plan as well as LCR1, and should be refused. It is also a reason for refusal that the Exception Test is not passed despite the Flood Risk Assessment arbitrarily deeming that it is. Note that the FRA only states that EA has been consulted, not that they are happy with the application. Further concerns with lack of parking, refuse collection, residential amenity.

2 objection comments have been received. These can be summarised as follows:

- Impact upon the character and appearance of the listed building and surrounding designated heritage assets;
- Impact upon the residential amenity of the neighbouring occupiers.

A petition supporting the development has been submitted with 71 signatures.

POLICIES/LEGISLATION

The Council has a statutory requirement under Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in considering whether to grant listed building consent for any works 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.

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 National Planning Policy Framework is national policy in the conservation and enhancement of the historic environment which must be taken into account by the Council together with the related guidance given in the Planning Practice Guidance (PPG).

The Council must have regard to its Development Plan where material in considering whether to grant listed building consent for any works.

The Development Plan for Bath and North East Somerset comprises:

- Bath and North East Somerset Core Strategy (July 2014);
- Bath and North East Somerset Placemaking Plan (July 2017);
- Saved policies from the Bath and North East Somerset Local Plan (2007);
- West of England Joint Waste Core Strategy (2011).
- Relevant 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

CP1: Retrofitting Existing Buildings

CP2: Sustainable Construction
CP3: Renewable Energy
CP6: Environmental Quality

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:

HE1: Historic Environment
NE3: Sites, Species and Habitats
NE4: Ecosystem Services
NE5: Ecological Networks
SCR1: On-site Renewable Energy Requirement

Supplementary Planning Documents:

The City of Bath World Heritage Site Setting SPD (2013)

Additional Guidance:

Bath City Wide Character Appraisal (2005)
Bath Building Heights Strategy (2010)

Bath and North East Somerset Local Plan Review:

The Local Plan Partial Update submission draft was recently published for consultation alongside the draft Energy Efficiency Retrofit and Sustainable Construction SPD, draft Transport and Development SPD. The consultation closed on 8th October 2021. The draft document can currently be afforded very little weight in decision making.

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

Placemaking Plan Policy HE1 states that alterations, extensions or changes of use, or development in the vicinity of a listed building will be expected to have no adverse impact on those elements which contribute to their special architectural or historic interest, including their settings.

The application comprises alterations and extensions to the existing two storey building to create accessible toilets and a community room and the demolition of the attached skittle alley to make way for residential new build and a new skittle alley. The new build would retain the rubblestone wall facing Midland Road and build above and behind the wall. A three storey building comprising the flats would be constructed over the footprint of the existing skittle alley and incorporating part of the existing garden area of the pub, moving

the built form closer to Park View. This would be constructed in natural stone under a slate roof.

The Heritage Statement submitted with the application includes an 1886 OS extract showing the building which now houses the skittle alley, noting that by 1920 the width had been increased to its present footprint. This is borne out by the English Bond brick wall facing the garden. Various possibilities for the original use of the building are put forward including a purpose designed skittle alley. The Heritage Statement speculates that the curved roof is military salvage from WWI, which is plausible given its form. The interior is clad with tongue and groove panelling to match the main pub. According to the report the ceiling is also tongue and groove hidden above the inserted modern ceiling.

Together the main pub, former cart shed and stable and skittle alley form a functionally related assemblage of buildings of considerable significance. The long low skittle alley makes a distinctive contribution to the overall character of the site. The curved roof, whatever its origins, is a quirky and characterful aspect of the building. Victoria Buildings taken together with Park View terrace immediately to the east of the pub, an example of relatively unaltered artisan housing (Grade II listed), are important evidence of the 19th century working class development in the city. The group of buildings makes a positive contribution to this part of the Conservation Area as well as providing a counterpoint to the Bath Riverside development. The Heritage Statement acknowledges the collective role of the Belvoir Castle and Park View.

The submitted Heritage Statement places emphasis on the pub frontage as the only significant part of the listed building and consequently undervalues the significance of the skittle alley. Its loss through demolition would unacceptably compromise the overall significance and integrity of the listed building. Retaining the rubblestone wall divorced from the alley building would not sufficiently mitigate the harm. By adding a two storey extension, the proposed development would subsume the existing small cart shed to a degree, contributing further harm to the character and setting of the listed building.

The Design and Access Statement presents the application as managing the transition between the scale of Riverside and the Belvoir Castle/Park View. Whilst the scale of these buildings is clearly very different, introducing more multi-storey development into the actual curtilage of the Belvoir would exacerbate the impact of the other taller buildings rather than mitigate it. This already small parcel of land provides a limited but critical buffer to the Riverside development for both the Belvoir Castle and Park View. Breaching the curtilage with a three storey development would inflict unacceptable harm on the character and setting of both these heritage assets and the City of Bath Conservation Area.

The Planning Statement suggests that leaving the site as it stands with no development would be unsustainable for the future of the listed building and the wider site. Enabling development is defined as development which would secure the future of a heritage asset but contravene other planning policies. Extant Historic England advice (Enabling Development and the Conservation of Significant Places) includes a criteria-based policy against which to assess proposed enabling schemes. Criterion number 1 makes it clear that development which would materially harm the heritage values of the place or its setting (which would be the case here) will not be acceptable. Clear harm to the

designated heritage assets has been identified, namely the scale, design and close proximity of the proposed development to the designated heritage assets, together with the substantial demolition of the skittle alley. The proposal would seriously harm the significance and setting of both the Belvoir Castle public house and Park View terrace. Therefore, it is considered that the application cannot be permitted on the basis of being enabling development.

It is clear from the floor plans that other works to the public house are proposed which would entail significant changes to floor levels. No survey/proposed sections have been submitted to explain this work. Although the documents refer to like-for-like refurbishment, details are not included with the listed building consent application. Any refurbishment is very likely to require further listed building consent and would be likely to have an impact on the character and appearance of the listed building.

Ecology

Since the application was last referred to the Planning Committee the Council has declared an Ecological Emergency, resolving to, amongst other things, resist the destruction of habitats through planning policy and development management, identify appropriate areas for habitat restoration and encourage greater biodiversity, tree-planting and management. The Council also has statutory duties in relation to the conservation of protected species, especially bats, under the Conservation of Habitats and Species Regulations 2017.

The site comprises a historic building within Bath that supports conditions and features that are often used by wildlife such as bats and birds. The site lies less than 300m from the River Avon which is known to be well used by bats, and there is at least one known bat roost in a building to the south within 300m from the site.

A bat survey report (CSW 2018) was submitted at the original time of the planning application but is now out of date. The survey report concluded that there were negligible bat roosting opportunities at the time of survey. The findings of the report were accepted at that time. The report does, however, include photos of the building showing cracks and crevices in some locations and a roof void, and there is reasonable potential for such features to increase, become more suitable for wildlife, or to become used by wildlife such as bats in the intervening period. Therefore due to the passage of time, conditions at the site, the position of the site near to the River Avon and other known bat roosts in nearby buildings, and as its use by wildlife may have changed since the time of the last survey, up to date bat survey is considered necessary prior to a consent.

Up to date protected species survey and assessment is therefore required and should be completed by a suitably experienced professional ecologist (licenced bat worker) in accordance with current best practice guidelines and standards. Any necessary conservation measures identified through the assessment should be incorporated into the scheme.

The proposal should also be expected to demonstrate "no net loss" of biodiversity and where possible should also show how it achieves "net gain" for biodiversity, with additional measures incorporated to provide benefit for wildlife.

In the absence of up to date protected species survey and assessment, the application fails to demonstrate compliance with Placemaking Plan Policies NE3, NE4 and NE5, or the Conservation of Habitats and Species Regulations 2017.

Public Sector Equality Duty

Section 149 of the Equality Act 2010 requires public authorities, in the exercise of its functions, to have due regard to the need to: eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Act; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The Belvoir Castle does not currently have adequate disabled facilities and the current access is unlikely to be acceptable under the requirements of the Equality Act 2010. The proposed development would provide level access between the pub and the proposed community room to ensure that it is accessible to those with mobility issues. New accessible toilets would be created off the proposed community room, which would also have level access from the main bar area and community room. This element of the proposal would provide a significant equality benefit to the users of the Belvoir Castle which must be weighed in the overall planning balance.

Analysis and Conclusion

Overall, the proposed development would cause harm to the significance and setting of both the Belvoir Castle and also Park View, contrary to Core Strategy Policy CP6 and Placemaking Plan Policy HE1. The NPPF distinguishes between 'substantial harm' and 'less than substantial harm' when referring to the impact upon the significance of a designated heritage asset. Any harm to the listed building itself and its setting, the setting of the adjacent listed buildings and the character and appearance of the Conservation Area is considered, in the language of the NPPF, to be less than substantial but towards the upper end of this range.

Paragraph 199 of the NPPF states that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance."

Paragraph 202 of the NPPF directs that where a development proposal would 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.

Clear harm has been identified above. However, the harm resulting from the proposal needs to be weighed against the benefits of the scheme, recognising that the conservation of designated heritage assets should be afforded considerable importance and weight. One key benefit put forward by the applicant in their submission relates to improvements to the public house to purportedly secure the long term future of the public house. Other benefits put forward by the applicant include the provision of housing, Community Infrastructure Levy receipts and the provision of accessible toilets for the public house. The proposed development would also generate some short term economic benefits

through the construction period such as construction jobs, although these would be transient only.

The submission explains that the Belvoir Castle Pub requires significant investment to secure its future. At the time the Committee previously considered the application, The Belvoir Castle was being advertised for sale. The advertisement (the accuracy of which is unverified by officers) stated that the public house was currently generating a £40,000 net profit. It recognised, however, that there is plenty of growth available by extending the opening hours of the pub particularly at lunchtimes. It also highlighted that there will be an increase in local walk-in customers living in the new residential developments that form part of the Riverside Development. The advert confirmed that the current owners do not actively canvass the student trade and do not market the business extensively to the local area. They currently rely on regular repeat custom.

An Appraisal Report prepared by Carter Jonas dated 3 September 2018 assesses the viability of the Belvoir Castle. It notes that the £40,000 net profit includes that from the integral fish and chip shop, and this overall is 50% less than would be expected from a small pub. The report considers that in order for the property to be a successful competitor with nearby businesses, it needs to provide accommodation similar or better than its peers. The report advises that the Belvoir Castle was marketed in its current format for over 12 months, has poor profitability with turnover levels at half of minimum sector expectations, has significant local competition limiting alternative income strategies and needs significant investment to improve trading. It concludes that these factors demonstrate that the property is likely to be undesirable to a public house operator unless there is potential for a significant cash investment to be made to facilitate the required re-investment.

The Belvoir Castle would visibly benefit from upgrading, and its deficiencies are outlined within the submission. Whilst it is noted that the development may generate funds to improve the facilities of the pub to increase customers and profitability in the future, no tangible evidence has been submitted to demonstrate this. The new skittle alley and community room would replace existing facilities as opposed to adding to those facilities already offered. Whilst it would improve their relationship with the main bar area and increase the trading area, it has not been demonstrated how this would attract significant new customers. The property does not currently have adequate disabled facilities and access. The proposed improvements to create a community room and accessible toilets on the same level as the main bar area weigh in favour of the proposed development as an equality benefit and, more broadly, a public benefit.

Whilst the conclusions of the report are noted and the proposed improvements to the Belvoir Castle are acknowledged, it is not considered that the development and the long term viability of the pub are intrinsically linked. If the development is permitted, the approved flats would not be in the same ownership as the Belvoir and it is therefore questioned as to how the development would sustain the viability of the Belvoir Castle in the long term. Income generated from the flats, for example through their rental, would not be fed into the pub in perpetuity. The Belvoir Castle and the flat development would become two separate planning units.

Whilst the Belvoir Castle is not currently maximising its potential, it is considered likely that other business models could be explored to generate additional profits such as those that

were outlined within the sales brochure. It is not considered that it has been justified that the redevelopment of the site and the subdivision of the plot to build 9 residential units is intrinsically linked to the long term success and the retention of the Belvoir Castle. The Belvoir has been marketed for 12 months without any success. The improvement work, whilst potentially increasing the interest in the Belvoir, does not guarantee that the pub will continue to be run in the future. It is considered that it would not be possible to include conditions on any listed building consent to secure that the residential units contribute towards the running of the public house. If the Belvoir cannot be secured to be retained in perpetuity, limited weight can be given to the benefits as outlined within the submission in relation to the retention of the pub.

There is a duty placed on the Council under Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, when considering whether to grant listed building consent for any works, 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. Here it is considered that, owing to the scale, design and close proximity of the proposed development to the designated heritage assets together with the substantial demolition of the skittle alley, the proposal would seriously harm the significance and setting of both the Belvoir Castle public house and also Park View terrace. This proposal therefore fails to meet this requirement.

There is a duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the preservation or enhancement of the character or appearance of the surrounding Conservation Area. In this case, given the impact on the character and appearance of the street scene resulting from the scale, design and siting of the proposed three storey building together with the substantial demolition of the skittle alley, it is considered that the proposal would fail to preserve the character and appearance of the Bath Conservation Area. As such, the proposal fails to meet this requirement.

Policy B4 of the Core Strategy states that consideration must be given to impacts on the World Heritage Site and its setting. The proposal would result in considerable change to the site. However, the effects of the proposal would largely be in views close to the site. Given the scale, height and massing of the proposed development and the context of surrounding buildings, it is not considered that the proposal would cause notable harm to the OUV of the World Heritage Site, its relationship with the surrounding green hillsides or the sweeping views across the city.

Great weight has been given to the conservation of the designated heritage assets. The harm is less than substantial but is not considered to be outweighed by the public benefits of the development.

In conclusion, the proposed development is considered to result in an unacceptable impact on designated heritage assets and any public benefits generated from the proposal are not considered to outweigh the harm identified. This application is therefore recommended for refusal.

RECOMMENDATION
REFUSE

REASON(S) FOR REFUSAL

1 The proposed development by reason of its scale, design and close proximity to the designated heritage assets would seriously harm the significance and setting of the Belvoir Castle Public House and Park View Terrace. The development is considered contrary to Core Strategy Policy CP6 and Placemaking Plan Policy HE1. The harm identified is considered to be less than substantial but there are not considered to be any public benefits which outweigh this harm.

2 The proposed development would result in significant demolition of the skittle alley which forms part of the historic building assemblage at the Belvoir Castle Public House, which would seriously harm the significance and setting of this Grade II listed building contrary to Core Strategy Policy CP6 and Placemaking Plan policy HE1. The harm identified is considered to be less than substantial but there are not considered to be any public benefits which outweigh this harm.

3 In the absence of up to date protected species survey and assessment the application fails to demonstrate that the development is ecologically acceptable. The development is therefore considered to be contrary to Placemaking Plan Policies NE3, NE4 and NE5 and the Conservation of Habitats and Species Regulations 2017.

PLANS LIST:

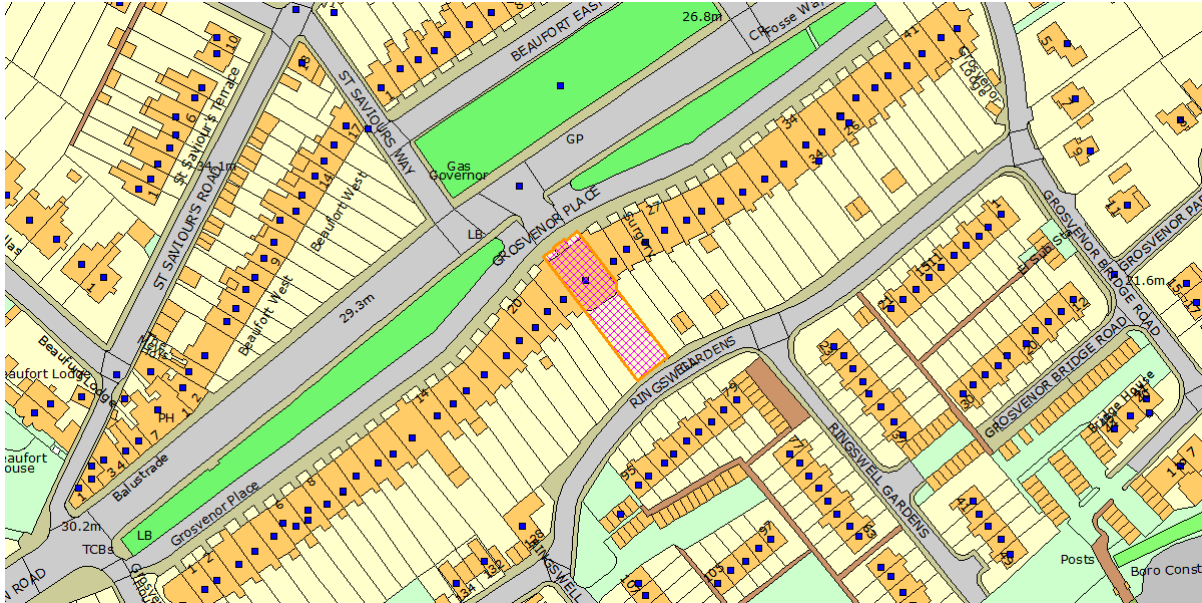
1 7 Jun 2018 1701 AL(0)02 Rev A Existing Site Plan
7 Jun 2018 1701 AL(0)03 Existing Lower and Ground Floor Plans
7 Jun 2018 1701 AL(0)04 Existing First Floor Plan
7 Jun 2018 1701 AL(0)05 Existing Roof Plan
7 Jun 2018 1701 AL(0)06 Existing Elevations
7 Jun 2018 1701 AL(0)11 Rev E Proposed Site Plan
7 Jun 2018 1701 AL(0)14 Rev D Proposed Roof Plan
7 Jun 2018 1701 AL(0)15 Demolition Floor Plans Basement & Ground Floor
7 Jun 2018 1701 AL(0)16 Proposed Alterations Floor Plans Basement & Ground Floor
7 Jun 2018 1701 AL(0)22 Rev D Proposed North/South Elevations
7 Jun 2018 1701 AL(0)24 Rev B Proposed Elevations Community Room
7 Jun 2018 1701 AL(0)25 Proposed Context Elevations
7 Jun 2018 1701 AL(0)30 Rev B Proposed Sections
7 Jun 2018 1701 AL(0)31 Rev A Proposed Sections
7 Jun 2018 1701 AL(0)01 Rev A Existing Location Plan
10 Aug 2018 1701 AL(0)12 Rev H Proposed Floor Plans Basement & Ground Floor
10 Aug 2018 1701 AL(0)21 Rev G Proposed Elevations East & West
5 Sep 2018 1701 AL(0)13 Rev A Proposed Floor Plans First & Second

2 Community Infrastructure Levy

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority please note that CIL applies to all relevant planning permissions granted on or after this date. Thus any successful appeal against this decision may become subject to CIL. Full details are available on the Council's website www.bathnes.gov.uk/cil

3 In determining this application, the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Framework. The Council has worked positively and proactively with the applicant to seek to resolve the issues identified. However, for the reasons given, and expanded upon in a related case officer's report, no agreeable solution could be found, and the application has been recommended for refusal.

Item No: 03
Application No: 21/04276/REG13
Site Location: 23 Grosvenor Place Lambridge Bath Bath And North East Somerset BA1 6BA



Ward: Walcot **Parish:** N/A **LB Grade:** I
Ward Members: Councillor Richard Samuel Councillor Tom Davies

Application Type: Regulation 13 Application

Proposal: Internal and external alterations for the installation of secondary glazing to windows to flats, installation of PV panels on hidden roof slope, installation of security camera on south elevation, additions and alterations to staircase balustrades, alterations to lower ground floor to provide building management offices, laundry room, stores and bin store including installation of secondary glazing.

Constraints: Article 4 Bath Demolition Wall, Article 4 Reg 7: Estate Agent, Article 4 HMO, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Conservation Area, Policy CP9 Affordable Housing Zones, Listed Building, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, SSSI - Impact Risk Zones,

Applicant: Bath And North East Somerset Council

Expiry Date: 3rd December 2021

Case Officer: Laura Batham

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

REPORT

Reason for reporting to Committee

This application is called to Committee as the Applicant is the Council.

Site Description:

Grosvenor Place is Grade I listed and the terrace was initially planned to be part of a much larger development in this area of the city. No. 23 was intended to be a hotel. Constructed between 1791 and 1819, the building slump in the early 19th century stopped works and evidence of the downturn is evident on the exterior of this property as elements of elaborate stone carving has not been completed. The building was subdivided into multiple flats in the 1970s and there are few historic features remaining internally.

Proposal:

Internal and external alterations for the installation of secondary glazing to windows to flats, installation of PV panels on hidden roof slope, installation of security camera on south elevation, additions and alterations to staircase balustrades, alterations to lower ground floor to provide building management offices, laundry room, stores and bin store including installation of secondary glazing.

History:

DC - 09/02179/LBA - CON - 2 October 2009 - Comprising draught proofing windows, dry lining dormers and part walls and installation of ventilators on roof and alterations to rainwater outlet

DC - 12/00702/LBA - CON - 26 April 2012 - Internal alterations to repair and re-level existing floor structure and removal of a studwork wall.

DC - 17/00030/LBA - CON - 6 March 2017 - External alterations to demolish & rebuild boundary retaining wall

DC - 18/04276/LBA - CON - 7 January 2019 - External alterations for the rebuilding of a boundary wall.

DC - 19/01494/VAR - CON - 3 June 2019 - Variation of condition 3 attached to 18/04276/LBA (External alterations for the rebuilding of a boundary wall).

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Historic England: On the basis of the information available, we do not wish to offer and comments. We suggest that you seek the views of your specialist conservation adviser.

Ecology: The submitted ecological information is acceptable. Net biodiversity gain will need to be achieved. Conditions should be attached to secure a wildlife protection, mitigation and enhancement scheme along with an ecological statement.

Bath Preservation Trust:

- In principle, BPT is supportive of sensitive sustainability retrofits, where deemed appropriate, within the historic environment.
- we maintain that the suitability of retrofit measures in effectively improving the energy efficiency of a building whilst sustaining the special architectural and historic interest of a listed building, and the risk of unintended consequences (eg. increased condensation, reduced breathability of historic fabric), must be assessed on a case-by-case basis.
- 23 Grosvenor Place offers an exceptional opportunity to create a major case study and set the standards for the energy retrofit of a high significance Grade I building. This

could establish a template for similar refurbishment works across the council's estate, encompassing a large number of listed buildings within the city centre, and set a positive precedent to encourage similar works by private homeowners and landlords.

- We have no objections to the proposed PV solar array, which would be concealed from public view within the inner roof slope. This measure would therefore have a negligible impact on the appearance of the listed building. However, considering the scale of the building and its high residential capacity (20 flats), we query whether the addition of 6 PV panels would be effective. We note the existing restrictions on available roof space due to the number of roof vents and rooflights, but strongly recommend further consideration of how PV provision could be maximised, and whether any vents could be acceptably removed or displaced to ensure that this measure would be sustainable.

- In principle, BPT is supportive of the installation of secondary glazing to improve the thermal performance of the building without compromising its historic features. Secondary glazing allows the retention of historic or historic-style sash windows, and would constitute a less invasive, reversible measure with limited harm to historic fabric. We therefore feel that this measure would be a positive, easily reversible addition to improve the energy efficiency and residential comfort of a historic building and ensure its long-term, sustainable use with a low visual impact.

- we do not feel that the proposed retrofits go far enough in addressing the council's own policies and Climate Emergency Action Plan. We maintain that the retrofit of historic buildings should ideally be approached holistically, including consideration and assessment of a wide range of possible interventions, how they would work together and any resulting impacts on the behaviour of the building or its fabric. It would be positive to include further information regarding existing measures that have already been installed at the property (eg. loft/floor/wall insulation, draughtproofing), alongside a more expansive assessment of the feasibility of other retrofit measures to work alongside the secondary glazing. In this way, a more comprehensive 'action plan' could be created for the building to ensure optimum performance as well as definitively 'crossing out' any measures which may be considered harmful to the specific architectural or historic value of the building.

- In relation to the proposed amendments to the historic balustrade running from the ground to first floors, we question the practicality of welding a new handrail to the existing handrail and whether this would be suitably robust for safe usage by residents. A more structurally sound solution may be to machine screw the new handrail from underneath the existing handrail, although this would be considered a more invasive measure with resulting loss of historic fabric. Alternatively a new balustrade that sits independently behind the retained historic balustrade may be more suitable to address health and safety concerns.

POLICIES/LEGISLATION

The Council has a statutory requirement under Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in considering whether to grant listed building consent for any works 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.

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 Revised National Planning Policy Framework (NPPF) 2021 is national policy in the conservation and enhancement of the historic environment which must be taken into account by the Council together with the related guidance given in the Planning Practice Guidance (PPG).

The Council must have regard to its development plan where material in considering whether to grant listed building consent for any works.

The statutory Development Plan for B&NES comprises:

- Core Strategy (July 2014)
- Placemaking Plan (July 2017)
- B&NES Local Plan (2007) - only saved Policy GDS.1 relating to 4 part implemented sites
- Joint Waste Core Strategy
- 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
- B4 - The World Heritage Site
- CP1 Retrofitting Existing Buildings
- CP2 Sustainable Construction

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:

- HE1 Historic Environmen

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

Grosvenor Place is Grade I listed and the terrace was initially planned to be part of a much larger development in this area of the city. No. 23 was intended to be a hotel. Constructed between 1791 and 1819, the building slump in the early 19th century stopped works and the downturn is evident on the exterior of this property as elements of elaborate stone carving have not been completed.

The application seeks consent for internal and external works. A number of works are currently being completed to replace modern bathroom and kitchen suites and general refurbish flats to include painting and new carpets. The building was previously converted

into multiple flats in the 1970s which has carved up the interior of the building and there are very few historic features remaining in the building. The works already in progress do not affect the special historic and architectural interest of the building and do not therefore require listed building consent.

The existing windows are plain sashes, some Victorian, to the rear and multi pane sash windows (of various ages) on the front elevation. As there are no surviving shutters or precluding features, secondary glazing can be accommodated without harm to historic fabric. The proposed secondary glazing uses minimal fixings and simply sits in front of the existing windows.

It is proposed to introduce PV panels to the internal roof valley. In this location the panels are not visible in short and medium views and will not therefore impact on the character and appearance of the building. No alteration of the roof structure is needed so they will not impact on any historic fabric. It has been explained by the applicant that this is the maximum number of panels that can be accommodated in the inner valleys due to roof lights and vents. The applicants have provided an ecology survey to demonstrate the addition of solar panels will not impact on any protected species.

The installation of a security camera on the rear elevation is proposed to face the large car park. This is of a small size and will be painted a Bath stone colour to minimise its visibility.

The building has been significantly altered but the main staircase from ground to first floor has been retained with original stairs and balustrade. At upper levels, the stairs appear to have been replaced and the balustrade adapted. In some locations, the height of the balustrade is below modern building control regulations which aim to prevent falls from height. In places, the gaps between spindles are also wider than modern regulations. At each landing location it is proposed to increase the height of the balustrade by adding a separate handrail above. The proposed method of increase is not objected to in principle; however, this has been adjusted slightly so that, rather than welding to the top of the balustrade, a separate handrail is welded to the spindles and reaches over the top of the existing handrail. The impact of this is thereby lessened. Another separate, modern staircase will have more spindles introduced where the gaps are considered to be a risk.

Within the lower ground floor the layout has been significantly altered with many new storage spaces created and modern floor finishes introduced. This area is proposed to be used as building management offices, a laundry room, stores and bin store. Given the extensive alterations to the planform of this level, the additional partitions and changes to the layout proposed will not cause harm to historic fabric and are therefore supported.

Further general updates to elements are also required including:

- Electrical system upgrade
- Improved fire detection system
- Improved emergency lighting and direction signage
- Wireless internet provision
- Replacement of modern doors

As outlined above, the building has been significantly altered through its previous adaption to flats. The electrical upgrades in like for like locations and hidden behind already

installed risers between the various floors will not impact adversely on the significance of the building.

In this interior which has been substantially modernised previously, the upgraded fire detection and emergency lighting/signage and wireless internet provision are not considered harmful.

The previous modern doors to the flats are not of historic interest and their replacement on a like for like basis is not considered to cause harm.

Conclusion:

The works are considered to be sensitive to the historic fabric of the building given the changes that have already taken place. The works are not therefore considered to cause harm to the significance of the listed building.

There is a duty under Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, when considering whether to grant listed building consent for any works, 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. Here it is considered that the proposals are consistent with the aims and requirements of the primary legislation and planning policy and guidance. The proposals would be an acceptable alteration to the listed building that preserves its significance as a designated heritage asset. The proposal accords with policy HE1 of the Placemaking Plan for Bath and North East Somerset (2017) and part 16 of the NPPF.

There is also a duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the preservation or enhancement of the character of the surrounding conservation area. Here it is considered that the proposals are consistent with the aims and requirements of the primary legislation and planning policy and guidance including the Council's specialist guidance, policy HE1 of the Placemaking Plan for Bath and North East Somerset (2017) and part 16 of the NPPF. The proposals would be an acceptable alteration to the listed building that preserve its architectural interest and character and will preserve and enhance the setting and appearance of the 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. This application involves a listed building and has been assessed against the relevant policies and guidance as identified, and these have been fully taken into account in the recommendation made. In this case, the addition of secondary glazing and solar panels is considered to allow for improved thermal efficiency and provision of greener energy.

RECOMMENDATION

CONSENT

CONDITIONS

1 Time Limit - Listed Building Consent (Compliance)

The works hereby approved shall be begun before the expiration of three years from the date of this consent.

Reason: To comply with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

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.

PLANS LIST:

1 Outline Schedule of Works - Communal Areas and Outline Schedule of Works - Flats 1-20 received on 25th November 2021.

1483 010, 1483 011, 1483 012, 1483 013, 1483 015, 1483 016, 1483 017, 1483 019, 1483 020, 1483 021, 1483 022, 1483 023, 1483 024, 1483 025, 1483 026, 1483 027, 1483 028, 1483 029, 1483 030, 1483 031, 1483 032, 1483 033, 1483 034, 1483 035, 1483 036, 1483 037, 1483 038, 1483 039, 1483 040, 1483 048, 1483 052, 1483 061 and 1483 001 received on 17th September 2021

1483 046 A, 1483 047 A, 1483 049 A received on 24th November 2021

2 Condition Categories

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

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

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

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

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

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

Where approval of further information is required you will need to submit an application to Discharge Conditions and pay the relevant fee via the Planning Portal at

www.planningportal.co.uk or post to Planning Services, Lewis House, Manvers Street, Bath, BA1 1JG.

3 Community Infrastructure Levy - General Note for all Development

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

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

Community Infrastructure Levy - Exemptions and Reliefs Claims

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

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

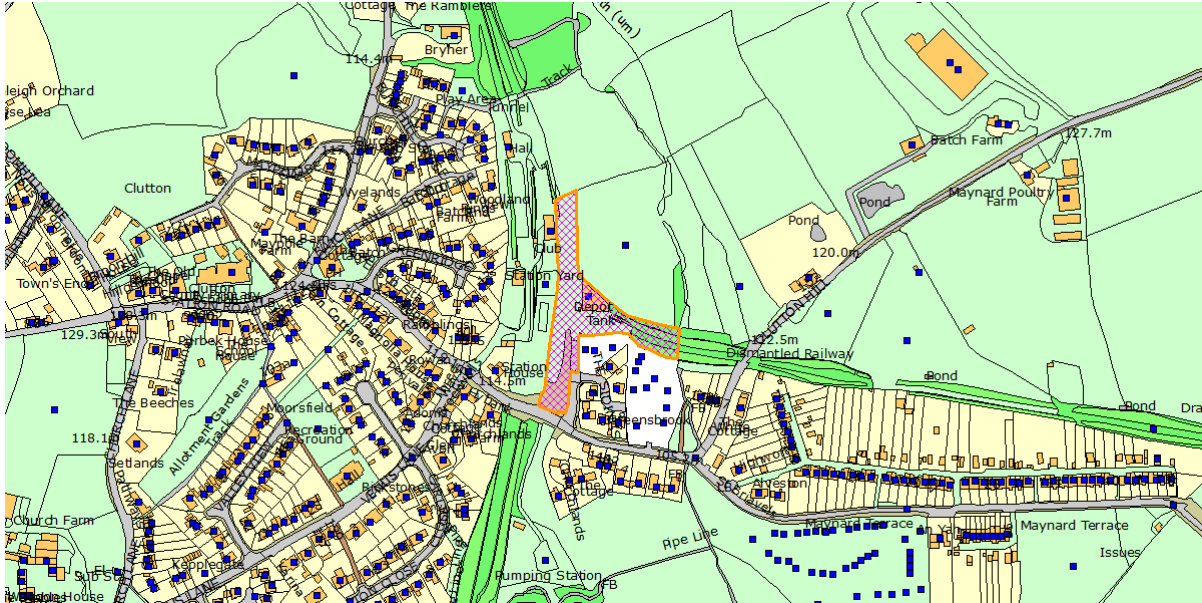
4 Responding to Climate Change (Informative):

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

5 Permit/Consent Decision Making Statement

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

Item No: 04
Application No: 21/00889/FUL
Site Location: The Wharf Greensbrook Clutton Bristol Bath And North East Somerset



Ward: Clutton And Farmborough **Parish:** Clutton **LB Grade:** N/A

Ward Members: Councillor Sally Davis

Application Type: Full Application

Proposal: Development of 18no. dwelling houses with associated access improvements, hard/soft landscaping, drainage works and parking.

Constraints: Bristol Airport Safeguarding, Clutton Airfield, Agricultural Land Classification, Coal - Standing Advice Area, Coal - Referral Area, Contaminated Land, Policy CP8 Green Belt, Policy CP9 Affordable Housing Zones, Housing Development Boundary, Policy LCR5 Safeguarded existg sport & R, Policy M1 Minerals Safeguarding Area, Policy NE1 Green Infrastructure Network, Policy NE2A Landscapes and the green set, Policy NE3 SNCI, Policy NE5 Ecological Networks, Neighbourhood Plan, Policy PCS6 Unstable Land-Coal Mining Le, SSSI - Impact Risk Zones, Policy ST8 Safeguarded Airport & Aerodro, Tree Preservation Order,

Applicant: Freemantle Developments Ltd

Expiry Date: 18th November 2021

Case Officer: Samantha Mason

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

REPORT

Reason for going to Committee:

The Parish Council support the application and the officer is minded to permit, nevertheless as per the Council's Scheme of Delegation the application is required to be heard at committee given that it is accompanied by a Viability Assessment in regards to Affordable Housing.

Site Description and Proposal:

The application refers to a previously developed site, originally a railway yard, located in the village of Clutton. The Site is within the Housing Development Boundary and adjoins the Green Belt. The site is designated as a Site of Nature Conservation Interest.

Planning permission is sought for the development of 18no. dwelling houses with associated access improvements, hard/soft landscaping, drainage works and parking.

Relevant Planning History:

DC - 03/00792/FUL - RF - 7 June 2004 - Erection of 35 no. dwellings after demolition of existing buildings

AP - 04/00127/RF - APLWD - 27 June 2005 - Erection of 35 no. dwellings after demolition of existing Buildings

DC - 03/03050/CLEU - PERMIT - 12 May 2004 - Mixed use including haulage storage & distribution (use class B8), office (use class B1), vehicle repair (use class B2), coal yard and scrap yard (Certificate of Lawfulness)

DC - 05/00026/FUL - WD - 4 May 2005 - Demolition of existing buildings to allow for the erection of 35 no. dwellings with garaging, including live/work provision along with access, open space and landscaping (Resubmission)

DC - 07/03530/FUL - RF - 17 January 2008 - Erection of 3 no dwellings after removal of existing bungalow

AP - 08/00065/RF - ALLOW - 7 October 2008 - Erection of 3 no dwellings after removal of existing bungalow

DC - 08/02497/TPO - CON - 8 July 2008 - Fell dead Oak

DC - 10/02249/FUL - INVWD - 27 July 2010 - Erection of 3 new dwellings

DC - 10/03646/FUL - PERMIT - 20 October 2010 - Erection of 3 new dwellings

DC - 12/00293/FUL - PERMIT - 2 April 2015 - Erection of 15no dwellings following demolition of existing workshop and stone shed

DC - 12/00968/COND - SPLIT - 4 May 2012 - Discharge of conditions 2, 3 and 4 of application
10/03646/FUL (Erection of 3 new dwellings)

DC - 14/03597/COND - DISCHG - 29 September 2014 - Discharge of condition 5 of application
10/03646/FUL (Erection of 3 new dwellings)

DC - 15/00249/VAR - PERMIT - 26 March 2015 - Variation of condition 10 of application
10/03646/FUL (Erection of 3 new dwellings).

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation Responses :

ARBORICULTURE:

12 April: no objection, however scope for revision. The drainage strategy has been formulated in isolation of arboricultural matters so requires review to ensure that it does not impact on retained trees. No arboricultural objection to the proposed tree removals subject to replacement planting on site.

17th August 2021: No objection subject to conditions

AVON AND SOMERSET POLICE:

23rd March: No objection subject to conditions

AVON FIRE AND RESCUE:

21st April 2021: Fire Hydrants require installation. Secure by s106.

CLUTTON PARISH COUNCIL:

23 March: The Parish Council resolved to support this application. The wharf is a brownfield site and the Parish Council has been keen to see this site developed for housing and the site was included within the housing development boundary in anticipation of it being developed. (Policy CNP3 Clutton Neighbourhood Plan)

COAL AUTHORITY:

27th July 2021: No objection subject to conditions

CONTAMINATED LAND:

12 March: No objection subject to conditions

DRAINAGE:

23 March: Further information required.

6th July: Further information required.

27th July: Further information required.

3rd Sept: Further information required.

6th Sept: No objection subject to conditions

ECOLOGY:

23 March: No objection in principle. Further clarifications are required to demonstrate compliance with the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 (as amended) and the Protection of badgers Act 1992. Consistent approach in landscape proposals and ecological requirements to demonstrate no net loss and net gain of biodiversity, protection and enhancement of Habitats of Principal Importance and the boundary to the adjacent SNCI in accordance with Bath and north East Somerset Placemaking Plan Policy NE3.

13th Oct: The submitted information addresses many of the previous ecological comments. Clarifications/ amendments remain outstanding in relation to the following:

1) Landscape plans to clearly and consistently demonstrate implementation of ecological requirements including retention of native hedgerows (unless justified and compensation provided), management to encourage mixed scrub and grassland mosaic and avoiding overseeding in sensitive areas e.g. reptile receptor area.

2) Landscape plans to be consistent with biodiversity net gain calculations (or BNG calculations to be amended)

3) Lighting Strategy to reference and consider impact of internal light spill from Plots 5 and 6. Further amendments to external light fittings causing light spill, albeit low level, onto dark corridor to the west are requested.

Otherwise, the information provided is welcomed and sufficient to inform legal and policy compliance.

EDUCATION SERVICES:

11 March: No Objection. The primary age pupils calculated to be generated are projected to be able to be accommodated in the available primary school places in the area. CIL will be required to create capacity for the secondary age pupils calculated to be generated.

HIGHWAYS:

8th March: Scope for revision, further information required.

16th April: Further information required in respect of Transport Statement.

13th May: Further information required.

29th June: No Objection subject to conditions.

HOUSING SERVICES:

7th April: Objection. This application triggers Policy CP9 thus requiring an affordable housing contribution at 30%. However, the applicant has suggested a viability case suggesting a zero (0%) affordable housing contribution.

Representations Received :

Two comments have been received from third parties, the following is a summary of the points raised;

- Concern for pedestrian and highways safety
- Concern regarding attenuation pond and drainage, and compliance with drainage regulations

POLICIES/LEGISLATION

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

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

Core Strategy:

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

- CP2: Sustainable Construction
- CP3: Renewable Energy
- CP6: Environmental Quality
- CP8: Green Belt
- CP9: Affordable Housing
- CP10: Housing Mix
- DW1: District Wide Spatial Strategy
- SD1: Presumption in favour of sustainable development

Placemaking Plan:

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

- D1: General urban design principles
- D2: Local character and distinctiveness

D.3: Urban fabric
D.5: Building design
D.6: Amenity
D7: Infill and backland development
GB1: Visual amenities of the Green Belt
NE2: Conserving and Enhancing the landscape and landscape character
NE2A: Landscape setting of settlements
NE3: Sites, species and habitats
NE5: Ecological networks
NE6: Trees and woodland conservation
RA1: Development in the villages meeting the listed criteria
RA2: Development in villages outside of the Green Belt not meeting Policy RA1 criteria
ST7: Transport requirements for managing development
H7: Housing accessibility
SCR1: On-site renewable energy requirement
SCR5: Water efficiency
SU1: Sustainable drainage policy
LCR9: Increasing the provision of local food growing
PC55: Contamination

National Policy:

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

Neighbourhood Plans:

The following Clutton Neighbourhood Plan policies are relevant to this application:

Policy CNP1 - Settlement Separation
Policy CNP2 - Build Character
Policy CNP3 - Numbers, Siting and Types of New Dwellings
Policy CNP4 - Sustainability by design
Policy CNP6 - Safe roads
Policy CNP7 - Sewage Disposal
Policy CNP18 - Pedestrian Links
Policy CNP20 - Parking provision
Policy CNP21 - Street Lighting

LOW CARBON AND SUSTAINABLE CREDENTIALS

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

OFFICER ASSESSMENT

The main issues to consider are:

- Principle of development
- Affordable housing
- Character and appearance
- Residential amenity
- Trees and landscape
- Ecology
- Coal mining heritage
- Highways
- Drainage and flooding
- Contaminated land
- Sustainable construction and renewable energy
- Planning obligations

PRINCIPLE OF DEVELOPMENT:

The site is a brownfield site with a lawful mixed use for industrial and commercial purposes.

Policy Ed2b has regard to non-strategic industrial premises. It states that 'Non-strategic sites are not afforded the same level of protection for industrial, and warehousing (B1c, B2 & B8) uses as those listed in ED2A. Applications for residential development or others uses will normally be approved unless there is a strong economic reason why this would be inappropriate'.

The site previously had planning permission for its redevelopment to provide 15 houses, with 5 affordable units (planning application reference 12/00293/FUL). The loss of the site as industrial use was therefore established under the previous permission, and whilst this has lapsed, it remains a material planning consideration of some weight.

Additionally, since that permission was granted, a Neighbourhood Plan (NP) for Clutton has been adopted (in 2015) and this references the approval for 15 dwellings on the site, stating on page 12 that the permission (together with the other 48 dwellings approved within/around Clutton but not, at that time, built out) would be "sufficient to meet the requirement for 50 dwellings" in Clutton. It is noted that the Parish Council support this application.

Policy DW1 of the Core Strategy states that the focus of new housing will be Bath, Keynsham and the Somer Valley, however it goes on to say that development in rural areas will be acceptable if located at settlements with a good range of local facilities and with good access to public transport.

Clutton is defined as an RA1 village by the Placemaking Plan. RA1 villages are those villages with a greater level of facilities and services. Policy RA1 states that proposals for residential development of a scale, character and appearance appropriate to the village and its setting will be acceptable within the housing development boundary.

The site is within the Housing Development boundary for Clutton. The proposal is considered to accord with the spatial strategy of the development Plan.

Additionally, the Education Team have been consulted on the scheme in regards to school space requirements generated by the scheme.

This proposed development contains:

3 no. 1 bed houses, 6 no. 2 bed houses, 9 no. 3 bed houses.

This is calculated to generate the following children and young people:

Early Years children age 0-4 - 2.106

Primary - 3.24

Secondary -1.44

16+ - 0.33

Young people aged 13-19 - 2.25

The primary age pupils calculated to be generated are projected to be able to be accommodated in the available primary school places in the area. CIL payments will be used to create capacity for the secondary age pupils calculated to be generated.

Overall, the principle of residential development is acceptable subject to other material planning considerations discussed below.

AFFORDABLE HOUSING AND VIABILITY:

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). This site triggers policy CP9 given that it is for 18 dwellings. The following percentage targets will be sought in Clutton: 30%.

The applicant submitted a viability assessment suggesting a zero (0%) affordable housing contribution. Policy CP9 states that 'For both large and small sites the viability of the proposed development should be taken into account'.

The viability assessment has been independently assessed by The Valuation Office Agency who have concluded that the resulting residual Land Value (RLV) is £338,087, and in comparing this to the BLV of £345,000, a scheme providing 100% Open market units and CIL at £115,800 would be marginally viable. As such it is confirmed that a scheme including affordable housing is not viable.

In exceptional circumstances, where the applicant has demonstrated a scheme is not viable and this has been independently validated, the Council may consider the use of alternative mechanisms to achieve affordable housing requirements. The Housing Team have requested a viability review mechanism is built into the legal agreement. Planning Practice Guidance clearly states that any requirement for a review mechanism needs to be clearly set out in the local plan, and this has consistently been upheld by appeal decisions. NPPG Para 009 states 'Plans should set out circumstances where review mechanisms may be appropriate, as well as clear process and terms of engagement regarding how and when viability will be reassessed over the lifetime of the development'. The placemaking plan does not set out any requirement for a viability review mechanism. Further detail in the NPPG implies viability mechanisms should be used in the case of development which has a long-term build out programme or is phased such as a large

urban extension, this is not the case with this site for 18 dwellings, it is a relatively small scheme which will no doubt be built-out quite quickly. Overall it is not considered that in this instance a viability clawback mechanism can be insisted on. Accordingly the application complies with affordable housing policy.

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 site 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.

The proposal seeks to redevelop the site to provide 18 dwellings following demolition of existing buildings. Additionally, works proposed comprise associated vehicular access improvements; hard-soft landscape works; and drainage.

To reiterate, the site previously benefited from planning permission (since expired) for redevelopment to provide 15 houses (planning application reference 12/00293/FUL). The loss of the existing buildings on site was therefore established under the previous permission.

It is noted that the developable area has shrunk from the 0.42ha for the approved scheme to 0.38 ha due to a need to retain an ecological corridor adjacent to the designated SNCI.

Initially the submitted scheme for 18 dwellings was considered to result in a scheme dominated by parking and hard surfacing with large areas of on-street parking which were 'designed out' during the previous application. Additionally, the lack of pedestrian walkway was a concern.

During the course of the application revised plans have been received addressing the aforementioned concerns of the officer, the layout, and therefore density, is now considered more appropriate and pedestrian friendly.

In terms of scale the proposed dwellings are all to be two storey, akin to typical housing in Clutton, in comparison to some three storey heights in the previous scheme. It is therefore considered that there will be less visual impact also arising from this scheme in the wider landscape. It is noted that the Green Belt boundary is adjacent to the site, the proposal is not considered to result in harm to its visual amenity in line with policy GB1.

In terms of detail, initially officers considered the extensive palette of materials proposed resulted in a lack of coherence across the site. The main build materials will now be variations of render, red brick, and natural stone with buff brick and recon stone detailing. The appearance will be of a standard housing estate using a mix of materials found across the village of Clutton.

It is noted that the dwellings include features such as small dual-pitch dormer windows at eaves level; canopy porches; arches above ground floor windows and doors; and chimneys that reflect local vernacular to some degree.

Initially concern was raised in regard to the use of gabions as retaining walls at the entrance to the site given their often 'hard-engineering' appearance. The entrance to the current site is heavily vegetated. Following further information from the agent, the officers are satisfied that planting cover can be achieved across the gabions to ensure a vegetated finish and a condition will be attached to ensure this is maintained. The gabions will also be filled with local stone.

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

RESIDENTIAL AMENITY:

Policy D.6 sets out to ensure developments provide an appropriate level of amenity space for new and future occupiers, relative to their use and avoiding harm to private amenity in terms of privacy, light and outlook/overlooking.

The scheme has been designed to ensure a satisfactory standard of amenity is provided for each new dwelling. The nearest residential neighbours are those to the south east of the site, to the north is fields and to the west are non-residential buildings. The proposed dwellings have been located mainly away from these dwellings, Plot 7 will be the only dwelling to share the boundary of number 5 the sidings and this will be the side elevation. No side facing windows in flank elevations are proposed unless these are to non-habitable rooms such as bathrooms and landings. It is noted that no objections have been received from third parties in regard to residential amenity concerns.

Given the design, scale, massing and siting of the proposed development the proposal would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, smell, traffic or other disturbance.

The proposal accords with policy D6 of the Placemaking Plan for Bath and North East Somerset (2017) and paragraph 17 and part 7 of the NPPF.

TREES:

Policy NE6 has regard to trees and woodland conservation, it states development will only be permitted where it seeks to avoid adverse impact on trees and woodlands.

A Tree Preservation Order protects a tree group and woodland in the vicinity. The group identified as G3 within the Tree Preservation Order (TPO) lists; 10 x thorn; 5 x sycamore; 4 x ash; 2 x hazel; 1 x poplar and 1 x holly which correspond to those trees identified as T11 - T22 inclusive within the arboricultural report.

The proposed layout of the site in the northern strip of land is informed by the location of the protected trees. The separation distance provided between the dwellings and external

space represents a betterment to the layout presented under the consented scheme 12/00293/FUL.

The Arboricultural Officer is in general agreement with the contents of the Arboricultural Impact Assessment given the historical alterations to the ground levels and the presence of Ash Dieback in respect of the northern strip. The remaining plot positions to the west near to the entrance to the site remain similar to those previously consented.

No arboricultural objection is raised to the propose tree removals subject to replacement planting which can be accommodated on site as illustrated within the soft landscape proposals submitted.

Additionally, concern was raised over that the drainage proposal has not been informed by arboricultural input. During the course of the application the drainage strategy drawing has been revised, however, activities remain within the area which would have been excluded by tree protection fencing. As such an addendum to the arboricultural method statement and revised tree protection plan were submitted to address drainage works activities.

Compliance with the Arb method statement and Tree protection plan will be conditioned.

The proposed development will not have an adverse impact on a tree which has significant visual or amenity value. The proposal accords with policy NE6 of the Placemaking Plan for Bath and North East Somerset (2017) and part 15 of the NPPF.

ECOLOGY:

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

Designated sites:

There is no ecological objection in principle to the proposals. There are no statutory designated sites in close proximity. The nearest component unit of a Special Area of Conservation designated for bats is over 8km from the site. The proposals do not meet Natural England's SSSI Impact Risk Zone criteria.

Clutton Dismantled Railway and Fry's Bottom Site of Nature Conservation Interest (SNCI) is immediately adjacent to the western boundary of the site. The SNCI is designated for semi-natural broadleaved woodland, mixed woodland scrub, tall ruderal and stream with associated marginal habitats. Usually a buffer area of at least 10m to SNCIs would be requested. In this instance, given the previously developed nature of the application site and extent of hardstanding, the proposed habitat buffer along the western boundary is acceptable.

Habitats:

The Ecological Assessment (Ethos Environmental Planning, February 2021 updated) and Biodiversity Net Gain Results (Ethos Environmental Planning, February 2021) and

accompanying Defra metric calculator are welcomed. The reports confirm that the site comprises buildings, hardstanding, ephemeral/ruderal vegetation, scrub, native species-rich hedgerows and trees.

Habitats of Principal Importance (HPI) under Section 41 of the NERC Act must be retained in the first instance, or if their removal is unavoidable, at least like-for-like compensation provided to meet the NPPF and Bath and North East Somerset Placemaking Plan Policy NE3. Native species-rich hedgerows are a HPI. The ecology reports state that hedgerows will be retained and enhanced.

Otherwise, the habitats are not of notable interest, although retention and enhancement of scrub through management is welcomed. *Cotoneaster horizontalis* a non-native invasive species subject to legal controls under the Wildlife and Countryside Act 1981 (as amended) is present. Any arisings from this species will need to be disposed of on site or in a suitable waste stream further to recommendations in Section 8.3.6 of the Ecological Assessment.

Protected and Notable Species:

Targeted surveys have been completed for bats, badger and reptiles. Some of the surveys have not been updated since 2018. It is standard practice in accordance with CIEEM guidance for surveys to remain valid to within 18 months to 2 years of submission. However, it is appreciated in this instance, given that much of the key reptile habitat can be retained, and as habitat for foraging and commuting bats can be retained that reptile presence/absence surveys and bat activity transects would not be of benefit. The site has been identified as a Key Reptile Site due to the presence of low numbers of three species of reptiles. The site supports a range of dispersing and foraging bat species. The western boundary is an occasionally-used corridor for lesser horseshoe, greater horseshoe and barbastelle bats. Retention of this features as a dark corridor is welcomed. The Lighting Strategy (DfL, February 2021) is welcomed. It has been demonstrated that a sensitive lighting scheme for domestic properties is achievable.

Avoidance and mitigation measures for other species including nesting birds and hedgehog have also been identified. Scoping out impacts on other species is acceptable, providing boundary habitats will be retained and protected.

A bat loft suitable for brown long-eared bats will be incorporated into Plot 4 as shown in Drawing 2857/103 Revision C and detailed in Section 8.3.3 of the Ecological Assessment report V4. This is sufficient to demonstrate no loss of Favourable Conservation Status. Full and final details of bat mitigation measures and the proposed integrated bat and bird boxes can be secured by condition as confirmed by the Council's ecologist.

No Net Loss and Net Gain of Biodiversity:

The net calculation is welcomed and supported, demonstrating that 36% net gain is achievable.

Overall the proposal is considered to comply with policy NE3 and the other relevant policies of the Placemaking Plan and NPPF.

HIGHWAYS SAFETY AND PARKING:

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

The Highways Development Control Team (HDC) have been consulted on this application. A Transport Statement (TS) prepared by 'Highgate Transportation' (HT) dated January 2021 has been submitted in support of the application.

Access:

It is noted that during the course of the application the agent has provided confirmation that the applicant has a right of access over Greensbrook, as demonstrated by an easement document submitted in support of the application, which is acceptable.

Traffic Impact:

The trip rates and resultant 'person' trips summarised by Table 3.1 and Table 3.2 of the TS are in the range that HDC officers would expect for a development of 18 residential dwellings. It is acknowledged that the proposed development will remove the heavy goods vehicle (HGV) trips generated by the previous use of the application site which is beneficial to the safety of vulnerable road users. Officers also agree with the conclusion summarised by paragraph 3.33 that the traffic forecast to be generated by the proposed 18 residential dwellings is unlikely to have a material impact on the continued safe operation of the local highway network.

Car Parking and Cycle Parking:

During the course of the application the design and layout of the scheme has been amended, together with bedroom numbers for the proposed dwellings.

The following mix is now proposed:

Type A 2no: 3 bed
Type B 6no: 2 bed
Type C 8no: 3 bed
Type D 2no: 1 bed

The following car parking standards are required:

3 bed: 2 spaces
2 bed : 2 spaces
1 bed: 1 spaces
Visitor: 0.2 spaces per dwelling

The proposal would therefore require 33 off-street, car parking spaces for the residential dwellings, together with an additional four 'visitor' spaces. In this instance 38 parking spaces are proposed, 34 allocated to dwellings and 4 visitor spaces. It has been demonstrated that the proposed off-street, car parking spaces are fully accessible. The proposal is therefore considered to be policy compliant on these grounds.

Each dwelling will be provided with a 'shed' within the rear garden which will provide secure, covered cycle parking for a minimum of two bicycles; such provision will be secured by a condition attached to any planning permission granted.

Accessibility and Highways Safety:

The TS concludes that "the village of Clutton is considered a walkable neighbourhood", however officers note that there are no existing, or proposed, continuous footways linking the application site to either the bus stops on Station Road; the social club and village hall; the 'Railway Inn' public house; the playground; the Scout Hut; or Clutton Primary School. As such pedestrians will largely be required to share the carriageway with motor vehicles.

However, officers acknowledge that an intermittent flush 'footway' forms part of the Station Road carriageway, defined by a solid white carriageway marking and 'pedestrian' symbols. There is an existing Public Right of Way CL6/25 (PRoW CL6/25) in close proximity to the site that is suitable for pedestrians. The existing PRoW CL6/25 can be accessed from the application site via the 'false' footway on Station Road and the lightly trafficked Clutton Hill, through the current kissing gate located within the section of Clutton Hill which is subject to a 30mph speed limit. Officers are therefore satisfied that there is accessibility for pedestrians.

Additionally, during the course of the application tactile crossings and paved footpaths have been introduced within the site improving pedestrian safety and in line with the design principles of policy D1-D4. HDC officers visited the application site with colleagues from the 'Traffic Management' team on Thursday 13th May 2021. The majority of pedestrians who walk along Station Road use the 'footway' on the south-west side of the carriageway. HDC have confirmed acceptance of the proposed extension of the two-metre-wide footway on the north-east of the carriageway, including a crossing point, as appropriate improvements to the existing pedestrian environment. Officers accept the continuation of the footway as an alternative to securing a financial contribution.

HDC officers acknowledge that submitted plans demonstrate that the 'private' section of the site is accessible to a fire engine (paragraph 3.19). HDC officers note that the applicant proposes to erect 'keep clear for emergency service vehicle' highway signage within the turning head at the north of the application site, which will remain private. Submitted plan reference 19115 04 confirms that the applicant proposes to 'protect' the 'adoptable' turning head with a 'No Waiting at any Time' (double yellow lines restriction), which is acceptable. A Traffic Regulation Order (TRO) will be required, the cost of which the applicant will be required to meet, together with any implementation costs.

Officers note that submitted plan reference 'TR08' demonstrates that a delivery vehicle can access both the 'private' and 'adoptable' sections of the site, which is acceptable.

Officers acknowledge that plan reference 19115/03 which forms Appendix 5 of the HT response demonstrates that the required visibility of 2.4-metres by 25-metres in both directions from Greenbrook onto Station Road can be achieved. The applicant's written commitment to cut back all vegetation within the visibility splay is welcomed and will be secured by a condition.

Personal Injury Collision (PIC) data for the previous 60-month period (January 2015 to January 2020) has been analysed. Four collisions were recorded and, following a review of the data, officers are satisfied that there are no collision cluster spots or common collision causation factors. It is considered that there are no current highway safety concerns which would be exacerbated by the proposed development.

It is acknowledged that the applicant proposes to reduce the width of the 'private' road to 3.7-metres. The proposed width is less than the minimum of 4.1-metres recommended by Manual for Streets (MfS) to allow cars travelling in opposing directions to safely pass one another. However, this part of the site is limited in length and will form a cul-de-sac, additionally the short lengths of 'narrow' sections will act as a traffic calming feature. It is also noted that forward visibility to, and through, the 'narrow' sections is good. On balance, officers accept a narrowed carriageway.

Waste:

The applicant proposes to provide a refuse and recycling collection point in the vicinity of 'Plot 13', from where a private refuse collection company would collect both refuse and recycling from those dwellings located on the private drive, which is acceptable.

Construction Management:

Given the nature of the site, locality, and size of development a condition will be attached requiring the submission of a Construction Management Plan, pre-commencement of any works.

Overall, the HDC Team have raised no objection to the application subject to conditions and advisories. The means of access and parking arrangements are acceptable and maintain highway safety standards. The proposal accords with policy ST7 of the Placemaking Plan for Bath and North East Somerset (2017), the Clutton Neighbourhood Plan, and part 4 of the NPPF.

DRAINAGE AND FLOODING:

The site is located in flood zone one. The site is not in a location designated as known for surface water flooding. To the east of the site is a brook.

A Drainage Strategy Report was submitted with the application and during the course of the application additional information has been sought on drainage matters which has been provided by the agent.

The site's geology and ground conditions make it unsuitable for soakaways. The proposed drainage strategy proposes a pumped main for foul sewage, which would be offered for adoption and would connect to the existing sewer on Station Road, and the use of permeable finishes where possible, with attenuated systems for the roofs and adopted road drainage.

The Flooding and Drainage Team were consulted on the application and following the submission of additional information have raised no objection subject to condition.

COAL MINING HERITAGE:

Part of the application site falls within the defined Development High Risk Area; therefore, within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

The Coal Authority records indicate that the site is in the likely zone of influence from workings in 4 seams of coal at shallow to 122m depth, last worked in 1921.

The planning application is accompanied by an Intrusive Coal Mining Investigation Report, 17 July 2019. The Report has been informed by an extensive range of sources of information, including the results of intrusive ground investigations in the form of 5no. rotary boreholes drilled to a maximum depth of 36m.

The Intrusive Coal Mining Investigation Report informs that based on the results of the rotary drilling works, coal seams or suspected workings were encountered within all 5no. boreholes. Recommendations have been made that further investigation and/or precautionary ground stabilisation works is considered necessary to mitigate the risk from mining subsidence (Section 5.2).

The Coal Authority has been consulted on the application and concurs with the conclusion / recommendations of the Intrusive Coal Mining Investigation Report, dated 17 June 2019, that in order that the site is made safe and stable for the proposed development from former coal mining activity at this site, further investigation and / or precautionary ground stabilisation works is required. Therefore, conditions will be attached to that affect. Additionally, Permission is required from the Coal Authority Permit and Licensing Team before undertaking any activity, such as ground investigation and ground works, which may disturb coal property. Over the Coal Authority has raised no objection subject to conditions.

Subject to the conditions aforementioned the proposal is considered to comply with PCS6 of the Placemaking Plan which has regard to unstable land.

CONTAMINATED LAND:

The following report was included with the application: 'Proposed Residential Development. The Wharf, Greenbrook, Clutton. Geo-Environmental Site Assessment & Remediation Strategy. Report No. P1070.1.1 Revision 0. 30th April 2018. Ground Investigation Limited.'

The Council's Contaminated Land Officer has been consulted on the scheme and is supportive of the findings and recommendations of the geo-environmental assessment, which puts forward the outline remedial measures required for the site's development.

Contaminated land conditions will be placed on the application to allow for the detailed specification of the recommended remediation. Subject to these conditions the proposal is considered to comply with policy PCS5 which has regard to contamination.

HOUSING ACCESSIBILITY:

Placemaking Plan Policy H7 requires 19% of all new market housing to be provided to enhanced accessibility standards meeting the optional technical standard 4(2) in the Building Regulations Approved Document M. The 19% is based on a 'rounded up' figure. Therefore 3 of the 18 proposed dwellings must meet enhanced accessibility standards. Plots 8, 12 and 13 would be built to M4(2) standard. This is acceptable.

SUSTAINABLE CONSTRUCTION AND RENEWABLE ENERGY:

Policy CP2 of the Placemaking Plan has regard to Sustainable construction. The policy requires sustainable design and construction to be integral to all new development in B&NES and that a sustainable construction checklist (SCC) is submitted with application evidencing that the prescribed standards have been met.

A reduction in CO2 emissions is required by sustainable construction and renewable energy. In this case the submitted SCC shows that a 34.9% CO2 emissions reduction has been achieved from energy efficiency and/or renewables (29.1% reduction through solar PV). Therefore, the proposed development is compliant with policy CP2 and SCR1 in this instance.

Policy SCR5 of the emerging Placemaking Plan requires that all dwellings meet the national optional Building Regulations requirement for water efficiency of 110 litres per person per day. This can be secured by condition.

Policy SCR5 also requires all residential development to include a scheme for rainwater harvesting or other method of capturing rainwater for use by residents (e.g. water butts). These matters can be secured by a relevant planning condition.

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.).

PLANNING OBLIGATIONS:

In addition to the CIL contributions that will be generated by the application proposal, the residual matters that will require planning obligations relate to following obligations which are agreed by the applicant:

- o Fire hydrant x2 at £1500 each.
- o Targeted Training and Recruitment for 3 x Work Placements for a Band 1 development = total contribution of £495.

CONCLUSION:

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

RECOMMENDATION PERMIT

CONDITIONS

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

1. Financial contribution for fire hydrants x2 at £1500 each.
2. Financial contribution for Targeted Training and Recruitment for 3 x Work Placements for a Band 1 development = total contribution of £495.

B.) Subject to the prior completion of the above agreement, authorise the Head of Planning to PERMIT subject to the following 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 Materials - Submission of Materials Schedule (Bespoke Trigger)

No construction of the external walls of the development shall commence until a schedule of materials and finishes to be used in the construction of the external surfaces, including roofs, has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include:

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

Samples of any of the materials in the submitted schedule shall be made available at the request of the Local Planning Authority.

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

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

3 Wildlife Protection and Enhancement (Pre-commencement)

No development shall take place until full details of a Wildlife Protection and Enhancement Scheme have been submitted to and approved in writing by the local planning authority. These details shall include a programme of implementation for all measures within the scheme.

All works within the scheme shall be carried out in accordance with the approved details prior to the occupation of the development or in accordance with the approved programme of implementation.

Reason: To prevent ecological harm and to provide biodiversity gain in accordance with policy CP6 of the Bath and North East Somerset Core Strategy and policy NE.3 of the Bath and North East Somerset Placemaking Plan. The above condition is required to be pre-commencement as it involves approval of measures to ensure protection of wildlife that would be otherwise harmed during site preparation and construction phases.

4 Implementation of Wildlife Scheme (Pre-occupation)

No occupation of the development hereby approved shall commence until a report produced by a suitably experienced ecologist confirming and demonstrating, using photographs, implementation of the recommendations of the Wildlife Protection and Enhancement Scheme has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the implementation and success of the Wildlife Protection and Enhancement Scheme to prevent ecological harm and to provide biodiversity gain in accordance with policy CP6 of the Bath and North East Somerset Core Strategy and policy NE.3 of the Bath and North East Somerset Placemaking Plan.

5 Construction Environmental Management Plan (Pre-Occupation)

No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority for the whole site or for each phase of development, as applicable. The CEMP (Biodiversity) shall include, but is not limited to, the follow:

- (i) a plan showing exclusion zones for retained and protected habitats and vegetation, within which there shall be no ground works or excavation, storage of materials, waste disposal, vehicle access or use of machinery, or disturbance to or removal of vegetation or habitats; and specification for fencing of exclusion zones;
- (ii) proposed badger mitigation strategy;
- (iii) details and specifications of all necessary measures to avoid harm to other wildlife including hedgehog, or reduce ecological impacts during site clearance and construction;
- (iv) findings of update surveys or pre-commencement checks of the whole site or relevant part of the site and notification of findings by email from the applicant's ecologist to the local authority ecologist (along with details of any further mitigation or compensation requirements arising) prior to commencement of works;
- (v) details of the ecological clerk of works and works requiring ecological supervision.

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 wildlife before and during construction in accordance with policy CP6 of the Bath and North East Somerset Core Strategy and policy NE.3 of the Bath and North East Somerset Placemaking Plan.

6 Lighting Strategy Compliance (Bespoke Trigger)

Within one month of full scheme completion evidence demonstrating compliance with the hereby approved Lighting Strategy shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the implementation and success of the Lighting Strategy to prevent ecological harm in accordance with policy CP6 of the Bath and North East Somerset Core Strategy and policy NE.3 of the Bath and North East Somerset Placemaking Plan.

7 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;
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 NE.3 and D8 of the Bath and North East Somerset Placemaking Plan.

8 Arboricultural Compliance Statement (Bespoke trigger)

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

Reason: To ensure that the approved method statement is complied with for the duration of the development to protect the trees to be retained in accordance with policy NE.6 of the Placemaking Plan.

9 Site Access (Pre-occupation)

No occupation of the development shall commence until the access arrangement indicated on submitted plan reference HTP/19115/03 (or a variation agreed by the Local Planning Authority) has been provided, including the provision of visibility of 2.4-metres by 25-metres. There shall be no on-site obstruction exceeding 600mm above ground level within the visibility splay. The visibility splay shall be retained permanently thereafter.

Reason: To ensure safe access to and from the site in the interests of highways safety in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

10 Highway Works (Pre-occupation)

No occupation of the development shall commence until the 'off-site' highway improvements indicated on submitted plan reference HTP/19115/06 (or a variation agreed by the Local Planning Authority) have been provided.

Reason: To ensure that the development is served by an adequate means of access in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

11 Dwelling Access (Compliance)

No dwelling shall be occupied until it is served by a properly bound and compacted footpath and carriageway to at least base course level between the dwelling and the existing adopted highway.

Reason: To ensure that the development is served by an adequate means of access in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

12 Parking (Pre-occupation)

No dwelling shall be occupied until the off street, car parking spaces associated with that dwelling as indicated on submitted plan reference 2857/101 Revision L (or a variation agreed by the Local Planning Authority), have been provided on-site and should be retained permanently thereafter.

Reason: To ensure that adequate and safe parking is provided in the interests of amenity and highway safety in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

13 Turning Space (Pre-occupation)

No occupation of the development shall commence until the turning space shown on drawing number HTp/19115/04/A (or a variation agreed by the Local Planning Authority) has been completed in accordance with the approved details, including the provision of a "No Waiting at any Time" restriction(s). The turning space shall be kept clear of obstruction and available for use as a turning space at all times.

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

14 Cycle Parking (Pre-occupation)

No dwelling shall be occupied until secure, covered cycle parking for a minimum of two bicycles has been provided in accordance with details to be submitted to and approved in writing to the Local Planning Authority. The bicycle storage shall be retained permanently thereafter.

Reason: In the interest of encouraging sustainable travel methods in accordance with Policy ST1 of the Bath and North East Somerset Placemaking Plan.

15 Residents Welcome Pack (Pre-occupation)

No occupation of the approved development shall commence until a new resident's welcome pack has been issued to the first occupier/purchaser of each residential unit of accommodation. The new resident's welcome pack shall have previously been submitted to and approved in writing by the Local Planning Authority and shall include information of bus and train timetable information, information giving examples of fares/ticket options, information on cycle routes, 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 Construction Management Plan (Pre-commencement)

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

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

17 Road Condition Survey (Pre-commencement)

No work shall commence on the development site until a detailed "Road Condition Survey" along Station Road and Greenbrook has been carried out and submitted to the Local Planning Authority in accordance with a specification that has first been approved in writing by the Local Planning Authority. Within three months of the development being brought into use, any damage to the local highway network that has been identified as a result of the construction phase in relation to the agreed "Road Condition Survey" shall be remedied to the satisfaction of the Local Highway Authority.

Reason: To ensure that safe operation of the highway and in the interests of protecting residential amenity in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

18 Surface Water System Adoption (Pre-Commencement)

No development shall commence, except ground investigations, until written confirmation from the sewerage company (Wessex Water) accepting to adopt the surface water system into their network including point of connection and rate has been submitted to the Local Planning Authority, or an alternate drainage strategy is approved by the Local Planning Authority.

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. This is a condition precedent because it is necessary to understand whether the discharge rates are appropriate prior to any initial construction works which may prejudice the surface water drainage strategy.

19 Coal Mining Remediation and Mitigation (Pre-Occupation)

Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the completion of the remedial works and/or mitigation carried out to address the risks posed by past coal mining activity.

Reason: Given the sites coal mining heritage, to ensure that sites are suitable for the new use taking account of ground conditions and land instability and the need for remediation as appropriate in accordance with policy PCS6 of the Placemaking Plan and the NPPF.

20 Remediation Scheme (Pre-Commencement)

No development shall commence until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment, 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. The scheme shall include:

- (i) all works to be undertaken;
- (ii) proposed remediation objectives and remediation criteria;
- (iii) timetable of works and site management procedures; and,
- (iv) where required, a monitoring and maintenance scheme to monitor the long-term effectiveness

of the proposed remediation and a timetable for the submission of reports that demonstrate the effectiveness of the monitoring and maintenance carried out.

The remediation scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The approved remediation scheme shall be carried out prior to the commencement of development, other than that required to carry out remediation, or in accordance with the approved timetable of works.

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with section 11 and 15 of the National Planning Policy Framework. This is a condition precedent because the works comprising the development have the potential to uncover harmful contamination. Therefore these details need to be agreed before work commences.

21 Verification Report (Pre-Occupation)

No occupation shall commence until a verification report (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 section 11 and 15 of the National Planning Policy Framework.

22 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 and 15 of the National Planning Policy Framework.

23 Housing Accessibility (Compliance)

The following dwellings hereby approved shall meet the optional technical standards 4(2) in the Building Regulations Approved Document M: Plots 8, 12 and 13.

Reason: To ensure that the optional technical standards for accessibility are met in accordance with policy H7 of the Bath and North East Somerset Council Placemaking Plan.

24 Sustainable Construction (Pre-Occupation)

Prior to first occupation of the development hereby approved the following tables (as set out in the Council's Sustainable Construction Supplementary Planning Document, Adopted November 2018) shall be completed in respect of the completed development and submitted for approval to the Local Planning Authority together with the further documentation listed below:

1. Table 2.1 Energy Strategy (including detail of renewables)
2. Table 2.2 Proposals with more than one building type (if relevant)
3. Table 2.4 (Calculations);
4. Building Regulations Part L post-completion documents
5. Microgeneration Certification Scheme (MCS) Certificate/s (if renewables have been used)

Reason: To ensure that the approved development complies with Policy CP2 of the Core Strategy (sustainable construction).

25 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.

26 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.

27 Gabion Wall Planting Details and Maintenance (Bespoke Trigger)

Prior to the construction of the 'green' gabion retaining wall of the approved development a detailed specification of its proposed planting shall be submitted to and approved in writing by the Local Planning Authority. These details shall include:

1. A planting schedule;
2. A timetable for implementation;
3. A maintenance schedule.

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

Reason: To ensure the successful implementation of the green roof in the interests of preserving the character and appearance of the area in accordance with policies D1, D2, D3 and D5 of the Bath and North East Somerset Placemaking Plan and policy CP6 of the Bath and North East Somerset Core Strategy.

28 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:

This decision relates to the following plans:

25 Feb 2021	2857 111	Site Location Plan
25 Feb 2021	2857 100	Existing Site Plan
25 Feb 2021	2857 113	Existing Building Plan And Elevations
07 May 2021	04	TRO
07 May 2021	05	Refuse Strategy
16 Jun 2021	2857/101 L	Proposed Site Plan
16 Jun 2021	2857/102 A	Proposed Plans And Elevations (Plots 1 And 2)
16 Jun 2021	2857/103 C	Proposed Plans And Elevations (Plots 3 And 4)
16 Jun 2021	2857/105 A	Proposed Plans And Elevations (Plots 7 And 8)
16 Jun 2021	2857/106 C	Proposed Plans And Elevations (Plots 9 To 12)
16 Jun 2021	2857/107 A	Proposed Plans And Elevations (Plots 13 And 14)
16 Jun 2021	2857/108 B	Proposed Plans And Elevations (Plot 15 And 16)
16 Jun 2021	2857/109 A	Proposed Plans And Elevations (Plots 17 And 18)
20 Jul 2021	1422-02 L	Hard Landscape Proposal
12 Aug 2021	P06	Drainage Strategy
12 Aug 2021	P06	Drainage Maintenance
12 Aug 2021	P06	Flood Exceedance

25 Oct 2021	1:500 P04	Lighting Layout
25 Oct 2021	1422-01 N	Soft Landscape Proposals
25 Oct 2021	2857 104 C	Proposed Plans And Elevations (Plots 5 and 6)
25 Oct 2021	2857 112 B	Strip Elevations

2 INFORMATIVE:

Local Highway Authority Require Legal Agreements (Section 38 and Section 278)

The LHA requires the developer to enter into legally binding Section 38 and Section 278 Agreements covering the adoption of the newly constructed carriageway and footways as highway maintainable at the public expenses, together with the off-site highway improvements.

The legal agreement will also secure the funding of the Traffic Regulation Order (TRO) required to permit the applicant to implement "No Waiting at any Time" restriction(s)

Further information in this respect may be obtained by contacting the LHA.

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 38 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 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

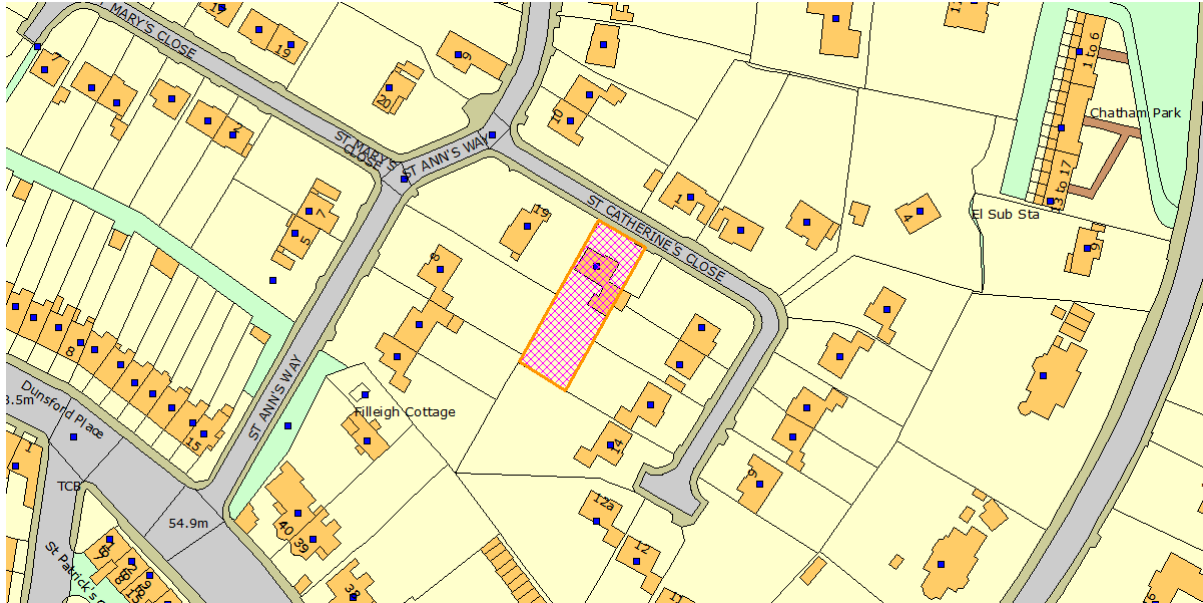
The CIL regulations are non-discretionary in respect of exemption claims. If you are intending to claim a relief or exemption from CIL (such as a "self-build relief") it is important that you understand and follow the correct procedure **before** commencing **any** development on site. You must apply 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 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: 05
Application No: 21/03981/FUL
Site Location: 18 St Catherine's Close Bathwick Bath Bath And North East Somerset BA2 6BS



Ward: Bathwick **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor Dr Kumar Councillor Manda Rigby
Application Type: Full Application
Proposal: Erection of two storey side and rear extension and single storey rear extension following demolition of existing structures.
Constraints: Article 4 Bath Demolition Wall, Article 4 Reg 7: Estate Agent, Article 4 HMO, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Conservation Area, Policy CP9 Affordable Housing Zones, MOD Safeguarded Areas, Policy NE2A Landscapes and the green set, Policy NE5 Ecological Networks, SSSI - Impact Risk Zones,
Applicant: Mr And Mrs Bunn
Expiry Date: 17th December 2021
Case Officer: Samantha Mason
To view the case click on the link [here](#).

REPORT
REASON FOR REPORTING APPLICATION TO COMMITTEE:

Cllrs Manda Rigby and Yuktेशwar Kumar have called the application in to committee if the Council are minded to permit and the chair has decided to take the application for the following reason:

I have reviewed this application and note the comments and objections raised against it. Many of the issues have been resolved during the course of the officer's assessment but concerns remain on the size and character of the proposal. For this reason I recommend that it is debated at committee.

DESCRIPTION OF SITE AND APPLICATION:

This application relates to a detached dwelling located in the Bath World Heritage Site and conservation area.

The application seeks planning permission for the erection of a two-storey side and rear extension following the demolition of existing structures.

Relevant Planning History:

There is no relevant planning history on this site.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation Responses :

None received

Representations Received :

Cllr Manda Rigby: Committee call in request.

I am writing as ward councillor and were you to be minded to approve this application, I request it comes to committee.

This is overdevelopment of a site, creating a loss of both residential amenity and privacy due to overlooking.

This area is particularly consistent in form, and a 2-storey extension, creating in excess of 75% more space is disproportionate.

Development in a conservation area has to 'preserve or enhance" this does neither, rather it is detrimental.

Whilst appreciating each application needs to be determined on its own merits, i would draw attention to a very nearby recent application which was in fact smaller than what is being proposed which the committee refused.

Cllr Yukteshwar Kumar:

Should the officers be inclined to grant approval for this application, as a ward councillor, I would humbly request that this (18-St. Catherine's Close- 21/03981/FUL) may please be discussed in the development and planning committee meeting:

1. Intrusive overdevelopment, Inappropriate Character and Appearance in the Conservation Area

2. Loss of privacy and residential amenity to the neighbours.
3. No precedence of these sort of development in the area.

Third party comments: 11 objection comments received. The main points being;

- o Overdevelopment
- o Impact openness and amenity for neighbours
- o Loss of outlook
- o Omission of the side elevation
- o Overbearing
- o Foliage won't obscure the view
- o Loss of light
- o Terrace will create over-looking and over-shadowing for no.19.
- o Design is out-of-keeping with the property.
- o Inconsistency between the figures in the design and access statement and the submitted plans.
- o The levels of the land are not accurately reflected in the plans.
- o Side extension will see the removal of the driveway and will take away the majority of the front garden, replacing it will a parking area and this will result in loss of outlook for neighbouring dwellings.
- o Revised plans don't overcome the concerns- the window on the side has increased to 2.4metres and the bedroom has got larger- privacy concerns.
- o The ground floor kitchen has increased by 200mm.
- o The rear roof extension could not be built as per the plans.

POLICIES/LEGISLATION

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

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

Core Strategy:

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

DW1 District Wide Spatial Strategy

CP7 Green Infrastructure
CP6 Environmental Quality
CP2 Sustainable construction
B4 World Heritage Site

Placemaking Plan:

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

D1: General urban design principles
D2: Local character and distinctiveness
D.3: Urban fabric
D.5: Building design
HE1: Historic environment
ST1: Promoting Sustainable travel
ST7: Transport requirements for managing development

National Policy:

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

Conservation Areas:

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

LOW CARBON AND SUSTAINABLE CREDENTIALS

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

OFFICER ASSESSMENT

The main issues to consider are:

- Principle;
- Character and appearance;
- Residential amenity;
- Highways;
- Other matters

PRINCIPLE OF DEVELOPMENT:

The application site is located within the built-up residential area of Bath and therefore the principle of the proposal is considered acceptable subject to compliance with all other policies.

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 scheme proposes a two-storey side and rear extension over the existing single storey side element and a single storey rear extension. The extension will copy the hipped roof of the existing dwelling to the side and a rear two storey gable end extension is also proposed, along with a flat roof single storey rear extension. The proposal will utilise roof tiles to match and wooden cladding to the front and rear two storey and single storey element with stone coloured render to the side elevation. Whilst the stone-coloured render to the side elevation and the wooden cladding to the rear is acceptable, it was considered that the front elevation should be stone to match the existing dwelling and revised plans were received to show this.

Whilst comments have been received to explain that the design is out-of-keeping with the property and streetscene, the scheme utilises a hipped roof to the side and the rear projection, whilst large, is considered acceptable considering the size of the host dwelling.

Objection comments have been received to explain that the scheme represents overdevelopment of the site. However, whilst the extensions are large, they are considered to be proportionate to the size and design of the main dwelling and a sufficient amount of outdoor amenity space will remain.

Objection comments have also gone on to explain that there is an omission of a proposed side elevation. However, the proposed plans show all elevations, and the plans are considered satisfactory.

Objection comments have been submitted to explain that the proposed extension creates 75% more space. However, the applicant has confirmed that the volume increase is 38.5% over the existing volume and a 33% increase in Gross Internal Area (GIA). However, it must be noted that the building is not in the green belt and as such there is nothing written in the council's policies prescribing how large an extension should be mathematically.

The proposal by reason of its design, siting, scale, massing, layout and materials is acceptable and contributes and responds to the local context and maintains the character and appearance of the surrounding area. The proposal accords with policy CP6 of the adopted Core Strategy (2014) and policies D1, D2, D3, D4 and D5 of the Placemaking Plan for Bath and North East Somerset (2017) and paragraph 17 and part 7 of the NPPF.

CONSERVATION AREA:

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 setting of the conservation area in this location is defined by residential development of various design. Now that the front elevation materials has been amended it is considered that the proposal will embed within the conservation area, resulting in a neutral impact.

There is a duty placed on the Council under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act to pay special attention to the preservation or enhancement of the character of the surrounding conservation area. In this case by virtue of the design, scale, massing, position and the external materials of the proposed development it is considered that the development would at least preserve the character and appearance of this part of the Conservation Area and its setting.

The proposal accords with policy CP6 of the adopted Core Strategy (2014) and policy HE1 of the Placemaking Plan for Bath and North East Somerset (2017) and Part 12 of the NPPF.

RESIDENTIAL AMENITY:

Policy D.6 sets out to ensure developments provide an appropriate level of amenity space for new and future occupiers, relative to their use and avoiding harm to private amenity in terms of privacy, light and outlook/overlooking.

Objection comments received have explained that the scheme will impact openness and create a loss of outlook and light and will be overbearing for neighbours. However, whilst the extension is considered to be large and will extend closer to the residential curtilage, the distances between the dwellings (approx. 21 metres separating the site from the closest elevation of no.17 and approx. 16 metres from no.19) is such that there is not considered to be any significant negative loss of openness, light, outlook or an overbearing impact. This is a built-up residential area, and an extension of this scale is considered acceptable in such areas. Comments have also been submitted to explain that the foliage will not obscure the wall and whilst it is agreed that this is true, it is not considered that this is a requirement to make the extension acceptable. The extension is acceptable without foliage to cover the wall.

There are concerns regarding the terrace/balcony area to the rear and side and the impact that this will have on neighbouring dwellings and it was considered that this element should be removed, and revised plans were received to reflect this. It is considered necessary that a condition shall be attached to the permission to ensure that the flat roof is not used as a terrace in the future to comply with policy D6. Whilst comments have been submitted regarding the new glass doors in the two-storey side extension and the loss of privacy for no.19, there is a window on the existing side elevation of the main dwelling and as such this element is considered acceptable and any over-looking as a result would be considered normal for built-up residential areas such as this. However, a terrace/balcony area here was considered to exacerbate the over-looking and loss of privacy impact and would create a significant impact for neighbouring dwellings.

Objection comments have been submitted to explain that the drawings of the proposed side-facing kitchen extension don't accurately reflect the levels of the land and hedge between the kitchen extension windows and no.19. The boundary hedge is lower than shown, by around 1.4m and the proposed side-facing windows would be over 2m closer to no.19. Whilst the gradient of the land does get higher from no.19 to no.18 and the proposed single storey element with side windows comes closer to the boundary with no.19, as there are windows in the existing single storey element there are not considered to be any significant negative over-looking impacts for no.19 over and above the existing situation. Whilst the balcony area was considered to create significant over-looking impacts, as there are windows in the side elevation of the existing dwelling and many other windows on numbers 16 and 17 also currently overlook no.18 and 19, the glass doors in the two-storey side element aren't considered to create any more of an impact than the existing situation. The loss of privacy as a result of the scheme is considered acceptable and indeed normal for built-up residential areas such as this.

Objection comments received explain that the side extension will see the removal of the driveway and will take away the majority of the front garden, replacing it with a parking area and this will result in loss of outlook for neighbouring dwellings. However, whilst some of the garden area will be turned into a parking area, there is still some front garden and the front hedge is proposed to remain. As such the scheme is not considered to have any significant negative loss of outlook impacts for neighbouring occupiers and will be in-keeping with the streetscene.

Objection comments received have explained that the revised plans don't overcome the concerns and the increase in the window on the side to 2.4metres and the larger bedroom has privacy impacts. However, further revisions were submitted showing a reduction in the amount of glazing in the first-floor side element and as the balcony has been removed and this is a built-up residential area where there is already some over-looking, this level of glazing in the proposed first floor side element is not considered to have any more a significant impact than the existing situation.

Comments have been submitted to explain that the revised ground floor kitchen has increased by 200mm. However, this is considered acceptable and there aren't considered to any significant negative residential amenity impacts as a result considering the distances between the dwellings and that this is a built-up residential area.

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

HIGHWAYS SAFETY AND PARKING:

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

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

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.

OTHER ISSUES:

Comments submitted have explained that there is an inconsistency between the information in the design and access statement (DAS) and the submitted plans. Whilst this may be so, the Council is not the author of the DAS and in anycase has assessed the submitted scaled plans only when reaching the decision.

Comment have been submitted to explain that the plans are misleading as they suggest the ridge height of the rear extension would be lower than it would be if it were to be built in conjunction with the main house. However, it is considered that the plans are accurate. The applicant is minded that they will need to get building regulations approval for the proposal and if there are any issues regarding the plans and these need to be revised, a further planning application will be necessary.

Revised plan reference 0140-3-340E shows an amendment to the rear elevation and this shows that ridge heights have not changed. The rear elevation has been amended circa 100mm in an easterly direction to reflect the front and side elevations.

CONCLUSION:

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

RECOMMENDATION

PERMIT

CONDITIONS

1 Standard Time Limit (Compliance)

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

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

2 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:

0136-3-301A, 0136-3-305A, 0136-3-310A, 0136-3-311A, 0136-3-312, 0136-3-320A, 0136-3-322, 0136-3-330A received 24th August 2021.

0140-3-350A received 4th October 2021.

0136-3-319D, 0136-3-318D and 0136-3-308D received 6th October 2021.

0140-3-340E received 11th November 2021.

2 Condition Categories

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

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

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

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

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

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

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

3 Permit/Consent Decision Making Statement

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

4 Community Infrastructure Levy - General Note for all Development

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

Do not commence development until you 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

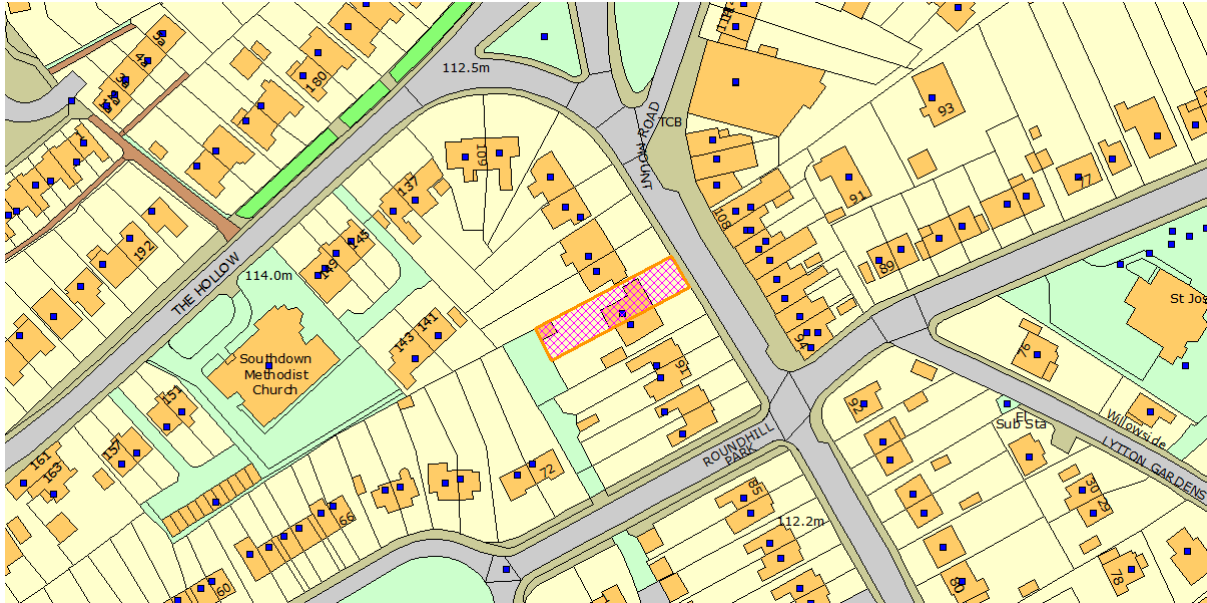
The CIL regulations are non-discretionary in respect of exemption claims. If you are intending to claim a relief or exemption from CIL (such as a "self-build relief") it is important that you understand and follow the correct procedure **before** commencing **any** development on site. You must apply 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.

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5 Responding to Climate Change (Informative):

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

Item No: 06
Application No: 21/04002/FUL
Site Location: 97 Mount Road Southdown Bath Bath And North East Somerset BA2 1LL



Ward: Southdown **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor Paul Crossley Councillor Dine Romero
Application Type: Full Application
Proposal: Change of use from a 3 bedroom dwelling (Use Class C3) to a 9 bedroom House in Multiple Occupation (HMO) (Use Class Sui Generis). Erection of 3m two storey side extension and loft conversion.
Constraints: Article 4 HMO, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Policy CP9 Affordable Housing Zones, LLFA - Flood Risk Management, MOD Safeguarded Areas, Policy NE5 Ecological Networks, SSSI - Impact Risk Zones,
Applicant: Long
Expiry Date: 17th December 2021
Case Officer: Samantha Mason
To view the case click on the link [here](#).

REPORT
REASON FOR REPORTING APPLICATION TO COMMITTEE:

Cllrs Dine Romero and Paul Crossley have called the application in to committee if the Council are minded to permit and the chair has decided to take the application for the following reason:

I have reviewed this application and note the comments and objections raised against it. Some of the issues raised have been addressed in the officer's report and others are not planning matters, however, I am concerned about the residential amenity of the 9 occupants that will be sharing this space and therefore recommend that the application be debated at committee.

DESCRIPTION OF SITE AND APPLICATION:

This application relates to a semi-detached dwelling situated within the built-up residential area of Bath within the World Heritage Site.

The application seeks planning permission for the change of use from a 3 bedroom dwelling (Use Class C3) to a 9 bedroom House in Multiple Occupation (HMO) (Use Class Sui Generis). Erection of 3m two storey side extension and loft conversion.

Relevant Planning History:

There is no relevant planning history on this site.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation Responses :

None received

Representations Received :

Cllr Dine Romero: I am writing to object to this proposal. We have a growing deficit of family housing in Southdown, one of the few areas of relatively affordable housing in Bath.

Creating a 9-bedroom house out of a family 3-bedroom house clearly is over development. From looking at the plans there does not appear to be enough communal space for 9 people. There will obviously be an adverse impact on the quality of life for the occupants of the adjoining properties of so many people living next door.

If you are minded to approve, I would like to bring this application to the planning committee to be determined.

Cllr Paul Crossly: This is a dramatic change to create a very large HMO in this residential area. It will have significant impact on residential amenity for neighbours and also parking. For these reasons, if the officer is minded to approve this scheme, I would like it considered by committee.

Highways: not acceptable in current form.

Third party comments: 35 objection comments received. The main points being:

On the submitted drawing, 18 bedspaces are shown in 9 bedrooms but the submitted design and access statement implies that they will be single occupancy, retaining two parking spaces and providing nine cycle spaces on the block plan. This is clearly

overdevelopment, with not enough space within the communal area of the house, and the loss of a family home in an area of predominantly similarly sized and relatively modestly priced family accommodation is a relevant consideration in looking at this application.

Southdown is primarily a family area, with already 8 HMOs within the immediate vicinity (as shown below), which are already causing disruption to local residents with recurring late night noise issues.

Oldfield Park is a well-known student area which has an overpopulation of HMOs, we are concerned this is encroaching into Southdown, which will push more families away with the issues that follow students. Families are actively trying to move out of Oldfield Park due to the student issue as HMOs, to Southdown, and from looking at the above map, you can see that HMOs are just spreading out towards Southdown, which will push the families and residents out, further away from Bath.

Bath is a prominent student city with two universities, and having student accommodation is obviously needed, however, with the recent numerous developments throughout the city catering to students, there is a limit to how much the community can take, particularly in a family area and with such a high number of occupants as proposed in 97. This isn't only Bath students, but there is pressure now for up to 300 students from Bristol to be housed in Bath due to the significant rise in applicants to Bristol University, which is particularly concerning as this will not only increase the student numbers in Bath, but also transportation and air pollution which is already a major issue in the city (BBC News <https://www.bbc.co.uk/news/uk-england-bristol-58264222.amp>).

Mount Road already has major parking issues with the local shops opposite (with associated large HGV deliveries daily), with limited parking and two bus stops. Cars are parking on double yellow lines outside residential properties, blocking residents in. When a bus is stopped with someone illegally parking on the double yellow lines, it can lead to chaos for the local traffic. Adding a further 9 more residents, with potentially 9 more cars into the mix, as well as visitors' cars will cause major disruption to the already problematic traffic and illegal parking.

Mount Road is a family-oriented area, and the developer / owner is a non-local investment company based in Romsey, Hampshire with no interest in the local community, except in the exploitative buy-to-let market. If this planning application is successful, it will likely push people out of the area as it is doing in Oldfield Park.

The distance provided between the new extension and the adjacent property (99 Mount road) is given as 600mm. This is not wide enough to be able to traverse bikes through which are over 600mm wide, not even taking into consideration someone trying to stand next to the bike and walk it through the space.

It appears that only 99 and 97 Mount road received a letter regarding this development. No-one else on the street received any notification and no notifications were physically posted in the local area.

Sewage issues have arisen in the past with blockages causing disruption which brings up the question as to whether the current sewage system is good enough to handle that many more people. Wessex water have had to be called on numerous occasions due to

the sewage and adding 9 if not more people that stay over will add extra pressure to the system.

We noted that the application submitted by the developer made no mention of the ecological issues immediately adjacent to the site. Section 12 of the application stated no protected species adjacent to the site, however an active badger sett has been present for at least 10 years directly behind the garden that was not mentioned or taken into consideration. Multiple badgers have been seen by local residents.

The revised plans don't overcome the concerns

POLICIES/LEGISLATION

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

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

Core Strategy:

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

CP6: Environmental Quality
CP2: Sustainable construction
B4: World Heritage Site

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:

DW1 District Wide Spatial Strategy
D2 Local character and distinctiveness
D4 Streets and Spaces
D5 Building Design
D6 Amenity

ST1 Promoting sustainable travel
ST7 Transport Access and Development Management
HE1 Historic Environment
H2 Houses in Multiple Occupancy

National Policy:

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

SPD's:

HMO SPD

LOW CARBON AND SUSTAINABLE CREDENTIALS

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

OFFICER ASSESSMENT

The main issues to consider are:

- Principle
- Change of use
- Character and appearance
- Highways
- Residential amenity
- Any other matters

PRINCIPLE OF DEVELOPMENT:

The property is within the built-up residential area of Bath where the principle of development is accepted subject to compliance with all other policies.

CHANGE OF USE TO 9-BED HMO:

Policy H2 explains that if the site is within Bath and within a high concentration of existing HMOs (as defined in the HMO SPD) further changes of use to HMOs will not be supported as they will be contrary to supporting a balanced community. Other criteria for not permitting a change of use to an HMO are as follows:

- o The HMO is incompatible with the character and amenity of adjacent uses.
- o The HMO use significantly harms the amenity of adjoining residents through loss of privacy, visual and noise intrusion.

- o The change of use creates a severe transport impact.
- o The HMO use results in the unacceptable loss of accommodation in a locality- size, mixture and type.
- o The change of use prejudices the commercial use of ground/lower floors.

The Houses in Multiple Occupation SPD (November 2017) states that applications for the change of use from C3 dwellings to C4 or sui generis (HMOs) will not be permitted where:

Criterion 1: It would result in any residential property (C3 use) being 'sandwiched' between 2 HMOs or

Criterion 2: Stage 1 test: The application property is within or less than 50m from a Census Output Area in which HMO properties represent more than 10% of households.

And;

Stage 2 test: HMO properties represent more than 10% of households within a 100m radius of the application property.

It has been confirmed through a GIS search that the scheme would not result in any residential property (C3 use) being 'sandwiched' between 2 HMOs. The scheme passes Criterion 1.

The site is also located within the built-up residential area of Bath and is more than 50m from a Census Output Area in which HMO properties represent more than 10% of households. Therefore, whilst comments have been submitted to explain that there are a number of HMOs in the area and that the creation of this larger HMO would result in the loss of a family house, the proposal passes the stage 1 test and passes criterion 2 and the scheme is acceptable and in line with policy H2 of the Placemaking Plan (2017) and the HMO SPD (2017) in this respect.

CHARACTER AND APPEARANCE:

The proposal is to change the use from a 4-bed dwelling house (C3 use class) to a 9-bed house in multiple occupation (C4 use class). The scheme proposes to create 3 bedrooms on the ground floor, 4 bedrooms on the first floor and two bedrooms in the roof. In order to create the space, the applicant is proposing to remove the existing side dormer and create a hipped roof two storey side extension. Whilst the hipped roof will follow the height existing roof ridge, it will be stepped back from the front elevation and as such will remain subservient to the host property. The proposed materials are Bath stone, UPVC windows and concrete roof tiles to match the host property. Therefore, the scheme is considered in-keeping with the size, design and materials of the host property in compliance with policies D2, D4, H2 and HE1.

Comments have been received to say that the scheme undermines the character of this residential road and that there is a shortage of family houses in the city. However, the scheme does not result in a 'sandwiching' effect and the scheme also meets the stage 1 tests and is acceptable in terms of housing mix and there is still a need for HMOs in the city.

HIGHWAYS:

The change of use, and associated increase in the number of bedrooms from 3 to 9, is likely to increase the occupancy of the house by independent individuals (i.e., not a family) and this may raise concerns over increased car parking demand in the vicinity of the application site, particularly in an area where on-street parking is unrestricted. Highways note that while there are waiting restrictions in the immediate vicinity of the site on Mount Road, there are areas of highway with no waiting restrictions within a short walk of the site.

The site's sustainable location is acknowledged with good access to a range of services, facilities and public transport links; therefore, car usage should be less intense. The Design and Access Statement says that the existing house has a capacity of four car parking spaces (two sets of tandem parking). It is not clear how these four spaces are accommodated, or whether they included the location of the single-storey side extension used as a garage 2009 - 2020.

The Existing and Proposed Elevations and Block Plan Ref. 02 A shows two car parking spaces laid out on the driveway. It would appear that a third space could be accommodated in the 'tandem' arrangement, however a fourth space could not currently be accommodated in the proposed layout without increasing the width of the driveway or removing a section of boundary wall which would prevent access.

Comments have been submitted to explain that the increase to 9 bedrooms will create parking and highway safety issues as there is insufficient parking provision. However, there is evidence from surveys carried out by the Department for Communities and Local Government which found that rented accommodation can have up to 0.5 fewer cars than owner occupied households of a similar size and type. Furthermore, without adopted parking standards for HMOs, it is difficult to demonstrate that the change of use will result in an unacceptable increased demand for parking, or a demonstrable harmful impact on local highway conditions. Paragraph 109 of the revised National Planning Policy Framework (NPPF) states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Therefore, refusal of the application on these grounds would be considered contrary to this policy.

Bicycle parking is proposed to the rear of the property to accommodate 9 cycles. Revised plans have been submitted to show that the side extension has been reduced in size to enable the access path to the side to be increased to 1.2m wide. A condition shall be attached to ensure there is sufficient, covered and secure bicycle storage for at least 2 bicycles in accordance with policy ST7. Overall, the scheme is considered compliant with policies ST1 and ST7.

RESIDENTIAL AMENITY:

Objection comments have been submitted regarding disruption and noise issues associated with students and HMOs. However, it is worth noting that not all HMOs are occupied by students and many young professionals tend to be in HMOs as well as students.

It is appreciated that C3 dwellinghouses are occupied by single households which typically have co-ordinated routines, lifestyles, visitors and patterns of movement. Conversely,

HMOs are occupied by unrelated individuals, each possibly acting as a separate household, with their own friends, lifestyles, and patterns and times of movements. The comings and goings of the occupiers of an HMO are likely to be less regimented and occur at earlier and later times in the day than a C3 family home and may well consist of groups engaging in evening or nighttime recreational activity. Such a change of use can therefore be expected to increase comings and goings, noise and other disturbance compared to a C3 use.

The proposal however will not result in properties being sandwiched between two HMOs and there are not considered to be any significant residential amenity impacts as a result of the change of use than when compared to the existing situation.

Comments have been submitted regarding noise impacts of the scheme, there aren't considered to be any significant negative noise impacts as a result of the six extra bedrooms.

Comments have been submitted to explain that there doesn't appear to be enough communal living space for nine people. The kitchen has a combined lounge area, and this lounge area measures approx. 17sqm which is below the recommended 26sqm as a standard for 9 people sharing. However, the kitchen and utility have a combined space of 21.4sqm which is almost double the recommended space standard of 10.5sqm for nine people sharing.

There are three complete bathrooms in the property which is a standard for 9 people sharing. Furthermore, the bedrooms 1-5 are all 10.4- 15.4 sqm with bedrooms 6, 7, 8 and 9 being the smallest at approx. 7.5-9.5 sqm, but these are all over 6.51sqm which is suggested for single bedrooms. Concern has been expressed regarding the potential use of 18 people. However, if this were the case the applicant would need to change the application; this is an application for 9 people and will be assessed as such. A condition is recommended to ensure that the dwelling is not occupied by (rented to) more than 9 unrelated occupants without the prior written consent of the Local Planning Authority. This condition is considered necessary to safeguard the amenities of nearby occupiers in accordance with Policy D6 and H2 of the Placemaking Plan (2017).

Overall, the scheme is broadly compliant with policy D6 of the Placemaking Plan (2017).

OTHER ISSUES:

Comments have been submitted to explain that there is more pressure to provide student housing in Bath due to increased student numbers. This is not only Bath students, but there is pressure now for up to 300 students from Bristol to be housed in Bath due to the significant rise in applicants to Bristol Uni, and that this will not only increase the student numbers in Bath, but also transportation and air pollution which is already a major issue in the city. However, regardless of whether 300 students from Bristol will be housed in Bath, the scheme complies with policy H2 and is considered acceptable.

Comments have explained that only 99 and 97 Mount road received a letter regarding this development. No-one else on the street received any notification and no notifications were physically posted in the local area. However, the Council has a statutory obligation to consult all neighbours which share a boundary with the site and from the records, the

registrations team consulted 95 and 99 Mount Road and 72 Roundhill Park which is acceptable. There is no requirement to display a site notice.

Comments have been submitted to explain that there have been sewage issues in the past which brings up the question as to whether the current sewage system is good enough to handle the extra people. There is no evidence, nor reason to believe, that the proposed development will overwhelm the foul drainage system locally.

Objection comments have explained that there is no mention of the ecological issues immediately adjacent to the site. Section 12 of the application stated no protected species adjacent to the site, but comments have said that there is an active badger sett that has been present for at least 10 years directly behind the garden. However, the scheme to build to the side of the dwelling is not considered to impact the rear of the garden and as such it is unlikely that badger setts, if present will be damaged as a result of the scheme.

CONCLUSION:

For the reasons set out above, it is recommended that this application is granted permission subject to conditions.

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 Bicycle Storage (Prior to occupation)

No occupation of the development shall commence until secure and covered bicycle storage for 9 bicycles (as suggested by the applicant) has been provided in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. The bicycle storage shall be retained permanently thereafter.

Reason: To secure adequate off-street parking provision for bicycles and to promote sustainable transport use in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan 2017.

3 Number of Occupants (Compliance)

The development hereby permitted shall not be occupied by (rented to) more than 9 unrelated occupants without the prior written consent of the Local Planning Authority.

Reason: To safeguard the amenities of nearby occupiers in accordance with Policy D6 and H2 of the Bath and North East Somerset Placemaking Plan (2017).

4 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:

27 Aug 2021 03 A Site Location Plan

15 Oct 2021 Kad01aex/Pp C Existing And Proposed Floor Plans T

15 Oct 2021 Kad02aex/Pp B Existing And Proposed Elevations

2 Condition Categories

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

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

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

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

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

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

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

3 Permit/Consent Decision Making Statement

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

4 Community Infrastructure Levy - General Note for all Development

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. CIL may apply to new developments granted by way of planning permission as well as by general consent

(permitted development) and may apply to change of use permissions and certain extensions. **Before** commencing any development on site you should ensure you are familiar with the CIL process. If the development approved by this permission is CIL liable there are requirements to assume liability and notify the Council **before any development commences**.

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

Community Infrastructure Levy - Exemptions and Reliefs Claims

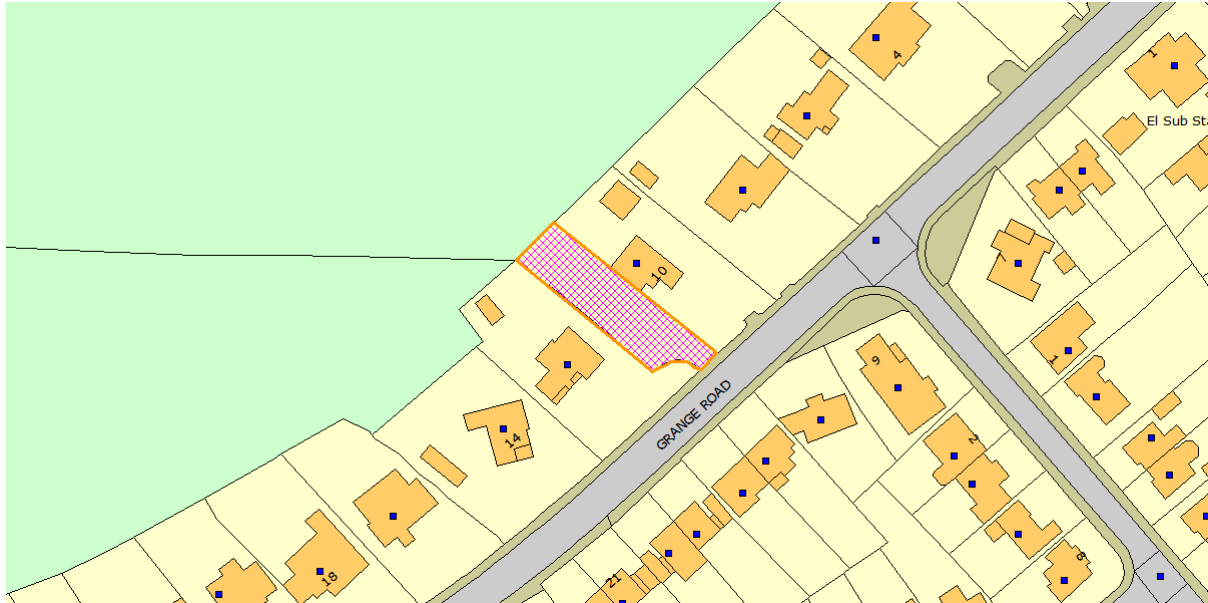
The CIL regulations are non-discretionary in respect of exemption claims. If you are intending to claim a relief or exemption from CIL (such as a "self-build relief") it is important that you understand and follow the correct procedure **before** commencing **any** development on site. You must apply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

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

5 Responding to Climate Change (Informative):

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

Item No: 07
Application No: 21/02654/FUL
Site Location: 10 Grange Road Saltford Bristol Bath And North East Somerset BS31 3AH



Ward: Saltford **Parish:** Saltford **LB Grade:** N/A
Ward Members: Councillor Duncan Hounsell Councillor Alastair Singleton
Application Type: Full Application
Proposal: Erection of a 2 bed detached 1.5 storey dwelling with a home office and store outbuilding at the rear.
Constraints: Saltford Airfield 3km buffer, Agricultural Land Classification, Policy CP9 Affordable Housing Zones, Housing Development Boundary, MOD Safeguarded Areas, SSSI - Impact Risk Zones,
Applicant: Mr And Mrs Rumball
Expiry Date: 30th July 2021
Case Officer: Dominic Battrick
To view the case click on the link [here](#).

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE:

The application was referred to the Committee Chair in accordance with the Council's Scheme of Delegation. Planning policy reasons were given by the Saltford Parish Council in objection to the application, contrary to officer recommendation. The Parish Council have requested that the application is referred to the Planning Committee for determination if officers are minded to permit the application.

The Vice Chair, Cllr Sally Davis, has made the following comments:

"I have read this application & note comments from both third party & statutory consultees including SPC objections.

The proposal has been slightly modified as highways comments have been addressed & comments raised have been addressed as the application has been assessed against relevant policies.

While permit is recommended I note the Officer comment that the plot is borderline acceptable in respect of its size and width which reflects the concerns raised by SPC & for this reason I recommend the application be determined by the planning committee so the points raised can be debated in the public arena."

The Chair, Cllr Sue Craig, has considered the application and the recommendation of the Vice Chair and decided that the application will be determined at Planning Committee, commenting as follows:

"I have reviewed this application and note the objections from Saltford Parish Council and other third parties. As the officer has stated that the plot size is borderline, I believe it would be appropriate to debate this proposal at committee"

DESCRIPTION OF SITE AND APPLICATION:

The application relates to land within the southwest side of the plot at 10 Grange Road, a two-storey detached house, located within a residential area in the village of Saltford. The rear boundary of the curtilage of 10 Grange Road aligns with the housing development boundary of Saltford, which is excluded from the Green Belt lying beyond the boundary.

The site is not within a conservation area.

The proposed development is for the erection of a detached 1.5 storey, 2-bedroom dwelling to the side of the existing house, with a home office and store outbuilding at the rear.

RELEVANT PLANNING HISTORY:

18/00206/FUL - WD - 6 February 2018 - Erection of 1no detached dwelling

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

CONSULTATIONS AND REPRESENTATIONS:

SALTFORD PARISH COUNCIL:

"OBJECT: Saltford Parish Council is supportive in principle of infill housing where this does not adversely affect the amenities of existing dwellings or the character and street scene for the immediate area. Saltford Parish Council is concerned however that the proposals represent an over-development of No.10's overall plot and would result in an incongruous appearance in the street scene due to the narrow width of the proposed plot that makes the proposals a relatively tight fit in this setting, and the substantial size of existing dwellings on that side of Grange Road, all significantly larger than the proposed dwelling. The proposals therefore are contrary to the B&NES Placemaking Plan (2017) policy D2 (a) (re. context, layout and spacing).

If the case officer is minded to permit this planning application Saltford Parish Council requests that it be referred to the Development Management Committee for determination.

HIGHWAYS:

- The proposed development will provide adequate parking with a minimum of 2 off-street car parking spaces for the proposed 3 bedroom dwelling.
- The driveway will allow vehicles to manoeuvre within the curtilage of the property, allowing cars to exit onto the public highway in a forward gear. This is welcomed.
- The new vehicular access point onto the public highway will require a Section 184 licence under the Highways Act 1980.
- Revised plans are requested to demonstrate visibility from the access onto Grange Road in accordance with the requirements set out in Manual for Streets.
- The proposed provision for waste and recycling is acceptable.
- Plans showing the proposed installation of a positive drainage system to prevent surface water discharging onto the public highway are required.
- New dwellings require safe and secure storage for a minimum of 2no. bicycles to accord with policy ST1. The proposed home office and store outbuilding will provide this and is policy compliant.

(Follow-up comments received 02/11/2021):

- The applicant has submitted a revised plan showing a visibility splay of 43m in either direction but the splay extends over third party land which falls outside of the applicant's control. A revised plan is required that provides a 43m visibility splay that does not extend over third party land.

(Follow-up comments received 24/11/2021):

- A revised plan was received showing a 43m visibility splay can be provided in either direction, however Highways were advised that the wall of the neighbouring property has the potential to obscure visibility. A site visit was undertaken and the Highways officer noted the 20mph speed limit of the highway in this location. Therefore, a reduced visibility splay of 2 metres by 25 metres that does not extend across third party land would be acceptable and should be provided via a revised plan.

OTHER REPRESENTATIONS / THIRD PARTIES:

1 representation was received, objecting to the application. The comments raised are summarised as follows:

- The plot is too narrow for the proposed house (at approximately 10m), leaving a small gap either side, and would appear too dense and out of character with surrounding properties.
- The design of the house is out-of-keeping.
- The mature beech hedgerow at the boundary between 10 and 12 Grange Road would be lost or damaged.
- The proposed dwelling will be built against the boundary of 12 Grange Road and has windows facing the adjacent property.
- The required visibility splay above a height of 0.6m cannot be achieved as it would encroach on the adjacent property of 12 Grange Road, which has a boundary wall approximately 1.5 metres high and is planted with trees.

POLICIES/LEGISLATION

POLICY CONTEXT:

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

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

Core Strategy:

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

DW1: District Wide Spatial Strategy
RA1: Development in the Villages meeting the listed criteria
CP2: Sustainable Construction
CP6: Environmental Quality

Placemaking Plan:

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

D1: General Urban Design Principles
D2: Local Character and Distinctiveness
D3: Urban Fabric
D5: Building Design
D6: Amenity
D7: Infill and Backland Development
NE6: Trees and Woodland Conservation
ST7: Transport requirements for managing development
STR5: Water Efficiency

National policy and guidance:

The adopted National Planning Policy Framework (NPPF) was revised in July 2021 and is a material consideration due significant weight.

Due consideration has also been given to the provisions of the National Planning Practice Guidance (NPPG).

SPDs

The following supplementary planning documents are also relevant in the determination of this application:

Sustainable Construction Checklist Supplementary Planning Document (November 2018)

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 PLANNING ISSUES:

The main issues to consider are:

- Principle of Development
- Impact on the Green Belt
- Character and appearance
- Residential amenity
- Parking and highway safety
- Other matters

OFFICER'S ASSESSMENT:

Principle of development:

The site is located within the housing development boundary of Saltford, where infill residential development is acceptable in principle, in accordance with policies DW1 and RA1 of the B&NES Core Strategy, subject to design considerations addressed below.

The proposed home office outbuilding would be ancillary in scale and function to the dwelling and is appropriate in principle as part of the development.

Character and Appearance:

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

Policy D7 explicitly advises the design of infill development, requiring proposals to have regard to the character and quality of the surrounding townscape, reflecting the form, pattern and grain of the existing development or otherwise enhancing its character.

The application proposes an infill dwelling within the garden to the southwest side of the existing house at 10 Grange Road. The properties on the northwest side of the road which include the site are located at the edge of the village of Salford and are generally larger detached houses with more spacious plots than the slightly narrower detached and semi-detached houses located on the opposite side of the road to the southeast.

Objections have raised concern over the width and overall size of the plot, suggesting that the approximately 10 metre width of the proposed infill plot is too narrow and will result in a cramped development. While it is acknowledged that the infill plot would be narrower than other properties along this side of Grange Road, there are existing infill developments at 2A, 22A and 32A which establish a precedent for infill within the street scene. These properties are not substantially greater in width than the proposed development. It is concluded that the proposed development will not be contrary to the grain or pattern of development within Grange Road.

The dwelling is designed with elongated front-to-rear emphasis with gable ends and a single storey lean-to along the northeast side elevation (fronting the host dwelling) to provide further ground floor accommodation. The form and massing of the dwelling works with the constraints of the site and minimises bulk to the sides of the dwelling, helping to maintain a sense of openness between the dwelling and the existing dwellings of 10 and 12 Grange Road.

The dwelling is designed with a contemporary appearance with its fenestration and use of materials, utilising a mixture of rendered walls with brick plinths and oak frame detailing around the gable ends and the timber clad single storey element. The street comprises a mixed palette of materials, building and roof forms, massing and architectural styles in fenestration and detailing. It is therefore considered that the proposed dwelling will not detract from the character of the street scene.

The home office outbuilding is proposed to be situated towards the northern corner at the rear of the site. The outbuilding will be timber clad and is designed with a low-profile mono-pitched roof. Outbuildings of this scale at the rear of plots on the northwest side of Grange Road are a common feature and this will not detract from the character of the site or the wider street and will not harm the setting of Salford.

Regarding the boundary hedge at the boundary between 10 and 12 Grange Road, as the plans demonstrate, the intention is to prune the hedge on the applicant's side of the hedge to provide a close boarded fence at the boundary. This will enable the hedge to be retained at the neighbour's side of the boundary, screening the fence from beyond the site, while increasing the privacy at the boundary. This will not detract from the character and appearance of the site.

Overall, the proposed development respects the character and appearance of the site and its surroundings and is in accordance with policies D1, D2, D5 and D7 of the Placemaking Plan and policy CP6 of the Core Strategy.

Residential Amenity:

Policy D6 sets out to ensure developments provide an appropriate level of amenity for occupiers of the development and surrounding properties in terms of privacy, outlook and natural light, and that significant harm is avoided to private amenity by reason of loss of light, increase noise, smell, overlooking, traffic or other disturbance.

The proposed layout, form, massing and height of the dwelling has been designed to work with the dimensions of the plot, ensuring that the bulk of the roof is positioned away from the adjacent side boundaries of 10 and 12 Grange Road with its front and rear gabled roof and 1.5 storey eaves height. It is considered that the 1 metre gap between the side elevations and their opposing boundaries is acceptable given the sensitive height and massing of the dwelling, and the development will not be overbearing or result in significant loss of light to habitable rooms within the adjacent properties.

With regards to overlooking, side elevation windows are limited to ground floor windows and Velux rooflights at high level relative to the first-floor level. Neither side elevation will provide intrusive overlooking to adjacent property windows or gardens. The balcony on the rear elevation is contained within the overhang of the roof and privacy screens on the sides prevent intrusive views from this feature.

The proposed home office outbuilding at the rear of the plot does not raise amenity concerns due to its low-profile single storey design.

Adequate natural light and outlook will be provided for future occupiers of the development and the waste storage provision is acceptable.

Overall, the proposed development is in accordance with policy D6 of the Placemaking Plan.

Highways Safety and Parking:

Policy ST7 requires that development avoids an increase in demand for on-street parking in the vicinity of the site which would detract from highway safety and/or residential amenity.

The proposals include two parking spaces, meeting the minimum parking standards for a three-bedroom dwelling as required under policy ST7 of the Placemaking Plan. The proposed driveway also provides manoeuvrability on site to enable cars to enter and exit

onto the public highway in a forward gear, together with independent vehicular access for the dwelling. This is supported by the Highways Officer. The proposed refuse storage arrangements and bicycle storage provision is policy compliant.

An objection raised the issue of the 1.5-metre-high boundary wall and landscaping within the corner of the adjacent property of 12 Grange Road that will conflict with the required visibility splay for the proposed access. Following a site visit by the Highways Officer, it was concluded that, having identified the 20mph speed limit of the highway in this location, a reduced visibility splay of 2 metres by 25 metres would comply with Manual for Streets provided the applicant can demonstrate that the splay will not encroach over third-party land. A revised site plan has been provided that satisfactorily meets this requirement and the splay can be achieved. The plan also indicates that the driveway will be surfaced with a permeable material, the specification of which will be required via condition.

Subject to conditions securing the implementation and retention of the car and bicycle parking provision and the visibility splay, the proposed development will provide adequate on-site parking and will not prejudice highway safety, in accordance with policy ST7 of the Placemaking Plan.

Sustainable Construction:

Policy CP2 concerning sustainable construction requires a 19% reduction in regulated CO2 emissions from energy efficiency or renewable energy for development of this scale, as outlined within the adopted Sustainable Construction Checklist SPD. A checklist has been submitted in support of the application, together with SAP calculations, indicating a 41.17% reduction. This will be achieved through a combination of renewable energy sources in the form of solar photovoltaic panels on the southwest elevation roof slope and the installation of an air source heat pump, together with energy efficiency construction measures designed within the scheme. This meets the energy requirements of policy CP2.

Conditions would have been recommended in the event of approval to confirm post-works that the built development meets the projected reduction, and to secure the requirements of policy SCR5 concerning water efficiency for new dwellings.

CONCLUSION:

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

RECOMMENDATION

PERMIT

CONDITIONS

1 Standard Time Limit (Compliance)

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

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

2 Materials - Submission of Materials Schedule (Bespoke Trigger)

No construction of the external walls of the development shall commence until a schedule of materials and finishes to be used in the construction of the external surfaces, including roofs, has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include:

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

Samples of any of the materials in the submitted schedule shall be made available at the request of the Local Planning Authority.

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

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

3 Parking (Compliance)

No occupation of the development shall commence until 2no. parking spaces have been provided on-site and should be retained permanently thereafter.

Reason: To ensure that adequate and safe parking is provided in the interests of amenity and highway safety in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

4 Bound/Compacted Vehicle Access (Compliance)

The vehicular access shall be constructed as shown on Proposed Site Plan drawing number 2010708.RUM-10 rev. E with a bound and compacted surfacing material (not loose stone or gravel).

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

5 Visibility Splays (Compliance)

The visibility splays shown on drawing number 2010708.RUM-10 rev. E shall be kept clear of any obstruction to visibility 600mm above ground level.

Reason: To ensure visibility is maintained in the interests of highways safety in accordance with policy ST7 of the Bath and North East Somerset Placemaking Plan.

6 Balcony Privacy Screens (Compliance)

The proposed rear balcony side panels shall be obscurely glazed with privacy screens as shown on the northeast and southwest side elevations on the proposed elevation

drawings 2010708.RUM-05 rev. C and 2010708.RUM-06 rev. C before the balcony is first brought into use. Thereafter the privacy screens shall be permanently retained as such.

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

7 Sustainable Construction (Pre-occupation)

The development hereby approved shall be completed in accordance with all measures within the Sustainable Construction Checklist approved with the application, or with measures agreed in writing by the Local Planning Authority. At all times the development shall achieve at least a 19% reduction in regulated emissions compared to that required by the Building Regulations.

No occupation of the development shall commence until a Sustainable Construction Checklist (as set out in the Council's Sustainable Construction Supplementary Planning Document, Adopted November 2018) for the completed development has been submitted and approved in writing by the Local Planning Authority. This shall include:

1. The completion of all relevant tables (see indicated tracks/thresholds in the checklist);
2. All relevant supporting documents/evidence (see indicated tracks/thresholds in the checklist).

Reason: To ensure that the approved development complies with Policy CP2 of the Bath and North East Somerset Core Strategy (sustainable construction).

8 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.

9 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:

Location and Block Plan - 2010708.RUM-01
Site Plan - 2010708.RUM-02 rev. B
Proposed Floor Plans - 2010708.RUM-03 rev. C
Proposed Roof Plan - 2010708.RUM-04 rev. C
Proposed Front and Side Elevations - 2010708.RUM-05 rev. C
Proposed Rear and Side Elevations - 2010708.RUM-06 rev. C
Home Office Elevations - 2010708.RUM-07 rev. B

Home Office Floor Plans - 2010708.RUM-08 rev. B
Proposed Street Scene - 2010708.RUM-09 rev. B
All received 4 June 2021.

Proposed Site Plan (revised) - 2010708.RUM-10 rev. E
Received 25 November 2021.

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 Works in the highway

The applicant should be advised to contact the Highway Maintenance Team at Highways@bathnes.gov.uk with regard to securing a licence under Section 184 of the Highways Act 1980 for the amendment of a vehicular crossing. The access shall not be brought into use until the details of the access have been approved and constructed in accordance with the current Specification.

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 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

6 Permit/Consent Decision Making Statement

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



Neutral Citation Number: [2020] EWHC 1836 (Admin)

Case No: CO/2072/2019

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT
PLANNING COURT

Bristol Civil Justice Centre
2 Redcliff Street
Redcliffe
Bristol BS1 6GR

Date: 9th July 2020

Before :

MRS JUSTICE JEFFORD DBE

Between :

THE QUEEN
(on the application of SUSAN WALKER)
- and -
BATH AND NORTH EAST SOMERSET
COUNCIL

Claimant

Defendant

-and-

(1) RENGEN DEVELOPMENTS LIMITED
(2) CLAIRE BUHR
(3) STEVEN BIRCHALL

Interested Parties

Ms Nina Pindham (instructed by **Thrings LLP**) for the **Claimant**
Mr Conor Fegan (instructed by **Rosling King LLP**) for the **First Interested Party**

Hearing date: 26 November 2019

JUDGMENT

MRS JUSTICE JEFFORD DBE:

1. This matter concerns a challenge by way of judicial review to the decision of the Defendant, Bath and North East Somerset Council (“the Council”), on 17 April 2019, to grant full planning permission and the associated listed building consent for a development at the Belvoir Castle, Bath. The site is located at the junction of Lower Bristol Road and Midland Road. That decision followed the resolution of the Council’s Development Management Committee on 26 September 2018 to delegate to permit both those applications. The development includes the building of a new skittle alley and a new community room, provision of accessible toilets, refurbishment of a public house, and the provision of 9 studio apartments. As part of the development and in order to provide the 9 studio apartments, a Grade II listed building, namely the existing skittle alley, will be demolished. The site of the proposed development is located within a World Heritage Site and a Conservation Area.
2. The claimant lives in Park View, a Grade II listed terrace, adjacent the site of the proposed development. Permission to bring these proceedings was granted by Swift J on 30 July 2019.
3. The Council has taken no part in these proceedings and consents to judgment, conceding that the decision was unlawful on Ground 1 (failure to give reasons). As recorded in the Order of Swift J on 30 July 2019, the Council and the claimant have agreed the terms of a draft consent order under which the grant of planning permission and listed building consent would be quashed and the Council would consider the applications afresh.
4. The second and third interested parties are the owners of the site and have taken a neutral stance. The first interested party, Rengen Developments Limited (“Rengen”), is a developer with an option to develop the site and it is Rengen that applied for the consents in issue in June 2018. Rengen is the party that has taken an active role in opposing this application and does not agree to the draft consent order. Rengen’s position is that the Council’s consent is irrelevant to the issues before me.

Policy and statutory background

5. Section 70(2)(a) of the Town and Country Planning Act 1990 provides that in dealing with an application for planning permission, the planning authority must have regard to the provisions of the development plan so far as material to the application.
6. The meaning of development plan for these purposes is set out in section 38 of the Planning and Compulsory Purchase Act 2004 and section 38(6) provides that:

“If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”
7. The Planning (Listed Building and Conservation Areas) Act 1990 includes the following:
 - (i) Section 66(1) provides that “in considering whether to grant planning permission ... for development which affects a listed building or its setting, 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 historical interest which it possesses.”
 - (ii) Section 72(1) provides that in the exercise of planning functions in respect to any building in a conservation area, “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”.
8. The Council’s development plan included Core Strategy Policies. Of particular relevance to this matter is Policy CP5 “Flood Risk Management”. I do not set it out in full but it provided that development would “follow a sequential approach to flood risk management, avoiding inappropriate development in areas at risk of flooding and directing development away from areas at highest risk in line with Government policy (NPPF)”. The Policy then deals with how development in areas at risk of flooding will be made safe.
9. The reference to the National Policy Planning Framework is to section 14 and in particular the paragraphs headed Planning and Flood Risk. So far as relevant, those paragraphs include:

“157. All plans should apply a sequential, risk-based approach to the location of development – taking into account the current and future impacts of climate change – so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by:

a) applying the sequential test and then, if necessary, the exception test as set out below;

158. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

159. If it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied.

160. The application of the exception test should be informed by a strategic or site specific flood risk assessment, depending on whether it is being applied during plan production or at the application stage”.

10. The National Planning Policy Framework also provides (at paragraph 11) that there is a presumption in favour of sustainable development which, in decision making, means that proposals that accord with the up-to-date development plan should be approved without delay and, where there is no development plan, should be approved *“unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed”*. A footnote explains that the policies referred to are those in the Framework relating to matters which include designated heritage assets and areas at risk of flooding. The claimant’s position, in effect, is that these are “specific policies” as referred to in R (on the application of CPRE (Kent)) v Dover District Council [2017] UKSC 79. As I read the NPPF, departure from specific policies is a reason to refuse permission if there is no development plan.

11. Core Strategy Policy CP6 “Environmental quality” is concerned with promoting, protecting, conserving and enhancing the distinctive quality, character and diversity of Bath and North East Somerset and the sensitive management of its outstanding cultural and historic environment. Placemaking Policy HE1 entitled “Historic Environment” is concerned with “Safeguarding Heritage Assets”. It includes the statement that great weight will be given to the conservation of the District’s heritage assets. The NPPF, section 16, paragraph 196 provides that where a development proposal will lead to less than substantial harm, that harm should be weighed against the public benefits of the proposal.
12. Placemaking Policy D6 “Amenity” provides in particular at paragraph (b) that development must “Not cause significant harm to the amenities of existing or proposed occupiers of residential or other sensitive premises by reason of loss of light, increased noise, smell, overlooking, traffic or other disturbance.”
13. Placemaking Policy ST7 is entitled “Transport Requirements for Managing Development” and includes standards for vehicle parking. In particular, paragraph 4b states that there should be “no increase in on-site parking in the vicinity of the site which would affect highway safety or residential amenity.”

Factual background

14. In 2017, Rengen made an application for planning permission and listed building consent for a similar development. These applications were withdrawn.
15. Further applications were then made in June 2018. The planning application included a Flood Risk Assessment dated August 2017. That document made reference to the sequential test. It was noted that the Council had presented a Sequential and Exception Test which was “the most recent and relevant strategic-level sequential test appraisal for Bath”. The Flood Risk Assessment notes that that had concluded that even if all sites with planning permission and allocation in Flood Zone 1 were developed, the identified need for housing in Bath would not be met, so that there was a clear need and rationale for housing in Flood Zones 2 and 3a, including in the Riverside area which was, it was said, subject to a greater risk of flooding than the current development.

16. The planning application in issue (no. 18/02499/FUL) was recommended for refusal by the Officer's Report, the Officer concluding that:

"... there are multiple and significant conflicts with the Development plan resulting from this development and any benefits generated from this development are not considered to outweigh the harm identified. The development is therefore recommended for refusal."

More detailed reasons, which I refer to below, followed. The application for listed building consent was no. 18/02500/LBA and was similarly recommended for refusal.

17. As Ms Pindham submitted on behalf of the claimant, context is everything, and, in her oral submissions, she highlighted a number of aspects of the proposed development and the consultation about it which in due course were reflected to a greater or lesser extent in the Officer's Report and the recommendation that permission be refused.
18. What is proposed is, on any view, a significant change in the development of the site. Under the proposal, the existing skittle alley is to be demolished and replaced with a 3 storey residential block with bin and bike stores, increasing the height of the building opposite Park View.
19. Some of the Council's own officers recommended refusal.
20. The Council's Environment & Design Team recommended refusal. The summary of reasons given was that *"Massing and height facing residential Victorian terrace to the east is of concern – proposals should be reduced in scale. Amenity of residents should be improved."* The response identified as "Policies/Condition/ Reasons for Refusal" the World Heritage Site Setting, Placemaking Policy CP6 (referred to above) and also Placemaking Policies D1-10, CP1/2/3, SCR 1 – 5 and SU1.
21. The Highways department's response (from the Senior Highways Development Control Engineer) noted that the application was supported by a Parking Provision Technical Note which presented the case for a car free development with no demand from residents for car ownership. The response, however, considered that it was probable

that there would be some parking demand both from residents and visitors; that it would be inappropriate for there to be parking in Midland Road and that the operation of the Lower Bristol Road (one of the main roads into Bath) needed to be protected because of its importance; and that there was concern that there would be detrimental impact on other local residents if on-street parking took the place of established parking. The response concluded:

“The proposed development would not provide an appropriate level of on-site parking spaces which would exacerbate highways safety and residential amenity issues associated with additional on street parking, and is therefore contrary to policy ST7 of the Bath and North East Somerset Placemaking Plan”.

22. No objection was, however, raised by the Council’s Drainage and Flooding Team which commented that the applicant’s Flood Risk Assessment “made suitable recommendations on floor management measures including minimum level differentials and flood resilience measures.” A number of conditions were requested the purpose of which was stated to be to limit the risk of flooding and provision satisfactory means of flood management. The Environment Agency, having initially objected, withdrew its objection (subject to condition) on the basis of the Flood Risk Assessment, although continuing to draw attention the fact that the Flood Risk Assessment contained many incorrect comments and flood levels and mechanisms. These were, however, not sufficient for the Environment Agency to maintain its objection.

23. So far as the Councillors themselves were concerned, Councillors Blackburn and Crossley requested referral to Committee if the Officer was minded to refuse. Councillor Blackburn observed that the plan sought to preserve the long term status of the pub in the community and that “if the plans don’t go through I fear for it’s (sic) long term existence”. Councillor Crossley similarly observed that the plan would help to ensure the survival of the pub and saw the lack of parking provision as an opportunity. Councillor Player objected to the development for similar reasons to others, namely overdevelopment, lack of parking provision, and harm to residential amenity, in particular, the impact of Park View.

24. The Bath Heritage Watchdog (“the BHW”) made a submission strongly objecting to the development. I do not propose to quote from that submission at length but I note three particular aspects:

- (i) The skittle alley appears to have been listed because it was within the scope of the listing of the Belvoir Castle pub but the BHW placed emphasis on its importance in its own right. They noted that an inventory for the pub from 1862 described a bar, a parlour, a tap room, a skittle alley and a brewery and, they said: “... so it does confirm that the skittle alley is at least 150 years old and it thus shares the history of the pub, making it far more important than just a curtilage listed later addition as described in the planning application. We believe it is the oldest surviving skittle alley in Bath and thus is far too important to be considered disposable.”
- (ii) Secondly, the BHW expressed the view that the design, scale and massing of the development was excessive and harmful:

“It would be highly damaging to the street scene and the protected buildings. The height of the application building would dominate Park View, would lead to a significant reduction in their light levels especially in the evenings, and would leave the Park View residents feeling hemmed in.”

- (iii) Thirdly, the BHW drew attention to the flood risk asserting that the development would flood because there was visible evidence that it already had and took issue with the applicant’s Flood Risk Assessment that claimed the development would be safe from flooding.

25. The Bath Preservation Trust also made an objection. The objection was based on the overdevelopment in terms of height and massing. In the immediate area, the Trust asserted that the development would dominate the surrounding heritage assets and obliterate any sense of historic grouping of the pub, skittle alley and beer garden. They added: *“A high level of harm is also caused to the setting, views and outlook of Park View and we are very concerned by this”*. The Trust also addressed the issue of any benefit to or from the pub:

“Though we are not viability experts, we continue to be sceptical of the justification given by the applicant that the addition of TEN studio apartments is needed to essentially keep this well-placed pub as financially viable and to provide a community room. The loss of both the amenity of the garden and skittle alley, both of which contribute to the pub offering, should be weighed against the benefits of the development itself, of which we can see little other than developer financial gain, especially in that it does look likely that these units will either be holiday lets or student studios, given the compromised open living space.”

26. There were 14 objections from members of the public including the claimant. In very broad terms, the objections focussed on two issues which reflected the matters referred to elsewhere, namely the impact on Park View and the lack of parking provision and its impact. There were two comments in support which were summarised in the Officer’s Report as follows:

“- Retains the important local social asset of the public house, meeting facilities and skittle alley

- *provides much needed affordable accommodation in a highly sustainable location*
- *The existing building is a total eyesore and something has to be done with it before it falls down. The proposal would bring it into line with its new surrounding and compliment both the listed to the Lower Bristol Road frontage and the new developments springing up in this part of our City.*
- *No flooding issues*
- *Development will enable improvement to the Belvoir and will secure important community facilities.”*

27. A petition in support with 71 signatures was also submitted to the Council. The petition was framed as follows:

“We believe the proposals to improve the pub’s facilities including the addition of a new community room, and accessible toilets, as well as a new skittle alley, will make the pub more user friendly, make it more appealing to new customers but will also enable the landlords to find new revenue streams to protect the Belvoir Castle’s future. We also agree with the inclusion of 10 one-bedroom apartments to the rear of the pub, which will help finance the improvements.”

The Officer's Report

28. The Officer's Report set out the context which I have referred to above:
- (i) The report summarised the position as to the objections from Highways and Urban Design and noted that Conservation objected due to the impact upon the listed building, the setting of adjacent listed buildings and the character and appearance of the Conservation Area. It was noted that there was an Ecology objection because of an out of date survey and incomplete information on the surveyor and his experience. The report was updated before the decision was taken but that is the subject of a separate ground. In other instances there were no objections but, in some cases, subject to conditions. As I have said, that was the position so far as Drainage and Flooding was concerned.
 - (ii) The report summarised the views of Councillors Blackburn, Crossley and Player.
 - (iii) The report summarised the objections from the Bath Preservation Trust and Bath Heritage Watchdog set out above and also from Transition Bath.
 - (iv) The report summarised the objections from the 14 members of the public and the 2 comments in support.
 - (v) The report noted that there was a petition in support of the development.
29. The Officer's assessment included the following observations or assessments:
- (i) The proposed development is located in a built up area of Bath where new residential development can be considered acceptable subject to compliance with the relevant policies of the Development Plan.
 - (ii) Under the heading "Protection of Community Use", it was noted that the development included the renovation of the public house which was considered to play an important community role and that the development "proposes enhancements to the public house and the benefits of these will be weighed up in the overall planning balance section of the report".
 - (iii) As to Flood Risk, the report recorded that the site was predominantly in Flood Zone 3 with the remainder within Flood Zone 2 and that the Environment Agency had reviewed the Flood Risk Assessment and were satisfied that subject to conditions the development would not increase the flood risk. I quote what followed almost in full because it is a key point in the claimant's case:

“Residential dwellings are considered as a “more vulnerable” use and given the location of the site within Flood Zone 2 and 3, the development must be subject to the sequential and exception tests. The National Planning and Policy Framework (NPPF) advises that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

The FRA references the strategic level sequential test appraisal for Bath. It explains that it is reasonable to conclude that even if all sites with planning permission and allocation in Flood Zone 1 are developed, the identified need for housing in Bath would not be met. It is argued that there continues to be a clear need and rationale for future housing sites to be provided within Flood Zone 2 and 3a.

However, the sequential test must be carried out in accordance with the advice within the National Planning Practice Guidance (NPPG). The test should include an audit of any alternative sites The sequential test should conclude whether any of the alternative sites identified have a lower risk of flooding than the proposed site.

The above has not been carried out and the development therefore fails the sequential test. As the sequential test has not been passed, it is not necessary to consider the exception test. The development is considered to be contrary to Placemaking Plan (PMP) policy C5.” (My emphasis)

- (iv) Under the heading Highway Safety, the Officer noted that there was no parking provision and a significant concern that a car free development would result in overspill parking in an area with high levels of on street parking and the report reflected the concerns about highway safety. The Officer concluded that the development was unacceptable due to a failure to accord with adopted minimum parking standards and was contrary to PMP Policy ST7.
- (v) As to character and appearance and the listed buildings, the Report included the following:
- “... the overall scale of the development is considered to be excessive in this context harming the setting of the Belvoir Pub, and Park View, both designated heritage assets.*

The Design and Access Statement presents the application as managing a transition between the scale of Riverside [a larger scale development] and the Belvoir Castle/ Park View. This already small parcel of land provides a limited but critical buffer to the Riverside development for both the Belvoir Castle and Park View. Breaching the curtilage would inflict unacceptable harm on the character and setting of the listed building.”

...

The NPPF distinguishes between “substantial harm” and “less than substantial harm” when referring to the impact upon the significance of a heritage asset. Any harm to the listed building itself, the setting of the adjacent listed building and the character and appearance of the Conservation Area is considered to be less than substantial. When a proposed development will lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal. This will be addressed in the Planning Balance section of this report.”

- (vi) In relation to Ecological considerations, the Report said there was a need for an up to date protected species survey and assessment and that there was insufficient information to assess the ecological implications of the development.
 - (vii) Under the heading of residential amenity, the report said that the development would dominate the outlook of the occupiers of Park View, have an overbearing impact and result in a loss of light to the gardens and rear windows, cumulatively having a “severe detrimental impact upon the residential amenity currently enjoyed by these residents.” The development was considered to be contrary to Placemaking Policy D6.
30. When it came to the planning balance, the report recognised that the clear harm identified had to be weighed against the benefits of the scheme. The key benefit identified in the planning application submission related to the improvement to the pub to secure its long term future. Other benefits were the provision of housing and economic benefits in the construction period. The submission explained that the pub required significant investment to secure its future but it was noted that it was being advertised for sale in an advertisement that said it was generating a profit of £40,000 per annum and that there was potential for growth from longer opening hours and the

Riverside development. A report from Carter Jonas was also provided that concluded that the pub would not be attractive to an operator without significant investment.

31. The report continued:

“The Belvoir would visibly benefit from upgrading, and its deficiencies are outlined within the submission. Whilst it is noted that the development may generate funds to improve the facilities of the pub to increase customers and profitability in the future, no tangible evidence had been submitted to demonstrate this. The new skittle alley and community room would replace existing facilities as opposed to add to those facilities already offered. Whilst it would improve their relationship with the main bar area and increase the trading area, it has not been demonstrated how this would attract significant new customers.

..... It is not considered that the development and the long term viability of the pub are intrinsically linked. If the development is permitted, the approved flats would not be in the same ownership as the Belvoir and it is therefore questioned as to how the development would sustain the viability of the Belvoir in the long term.

Whilst the Belvoir is not currently maximises (sic) its potential, it is considered is likely that other business models could be explored to generate additional profits such as those outlined within the sales brochure. It is not considered that it has been justified that that redevelopment of the site and the subdivision of the plot to build the additional 9 units is intrinsically linked to the long term success and the retention of the Belvoir. The improvement works, whilst potentially increasing the interest in the Belvoir does not guarantee that the pub will continue to be run in the future.” (My emphasis)

The conclusion was that the public benefits did not outweigh the harm.

32. The Officer’s Report, therefore, recommended refusal and gave 7 specific reasons. It is, in my view, a fair summary to say that the Officer’s Report was overwhelmingly in favour of refusal. The reasons for refusal included the harm to the significance and setting of the Belvoir Castle Pub and Park View and the demolition of the skittle alley, both of which were considered to be contrary to Core Strategy Policy CP6 and Placemaking Plan HE1. In terms of the planning balance, the Officer saw little reason to attach weight to the future of the pub, not because that was unimportant in itself but because there was no evidence of the relationship between the development and

securing the future of the pub. The reasons for refusal included that there were not considered to be any public benefits which outweighed the harm. Further, a specific reason for refusal was that the development had not been subject to the sequential test. The Officer said:

“5. The application site is located within Flood Zone 2 and 3a, and the development has not been subject to a satisfactory sequential test. It has not been demonstrated that there are no reasonably available sites appropriate for the proposed development in areas of lower probability of flooding. The development is, therefore considered to be contrary to policy CP5 of the Bath and North East Somerset Placemaking Plan.”

The decision on 26 September 2018

33. The applications were considered at the Development Management Committee meeting on 26 September 2018 and the Committee resolved to delegate to permit planning permission (and corresponding listed building consent) by a narrow majority of 5 votes to 4. Full permissions were granted on 17 April 2019. It is these decisions that are the subject of challenge but they flow from the decision to delegate.
34. The only source of reasons for the decision, which patently rejected the Officer’s recommendation, are to be found in the minutes of the meeting.
35. Two of the councillors, who were not members of the planning committee and to whom I have already referred, spoke at the beginning of the discussion of the application:
 - (i) Councillor Player, who opposed the application, said that she did not want to lose the pub but felt the proposal would cause damage to Park View and she was concerned about the lack of parking provision.
 - (ii) Councillor Blackburn spoke in favour. The minutes record that he stated that starter homes were badly needed in the area and that he *“stressed the importance of retaining the Belvoir Castle pub as a heritage asset in this locality as it was a key facility in the centre of the community.”*
 - (iii) The Case Officer responded to questions from members of the Council. Amongst the matters mentioned in these responses were the following:
 - (a) The occupancy of the apartments could not be restricted because this was not an affordable housing scheme.

(b) The Placemaking Plan set the parking requirement for student accommodation at zero but this was not an application for designated student accommodation.

(c) The Highways Officer confirmed that Bath Spa station was 1.47km away and Oldfield Park Station 380m.

(d) The skittle alley was not listed in its own right but as part of the pub building.

(e) *“The Team Manager, Development Management advised that, as stated in paragraph 193 of the NPPF, great weight should be given to the conservation of a heritage asset and its significance must be taken into consideration. She explained that there was no connection delivered in the application between the refurbishment of the pub and the construction of the dwellings. Therefore the Committee should not give great weight to the pub refurbishment being supported by the sale of the apartments.”*

36. There were no questions asked or responses given about the sequential test and/or flood risk.

37. The minutes record that Councillor Kew then stated that these were difficult applications: it was important to retain the pub as a community asset; there was a great need for housing in Bath; the development could be considered overbearing; this was a central location with good local transport links; and on balance he felt that this was an area of dereliction requiring redevelopment. He moved that the committee delegate to permit, subject to conditions for the following reasons:

“- To secure the retention of the pub as a community asset, meeting place and public amenity

- The existing building is in need of improvement and the proposal will complement the listed buildings.

- He did not think that the development would flood.

- The site is in a highly sustainable location.

- To improve the area

- To provide housing

- To secure important community facilities

- *The harm identified is considered to be less than substantial.*”

38. A number of other councillors then contributed to the debate. Their comments included concern that the development was overbearing and would dominate Park View. One councillor said that she would support the application if the housing were designated for key workers and starter homes (which, I observe, it was not). So far as the pub was concerned:
- (i) Councillor Jackson said that there was no guarantee that the pub would be retained as a community and heritage asset.
 - (ii) Councillor Sandry noted that there was no evidence that the pub was unviable and pointed out that there was a large amount of redevelopment in the area.
 - (iii) Councillor Organ “*was concerned at the number of pubs that were closing and supported the refurbishment of this business which would provide a facility to the community.*”
39. The minutes do not record that any councillor made any comment about flooding other than the comment of Councillor Kew quoted above. Similarly, no councillor appears to have made any comment about parking and highways safety other than the comment of Councillor Kew about good local transport links.
40. The Team Manager then advised the members that if they were placing weight on the community benefits arising from the refurbishment of the pub, they could delegate to permit on the basis of securing those benefits through conditions or legal agreement. On that basis, the matter was put to a vote and passed by a majority of 5 to 4 (with one abstention).
41. There then followed what was, in effect, a further period of consultation. As I set out below, the Council has explained that that followed from the view of the Officer that it was necessary to advertise the application as a departure from the Development Plan. The decision notices were issued (with conditions) on 17 April 2019.

Grounds

42. With that lengthy background, I turn to the pleaded grounds which are these:

- (i) Ground 1: The Committee on behalf of the Council erred in law in failing to provide sufficient reasons for granting permission having departed from the officer's recommendation that the development fails the sequential test in respect to Flood Risk and is further contrary to Placemaking Plan Policy 5.
- (ii) Ground 2: The Committee on behalf of the Council erred in law having taken into account immaterial considerations in granting permission in respect of the Development, namely the retention of the public house as a result of the same which was not supported by evidence.
- (iii) Ground 3: There was procedural unfairness and/or the Council acted irrationally in failing to further consult following the receipt of an updated Ecology Report on or about 13 September 2018 and in respect of which parties not previously notified were likely to be concerned.
- (iv) Ground 4: The committee acting on behalf of the Council acted irrationally in concluding that the public benefits they point to in the minutes of the Committee meeting outweigh the Development Plan and material considerations identified by the Planning Officer in her report to the Committee.

43. Prior to the hearing of this matter, the claimant made an application for permission to amend the grounds. I heard that application by telephone and refused the application.

Ground 1: Duty to give reasons

The nature of the issue and dispute

44. The claimant recognises and accepts that there is no statutory duty on the Council to give reasons for its decision and that disagreement with or departure from the Officer's recommendation is not, in itself, sufficient to give rise to a duty to give reasons.

45. The claimant relies, however, on the principles which it is submitted can be derived from in *R (on the application of CPRE (Kent)) v Dover District Council* [2017] UKSC 79 and *R (on the application of Oakley) v South Cambridgeshire District Council* [2017] EWCA Civ 71 as to when such a common law duty arises and the nature and extent of the reasons to be given to discharge that duty. I address these authorities in detail below but, in short, Ms Pindham, for the claimant, submits that this as clear and

obvious a case as there could be in which there was a duty to give reasons because it involves each and every one of the circumstances which the Supreme Court and Court of Appeal regarded as capable individually or in combination of giving rise to a duty to give reasons, namely departure from the development plan, departure from specific policies in the NPPF and a decision that goes against the clear recommendation of the planning officer.

46. The Council accepts both that the common law duty arose and that the reasons given were inadequate. The Council has given its reasons for conceding this ground in its letter to the court dated 1 July 2019.

“5..... the Defendant takes the view that, notwithstanding the absence of a statutory duty to give reasons for the grant of planning permission, the court would identify a duty to give reasons in the circumstances of this decision not only because the application was recommended for refusal by officers but because it was identified to be contrary to the Development Plan by reference to the application of specific policies in the Development Plan and NPPF The Council accepts that it is not clear from the decision to grant planning permission whether or not members of the Council’s planning committee agreed that the proposals would be contrary to the Development Plan (but that other considerations outweighed that conflict) or whether they reached the view that the proposals would accord with the Development Plan. The Defendant further accepts that it is not clear whether, and if so with what consequence, the members of the Council’s planning committee applied relevant planning policies in respect of the issues material to the decision.

6. So far as the issue of flood risk is concerned, that issue did not merely involve the exercise of a judgment on the part of members as to whether or not any adverse impact was acceptable. The issue also required members to apply specific policies set out in the NPPF and in the Development Plan. It is not clear from the Defendant’s decision whether and if so how the relevant policies were applied, whether members disagreed with the conclusion reached by the officer or whether they agreed with those conclusions but nonetheless decided that permission should be granted.

7. So far as prejudice is concerned, the Defendant accepts that the Claimant (and other members of the public) would have been prejudiced insofar as they would have no way of knowing what the basis for the Defendant’s decision was.

...”

47. The Council went on to explain that due to the conflicts with the Development Plan identified in the report of the planning officer, after the committee meeting, officers considered it necessary to advertise the application as a departure from the Development Plan pursuant to Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015/595 and further representations were received during this period. I will refer to this loosely as the second consultation phase or period.
48. Ms Pindham contends that the view of the Council must be relevant since it was the decision maker and, in any event, that the view of the Council must be material to the argument raised by Rengen in respect of grounds 1 and 3, relying on section 31(2A) of the Senior Courts Act 1981, that the court should refuse to grant relief because it is highly likely that the outcome for the claimant would not have been substantially different if the conduct complained of had not occurred.
49. Rengen's position is that the subjective views of the Council are not relevant and, other than in respect of the issue that arises under section 31(2A), that, in my view, is right. As between the claimant and Rengen, the views of the Council are no more than arguments that may be adopted by the claimant. A difficulty also arises because the pleaded Ground 1 is limited to the failure to give reasons relating to the sequential test and the conflict with Placemaking Policy C5 whereas the Council's reasons for the concession go further.
50. Mr Fegan, in any case, argues that this is not a case in which the common law duty arose and, in any event, that sufficient reasons were given.
51. His submissions are set in a legal framework in which he drew the court's attention to 4 principles which I summarise here:
 - (i) There is no place for hypercritical scrutiny in planning challenges (*St Modwen Developments Ltd. v Secretary of State for Communities and Local Government* [2017] EWCA Civ 1643.

- (ii) Matters of planning judgment are within the exclusive province of the local planning authority (*Tesco Stores v Secretary of State for the Environment* [1995] 1 WLR 759).
 - (iii) Local councillors are assumed to have local background and knowledge, a working knowledge of the statutory tests, and familiarity with the relevant policies of the development plan and the national planning policy. The court will not readily draw an adverse inference that the local authority acted unlawfully (*South Buckinghamshire v Porter (No. 2)* [2004] 1 WLR 1953).
 - (iv) When reviewing committee minutes, prudence is the sensible judicial approach (*Bishops Stortford Civic Federation v East Hertfordshire DC* [2014] EWHC 348 (Admin)).
52. Against that background and legal context, Rengen submits that the effect of the decision of the Supreme Court in *CPRE (Kent)* is that fairness may require or impose a duty to give reasons but the burden lies with the claimant to show that this is an exceptional case where such a duty arises. The circumstances elaborated by Lord Carnwath in *CPRE Kent* (which are those I have referred to briefly above) are not to be viewed prescriptively as providing that where such circumstances exist a duty to give reasons arises.
53. The claimant argues that those submissions are not supported by these two authorities. Ms Pindham submits that in *Oakley* there was an overwhelming case for giving reasons but that it does not set a minimum standard nor is the test one of exceptional circumstances. The circumstances in *CPRE Kent* are strong indicators of when such a duty arises, particularly where they are all in play and, taking all the circumstances of this case together, this is clearly a case in which reasons ought to have been given.

The authorities

54. I bear in mind the broad principles Mr Fegan relies upon which are clearly properly identified. However, whilst they provide a broad context, the key issues on ground 1 are ones to which the cases of *Oakley* and *CPRE Kent* are most pertinent.

55. I start with the decision in *R (on the application of Oakley) v South Cambridgeshire District Council*. To put this decision in context, the case concerned a challenge to the grant of planning permission for a 3000 seater football stadium on the outskirts of Sawston in Cambridgeshire. That went against the recommendation of the planning officer that permission be refused because the development did not comply with the requirements of the NPPF and the local development plan regarding development in the green belt. The claimant sought judicial review on the basis of a failure to give reasons.
56. The focus of the claimant’s argument at first instance appears to have been that a duty to give reasons arose because the decision was aberrant and called out for an explanation. Jay J. rejected that argument – there was nothing intrinsically peculiar or aberrant in the committee disagreeing with the officer’s recommendation and that fact alone was not sufficient to trigger a duty to give reasons. On appeal that argument was not pressed. As Elias LJ said at [19]: *“The mere fact that the officer and the committee part company is not a sufficient basis for saying that the latter decision is peculiar or aberrant so as to attract the duty to give reasons. Having said that, for reasons I develop below, the fact that the committee has departed from the officer’s report may in some contexts be a relevant factor supporting the conclusion that a common law duty to give reasons should be imposed.”*
57. The appellant’s argument instead focussed on the propositions either that the common law should always require reasons to be given, unless it is clear from the publicly available materials how the decision must have been reached, or that the nature of this particular decision required reasons to be given. At [22] Elias LJ summarised the basis for the alternative argument as follows:
- “Mr Simons [counsel for the appellant] relies upon two features of the decision in particular which, whilst not making this decision unique, distinguish it from most other planning determinations. First, the committee has departed from the officer’s very strong recommendation. Second, it did so in circumstances where the development constitutes a departure from the development plan and, more specifically, where it involves development in the Green Belt. Reasons should be given in order to explain why such interference is justified.”*
- I summarise by saying that Elias LJ then set out what he described as the powerful reasons for administrative bodies to give reasons for their decisions. He regarded the common law as moving to a position where, in general, reasons should be given unless there was a proper justification for not doing so, and he said he was “strongly attracted”

to counsel's first proposition. Nonetheless, he declined to decide the case on the basis of any general principle to that effect because he concluded that the case could be decided on the narrower alternative ground.

58. On that narrower ground, Elias LJ said the following:

“56. The decision under challenge has a number of distinct features relied upon by the appellant. Not only has the committee disagreed with the officer's recommendation, but in addition it has done so in circumstances where its decision is not consistent with the local development plan and involves development in the Green Belt. Prima facie that is inappropriate development and the planning committee is required to conclude that the adverse effects “by reason of inappropriateness or any other harm” are clearly outweighed by other considerations.

.....

58. An important objective of environmental policy is to protect and preserve special features of the landscape and certain important buildings . So, special status is given, for example, to areas of outstanding natural beauty, the Green Belt, and listed buildings. They have this status because it is considered that in general their preservation enriches the quality of life. These features are not to be preserved at all cost, but strong reasons, and sometimes very exceptional reasons, will be required to justify interfering with them. ... There will obviously be situations where the benefits of a particular development outweigh the environmental disadvantages, and nobody can expect to live in a time capsule. But in my judgement the common law would be failing in its duty if it were to deny to parties who have a close and substantial interest in the decision the right to know why that decision has been taken. This is partly, but by no means only, for the instrumental reason might enable them to be satisfied the decision was lawfully made and to challenge it if they believe that it was not. It is also because as citizens they have a legitimate interest in knowing how important decisions affecting the quality of their lives have been reached. This is particularly so where they have made representations in the course of consultation. They cannot expect their detailed representations to be specifically and individually addressed, but as participants in the process, they can expect to be told in general terms what the committee perceived to be the advantages and disadvantages of a particular development, and why the former clearly outweigh the latter.

59. In a general sense, this may be considered an aspect of the duty of fairness which in this contrast requires that decisions are transparent. The right for affected third parties to be treated fairly arises because of the strong and continuing interest they have in the character of the environment in which they live.....In my judgment, these are powerful reasons for imposing a duty to give reasons, at least if the reasoning process is not otherwise sufficiently transparent.

60. The decision in this case involved a development in the Green Belt and was also in breach of the development plan. Public policy requires strong countervailing benefits before such development can be allowed, and affected members of the public should be told why the committee considers the development to be justified

notwithstanding its adverse effect on the countryside. In my judgment, these considerations demand that reasons should be given. Even if there are some planning decisions which do not attract the duty to give reasons, there is in my judgment an overwhelming case for imposing the duty here.

61. That conclusion is in my judgment reinforced where the committee departs from the officer's recommendation. The significance of that fact is not simply that it will often leave the reasoning obscure. In addition, the fact that the committee is disagreeing with a careful and clear recommendation from a highly experienced officer on a matter of such potential significance to very many people suggests that some explanation is required. As I have said I would not impose the duty to give reasons on the grounds that the committee's decision appears to be aberrant but the dictates of good administration and the need for transparency are particularly strong here, and they reinforce the justification for imposing the common law duty."

59. It can be seen from those passages that Elias LJ's reasoning was that the duty to give reasons arose from the duty of fairness. It was fair that those affected should know why a decision had been taken that was contrary to the development plan and to policies of wider application, in this case, in respect of development in the Green Belt. The fact that the development was also contrary to the officer's recommendation was a reinforcing factor. Elias LJ, therefore, allowed the appeal and the other two members of the court agreed but Sales LJ, as he then was, gave separate reasons because, he said, there was some difference, at least in nuance, between his reasons and those of Elias LJ.
60. Sales LJ firstly said that where the officer's report set out the reasons for and against a grant of planning permission and the committee departed from the officer's recommendation, the fair and proper inference would be that it had simply adopted the contrary reasoning. I observe that later, at [77], he noted that, in this case, the fact that permission was granted was contrary to the whole thrust of the officer's report and at [80] that, whilst that did not itself give rise to a duty to give reasons, it meant that the Council could not rely on the report to show that it had discharged the duty which he found to arise for other reasons.
61. On the narrower argument, Sales LJ said this:

"78. ... In a general sense members of the public have a reasonable expectation that development plans and national policy for the protection of the Green Belt will usually

be complied with, and may indeed have taken decisions having such considerations in mind, for instance when deciding where to buy a house.

79. *Where the public interest in ensuring that the relevant decision-maker has considered matters properly is especially pressing, as in cases of grant of planning permission as a departure from the development plan or in cases of grant of planning permission as a departure from the usual protective policy in respect of the Green Belt, that is a factor capable of generating an obligation to give reasons. This is because requiring the giving of reasons is a way of ensuring that the decision-maker has given careful consideration to such a sensitive matter. Similarly, where a person's private interest is particularly directly affected by the decision, that may also provide a normative basis for imposition of a duty to give reasons, In the planning context, I think that there is particular force in this point where the decision appears out of line with a natural and reasonable expectation on the part of the public that decisions will comply with the local development plan and with national policy to protect the Green Belt. Although it might be said that decisions to allow development in the Green Belt or contrary to the development plan are not aberrant as such, in that such decisions are not uncommon and cannot be assumed to be irrational, I think that they do give rise to an important onus of justification on the part of the decision-maker which, taken with the parallel public interest consideration in such cases, grounds an obligation under the common law to give reasons in discharge of that onus.*

80. *In my judgment, the foundation for the identification of a duty to give reasons for the decision of the Council in this case is the fact that the decision to grant planning permission appeared to contradict the local development plan and appeared to subvert the usual pressing policy concern that the Green Belt be protected (I think either of these factors alone would be sufficient), which engaged a particular onus of justification on the part of the Council which could only adequately be discharged by the giving of sufficient indication of its reasons for making the decision it did.” (My emphasis)*

62. The decision of the Supreme Court in *R (on the application of CPRE (Kent)) v Dover District Council* [2017] UKSC 79 post-dates that in *Oakley*. Developers applied for planning permission for 2 sites near Kent, one in an Area of Outstanding Natural Beauty and one a scheduled monument being a series of fortifications dating from the Napoleonic Wars. There was both strong support for and strong opposition to the proposed developments. The planning officers recommended that permission be granted subject to conditions which included excluding an area of the first site and reducing the number of houses. Permission was granted without the conditions. No statement of reasons was given but the minutes of the planning committee meeting contained brief reasons that the conditions could jeopardise the viability of the scheme, deter other developers and be less effective in delivering economic benefits and that the

advantages outweighed the harm to the AONB which could be minimised by effective screening. The Court of Appeal quashed the permission.

63. The applicable regulations, the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, regulation 24(1), imposed a duty to give reasons expressed as “the main reasons and considerations on which the decision is based ...”. The claimant’s challenge was made on the basis that the reasons for the decision were inadequate.
64. As to the standard of reasons, Lord Carnwath, with whom the other members of the Supreme Court agreed, at [35] first cited the summary of relevant authorities governing reasons challenges given by Lord Brown in *South Bucks DC v Porter* [2004] UKHL 33: *“The reasons for a decision must be intelligible and they must be adequate. They must enable the reader to understand why the matter was decided as it was and what conclusions were reached on the “principal important controversial issues”, disclosing how any relevant issue of law or fact was resolved. Reasons can be briefly stated, the degree of particularity required depending entirely on the nature of the issue falling for decision. The reasoning must not give rise to a substantial doubt as to whether the decision-maker erred in law, for example by misunderstanding some relevant policy or some other important matter or by failing to reach a rational decision on relevant grounds. But such adverse inference will not readily be drawn. The reasons need refer only to the main issues in the dispute, not to every material consideration. They should enable disappointed developers to assess their prospects of obtaining some alternative development permission, or, as the case may be, their unsuccessful opponents to understand how the policy or approach underlying the grant of permission may impact upon future applications. Decision letters must be read in a straightforward manner, recognising that they are addressed to parties well aware of the issues involved and the arguments advanced. A reasons challenge will only succeed if the party aggrieved can satisfy the court that he has genuinely been substantially prejudiced by the failure to provide an adequately reasoned decision.”*
65. Lord Carnwath at [39] said that he took the statutory requirement to give the main reasons to be no different in substance to Lord Brown’s reference to the need to refer only to the main issues in dispute. He then set out what was required of reasons: *“41. Where there is a legal requirement to give reasons, what is needed is an adequate explanation of the ultimate decision. The content of that duty should not in principle turn on differences in the procedures by which it is arrived at. Local planning authorities are under an unqualified statutory duty to give reasons for refusing permission. There is no reason in principle why the duty to give reasons for grant of permission should become any more onerous.”*

42. *There is of course an important difference that the decision letter of the Secretary of State or any planning inspector is designed as a stand-alone document setting out all the relevant background material and policies, before reaching a reasoned conclusion. In the case of a decision of the local planning authority that function will normally be performed by the planning officers' report. If their recommendation is accepted by the members, no further reasons may be needed. Even if it is not accepted, it may normally be enough for the committee's statement of reasons to be limited to the points of difference. However, the essence of the duty remains the same, as does the issue for the court: that is. in the words of Sir Thomas Bingham MR, whether the information so provided by the authority leaves room for "genuine doubt ... as to what has been decided and why." (My emphasis)*

66. Although noting that it was strictly unnecessary to address the issue of a common law duty to give reasons, the Supreme Court thought it right to consider it, Lord Carnwath saying that *Oakley* was rightly decided:

"57. Thus in Oakley the Court of Appeal were entitled in my view to hold that, in the special circumstances of that case, openness and fairness to objectors required the members' reasons to be stated. Such circumstances were found in the widespread public controversy surrounding the proposal, and the departure from development plan and Green Belt policies; combined with the members' disagreement with the officers' recommendation, which made it impossible to infer the reasons from their report or other material available to the public. the same combination is found in the present case and, in my view, would of necessary have justified the imposition of a common law duty to provide reasons for the decision."

67. Lord Carnwath recognised that that might give rise to a charge of uncertainty as to when reasons should be given. He continued:

"59. As to the charge of uncertainty, it would be wrong to be over-prescriptive, in a judgment on a single case and a single set of policies. However it should not be difficult for councils and their officers to identify cases which call for a formulated statement of reasons, beyond the statutory requirements. Typically they will be cases where, as in Oakley and the present case, permission has been granted in the face of substantial public opposition and against the advice of the officers, for projects which involve major departures from the development plan, or from other policies of recognised importance (such as specific policies identified in the NPPF – para [22] above). Such decisions call for public explanation, not just because of their immediate impact; but also because they are likely to have lasting relevance for the application of policy in future cases."

The reference to the policies in paragraph 22 was to the NPPF and the "specific polices" restricting development in sites protected under the Birds and Habitat Directive, Green Belts, AONBs, and National Parks.

68. I have addressed both these decisions at some length for a number of reasons:
- (i) Firstly, I accept Ms Pindham's submission that although *Oakley* was a case about development in the Green Belt, the approach adopted by the court was not limited to cases about Green Belt development. That seems to me to be clear from the context, from what is said about environmental control at [58], from Elias LJ's conclusion at [60], and from Sales LJ's particular observations about departure from the development plan. That is also supported by Lord Carnwath's description of the case, at paragraph 57 in his speech in *CPRE (Kent)*, which identified the combination of circumstances in that case that meant that openness and fairness required reasons to be stated and from his conclusion that such a duty would have arisen in *CPRE (Kent)* where there were strong public views both for and against development of the sites which affected an AONB and a scheduled monument.
 - (ii) Further, I read paragraph 61 in *Oakley* as meaning that, whilst it is not the position that in all cases where the committee departs from the officer's recommendation the committee must give reasons, that is another factor that may give rise to the duty to do so depending on the circumstances and/or may lend further support the duty to give reasons where there is, to adopt Elias LJ and Sales LJ's examples, an interference with a landscape or structure to which special status has been given or a departure from the development plan. There must, as Sales LJ put it, be a sufficient accumulation of reasons of particular force and weight in relation to the particular circumstances of an individual case.
 - (iii) The powerful reasons for giving reasons for a decision encompass both enabling parties affected to understand the decision and the public interest in ensuring that the decision is properly taken.
 - (iv) The particularly strong reasons, or sufficiently strong accumulation of reasons of particular force, for concluding that reasons should have been given that existed in *Oakley* are not, as it was put in argument, a minimum standard. *Oakley* illustrates the factors that may give rise to a duty to give reasons and, indeed, Sales LJ considered that departure from the development plan or from the policy in relation to the Green Belt would be sufficient. I would infer that departure from the policy of protecting listed buildings would similarly be sufficient. In

any case, it does not seem to me helpful or necessary to seek to articulate the test further or reconcile the difference in nuances in the judgments of Elias LJ and Sales LJ. Both considered that the interference with the Green Belt, the departure from the development plan and the departure from the recommendation of the officer were more than sufficient individually or cumulatively to give rise to the duty to give reasons.

- (v) In *CPRE Kent* the Supreme Court similarly considered that *Oakley* was rightly decided because of the combination of circumstances which were summarised at paragraphs 57 and 59. I agree with Ms Pindham's submission that the reference to a major departure from the development plan is a gloss rather than a requirement – it is an illustration of the sorts of circumstances that may typically give rise to the duty to give reasons. Something less than a major departure may be sufficient in all the circumstances.

69. So far as the nature and extent of the reasons which can legitimately be expected to be given is concerned, the decisions in both these cases also indicate in broad terms what those interested in the outcome of the application can expect to be told – in short the advantages and disadvantages and why the ones outweighs the other. Where that can be inferred from the officer's report, the duty may be said either not to arise or to be discharged in any event. Where it cannot, the converse is true.

70. I note finally that in *CPRE Kent*, it was argued that a declaration of breach was a sufficient remedy and that reasons could be provided after the event. That argument was rejected. Lord Carnwath observed (i) that the submission that the views of 3 members who voted in favour represented the views of the majority was an uncertain assumption and (ii) that the economic argument was only one side of the coin with the interests of the AONB on the other and that it then became critical to understand the basis on which the committee believed that the damage could be minimised by effective screening. He concluded:

“68. These points were not merely incidental, but fundamental to the officers' support for the amended scheme. The committee's failure to address such points raises a “substantial doubt” (in Lord Brown's word) as to whether they had properly understood the key issues or reached “ a rational conclusion on them on relevant grounds”.”

71. Amongst the further authorities I was referred to was the decision of HHJ Cotter QC in *R (on the application of Hollings) v Bath and North Somerset Council* [2018] EWHC 1418 (Admin). This case involved the grant of planning permission for alterations and extensions to a Grade II listed building, in use as a care home, situated within a World Heritage Site and Conservation Area. The officer recommended refusal but the committee (by a majority) granted permission. The permission was quashed on a number of grounds arising out of the taking into account of immaterial considerations but the judge held that the claimant would not have succeeded on the ground of failure to give reasons.
72. The judge held that there was a duty to give reasons because the committee was departing from the officer's recommendation where there was an application of "significant scale and public importance (such as here in both a Conservation Area and wider World Heritage Site)" which faced considerable opposition and may well have an impact on future applications. He considered that the council should err on the side of caution "given that the reasons given need not be extensive".
73. Having found that the duty arose, the judge held that the duty had been discharged. Such reasons as there were to be found in what were described as the relatively brief minutes of the meeting in which one councillor had said that the public benefits of the increase in bed spaces and securing jobs outweighed any harm. The judgment also makes reference to the view, with which another councillor agreed, that the home was not financially viable without expansion, although that was a view for which it was impossible to identify the foundation (which went to the other grounds). The judge found those reasons to be intelligible and adequate; that they allowed the reader to understand why the application was decided as it was and the conclusions reached on the important controversial issue of the planning balance; and that there was no reason why the reasons could not make shorthand reference back to the content of the officer's report.
74. At [75] the judge continued:
- "However I would observe that whilst reasons as to why planning permission has been granted may be brief in circumstances such as the present they will ordinarily be taken as the sole operative reasons for the decision. It will often be difficult to infer that*

matters not mentioned have been taken into account and weighed in any planning balance. In the present case this throws focus back on the limited positive aspects set out by the councillors. If, as I find, one falls away [and] then the extent to which the decision can be supported as rational also comes into play.”

75. Mr Fegan submits that the present case is very similar to that of *Hollings* and that, even if the duty to give reasons arises, it should similarly be found to have been discharged. With respect to that submission, I find it difficult to see *Hollings* as more than an illustration of the principles in *Oakley* and *CPRE (Kent)* about the extent of reasons and it provides no more guidance on the nature and extent of adequate reasons.

Arguments and discussion

76. In *CPRE (Kent)* and *Oakley*, there was commonality between the matters that were said to give rise to the duty to give reasons and the matters on which it was said that the Council had failed to give adequate reasons. The position is different here. Both counsel have approached the issue of the duty to give reasons by having regard to the overall context of the decision but the only pleaded matter on which it is claimed that the council failed in that duty is the issue of the sequential test and flood risk. In my judgment, however, counsel were right in the approach that they took. The common law duty, if it arises, arises from the context as a whole and not by virtue of the perceived significance of one aspect of the planning matrix. Although the arguments as to adequacy of reasons ranged outside the distinct issue of flood risk, those arguments may be more properly relevant to the further grounds.
77. As I summarised above, the claimant's case is that the departures from both the development plan and the Officer's recommendation, in the context of this case, give rise to a duty to give reasons. Some reliance is placed on the departure from specific policies in the NPPF. Whilst I accept that the nature of these policies is some indication of the weight to be given to them, they do not have some special status in terms of weight and, in this case, were adequately reflected in the development plan in any event.
78. Rengen emphasises different aspects of the context of this application which, it is submitted, cannot give rise to any such duty on the facts of this case.

79. Firstly, it is said that the proposed development in this case is a minor development on a brownfield site in an area already undergoing a massive transformation and that this is wholly unlike the situations in *Oakley* and *CPRE (Kent)* which were concerned with substantial developments in the Green Belt or an AONB respectively. Whilst the imperative to give reasons may be, in a sense, greater the more substantial the development, I can see nothing in the authorities that would point the other way – in other words, it is not the case that the less substantial the development, the less likely it is that there will be powerful reasons to give reasons, if the other factors identified in these cases are in play.
80. Secondly, this was, it is submitted, a case in which the Officer drew together a complex matrix of factors and presented the Council with a balance of advantages and disadvantages, giving less weight to the advantages or benefits of the development. It was entirely open to the Council to place different weight on those factors and reach a different conclusion. In this particular case, so far as the heritage aspects were concerned, the skittle alley is listed only because it falls within the curtilage of the pub and the Officer found “less than substantial harm”, bringing the balancing exercise into play. So far as the flood risk was concerned, it is submitted that neither the Environment Agency nor the Drainage and Flooding Team made any objection to the development on flooding grounds and there was no reason for the Council to take a different view from that of the experts. Overall the conflict with the development plan was minor and whilst there was clear opposition there was also clear public support for the development.
81. Mr Fegan also contrasted the present case with the decisions *R(Tate) v Northumberland County Council* [2018] 208] EWCA Civ 1519 and *R (Gare) v Babergh District Council* [2019] EWCHC 2041 (Admin). In the former case, the duty to give reasons arose from an inconsistency in planning approach; in the latter case, it arose from an inconsistency in the Council’s approach to whether it was subject to such a duty. Neither is the position here. However, to my mind, all these cases do is illustrate that the reasons which may mean that fairness requires reasons to be given are many and varied and not limited to cases that fall squarely within *Oakley* and *CPRE Kent*. They do not add weight to Rengen’s argument.

82. Put broadly, Rengen's position is that taking account of these matters, it is a matter of planning judgment where the balance lies and it can readily be seen that the Council simply gave greater weight to the advantages and benefits than did the Officer. No further reasons are necessary. As I indicated above, this argument ranges beyond the distinct issue of flood risk but, taken as a whole, the submission seems to me to be that there could be no duty to give specific reasons on each aspect of the Officer's reasons for recommending refusal and/or that the exercise of the planning balance is sufficient for no duty to arise or, in the event that a duty arose, to discharge that duty.
83. Whilst there is force in this argument, in my judgment, it does not stand up to scrutiny. Whilst the Officer's Report did identify the advantages and disadvantages, the complexity of the issues in this case make it impossible to say simply that the Council gave them different weight. The Officer's Report identified an accumulation of reasons for not recommending that permission be granted and made an overall assessment. As I consider further below, the minutes neither give reasons for the Committee's decision on the main points of difference nor give any indication as to why it reached a different overall assessment.
84. It seems to me self-evident that in order to determine the Council's reasons for its decisions and, in this case, to address whether those reasons are adequate, the minutes should be read, so to speak, with the Officer's Report. That is the clearest and fairest way to see what the basis was for the Officer's recommendation and the Council's reasons to depart from it, and is consistent with the *Bishops Stortford* case relied on by Rengen. But this is not a case in which it can simply be assumed that the Council took the opposite view from the Officer and the minutes neither enable that reasoning or any other reasoning to be discerned. So far as the heritage aspects are concerned, the impact was not merely on a listed building but one in a Conservation Area in a World Heritage Site. It was opposed by heritage organisations who made much of the setting and emphasised the importance of the skittle alley (albeit not listed in its own right) which was to be demolished. Numerous concerns were expressed by the heritage organisations, members of the public and councillors about the impact on Park View and the amenity of its residents. The benefits of the pub as a community asset were identified together with importance of retaining it as a community asset but both the

Officer's Report and the comments of the majority of councillors identified that there was no evidence that the future of the pub would be secured by the development and no intrinsic link between the development and the future of the pub. The petition does not seem to have featured in the Council's reasoning and added little or nothing. Those who signed the petition were assuming a link between the development and the future of the pub, since that was how the petition was framed, and gave no indication of why they supported the development of 10 studio apartments or how they might be affected by it.

85. Mr Fegan submitted that the record of the Committee debate showed clear and careful consideration of the benefits and harms and he relies on Councillor Kew's summary of the position. In my view, on a natural reading of the minutes, the Councillor was setting out his views in support of the application; that was followed by further debate in which some of those views were challenged; and it cannot simply be inferred either that the Committee gave careful consideration to those reasons or that they amounted to the reasons for the decision.
86. Against this background, in my judgment, there was a duty to give reasons as to why the planning balance was exercised in the way in which it was.
87. The nature of scope of that duty must then have been one in which, as a minimum, the Council was required to give reasons which demonstrated that they had taken into account the matters that weighed on each side of the balance and, in this case, that included the Officer's reasons for refusal. Looked at another way that is the same exercise as giving reasons for the main points of difference. One of those reasons for refusal was the failure to follow the sequential test and departure from Placemaking Policy CP5.
88. Put in that way, it is clear, in my view, that the Council did not give any or any adequate reasons. The minutes of the meeting say nothing about the flood risk or the sequential test other than the comment of an individual councillor that he did not think the site would flood.

89. For Rengen, Mr Fegan submitted that, in undertaking the planning balance, the Council must have rejected the views of the Officer as to the flood risk because the Environment Agency and Drainage and Flooding teams raised no objection. That is no more than an assumption and it is not one that can be discerned from the minutes.
90. In any case, the Officer's Report concluded that the sequential test had not been followed and that was the view articulated as one of the reasons for refusal. The Officer's Report itself explained the purpose of the sequential test as identifying whether there might be other sites for the development. The short point, so far as the Officer was concerned, is that that sequential test had not been undertaken at all. The sequential test itself is, in principle, a different point from the flood risk to the site itself. The Flood Risk Assessment itself referred to the sequential test but proceeded on the basis that it was met by the strategic test for development in Flood Zones 2 and 3. The Officer clearly held a different view and it was an express reason for refusal and not just a minor point of difference.
91. There is nothing in the minutes to indicate that the Council gave any consideration to these issues, namely whether the sequential test had been followed or the failure to follow the sequential test. There is nothing to indicate that the Committee had come to the conclusion that the test had been followed or that failure to follow the test was irrelevant because they had come to the conclusion that there was no flood risk. Although I have accepted that the views on the Council on this application are no more than arguments, the reasons given for the concession of Ground 1 entirely reflect the same points.
92. Therefore, as I have indicated, in my view it is clear that the duty to give reasons was not discharged because it is not possible to see whether this reason for refusal was even considered.
93. I cannot see how the argument that this was just one of the matters in the planning balance can succeed in any event. Standing back and considering the position more broadly, the issue of public benefit specifically arose in the context of the weight to be given to that benefit as against the harm to the heritage assets. It may be possible to infer that the Committee considered that the public benefit outweighed the harm

because that was an issue expressly raised at the meeting and was the context of the motion on which the Committee in the event voted. But there is no reason given as to why. It is clear that importance was attached to the retention of the pub as a community asset and may well have been given weight, but no reason was given for rejecting the view of the Officer, reflected in the comments of some of the councillors, that there was no intrinsic link between the development and the long term prospects of the pub.

94. Further, the objections raised by the Highways department as to lack of parking and the impact of that lack of provision were also not addressed. It is suggested by Rengen that that point is met by the fact that the development was close to public transport and that there is some basis for saying that the Council saw benefit in a car free development. This issue is perhaps more relevant to Ground 4 but, in my view, it is again largely assumption and cannot be seen from the minutes. The suitability of the development as a car free development was mentioned briefly in the Planning Policy Statement in the context of accessibility and in the Technical Note on parking a car free development was argued to be justified. The Committee does not appear to have given any consideration to these and, in particular, to the argument advanced in the Technical Note which had been rejected by the Council's Highways Department. The only references to parking in the minutes are in the responses of the Case Officer about the position if this were designated student accommodation (which it is not) and to the proximity of the railway stations (which may be relevant to accessibility but was not immediately relevant to the concerns expressed by the Highways department).
95. I recognise that it may be said that it is clear that the Council must have reached its decision to delegate to permit on the basis that conditions could be attached to the grant of planning permission to secure the long term future of the pub. That does not change the position, however, because the same absence of reasons for rejecting the Officer's reason for refusal based on the flooding risk would arise, as would the same absence of explanation for linking the development to the long term future of the pub. The decision then made to grant full planning permission suffers from the same failing.
96. For completeness, I should add that Mr Fegan also submitted that it was apparent from the submissions made by the claimant in the second consultation period made it clear

that she was able to understand the Committee's reasons, which is strong evidence that they were adequate. In her supporting statement no. 6, the claimant said that the Committee had used as a reason for delegating to permit "the fact that it is more important to keep the pub open than to save a neglected heritage asset". She continued:

"Many objectors have commented (on both the 2017 and the 2018 applications) that the aim to keep the pub open is unlikely to be met in this particular case (and some of the Committee members at the meeting thought so too), given that the studio apartments will NOT provide a revenue stream for the pub in the future. The pub is viable as it stands"

She then addressed various aspects of the application including the flood risk. Read as a whole, the statement does no more than demonstrate that the claimant was able to understand that retaining the pub seemed to have been the dominant factor but not that she was able to understand why, or how that had been weighed in the balance, or what account had been taken of the flood risk.

Ground 2

97. This ground specifically relies on the Council's having taken into account an immaterial consideration, namely the long term future of the pub. It was not in issue between the parties that enabling development, in the sense of development which brings benefits by financially enabling other desirable development is a material consideration and to be distinguished from pure financial gain for the developer. In the Design and Access Statement, the Planning Policy Statement and the Heritage Assessment, Rengen presented the development as such an enabling development.
98. Rengen submits that, once it is accepted that enabling may be a material consideration it is for the Council to determine whether there is sufficient evidence for that to be, in fact, a material consideration. It is only if the Council's conclusion is irrational that it is capable of challenge. Rengen relies on three matters to demonstrate that, in this case, there was sufficient evidence on which a rational conclusion that the benefit to the pub was a material consideration could be reached. Those three matters are the Carter Jonas Report; local knowledge; and the fact that resolution was to delegate to ensure that funds were used to improve the public house.

99. The Carter Jonas Report dated 3 September 2018 was an Appraisal Report commissioned by Rengen in connection with the planning application. The report provided evidence that the pub needed to be refurbished in order to attract both a buyer and custom and that its current profit margins and location were not sufficient. The report referred to the proposal to develop 10 studio apartments and concluded simply that *“We consider that this proposal provides an optimum development solution being a compact scheme of development that realises sufficient profitability to fund the proposed works to the public house.”*
100. It is not at all apparent that the Committee had any regard to that report. It was referred to in the Officer’s report but not in the minutes. The point made by the Officer, and indeed by members of the public and the majority of Councillors, was that there was no intrinsic or any link between the development and the future of the pub. The simple statement in the Carter Jonas report that the proposal realised sufficient profitability to fund the proposed works to the pub did not provide that link. The Councillors’ local knowledge was similarly at best of the role and business of the pub and not of the link to the development.
101. I do not, therefore, accept the submission that there was a rational basis for the Council, in this case, to have regarded the future of the pub as a material consideration. The section 106 agreement was not the basis for the decision to delegate to permit. To the extent that it was the basis of the decision notices, it addressed the future of the pub solely in terms of the disabled WCs.

Ground 3

102. As I summarised above, the Council’s ecologist objected to the development on ecology grounds. The principal reason given was that there was insufficient information on protected species because the survey was out of date and there was incomplete information on the surveyor and their experience. An updated report (entitled Bat Scoping Survey and Nesting Bird Report) was submitted and caused the ecologist to withdraw the objection.

103. The claimant argues that that was procedurally unfair because the updated report was not the subject of consultation.

104. Rengen submits that the chronology in respect of this matter demonstrates that there was no unfairness:

(i) The updated report was uploaded to an online document bank on 13 September 2018.

(ii) It is apparent that the claimant was aware of the updated report and, although she noted the shortness of time available, she made detailed written representations on 23 September 2018.

(iii) On 25 September 2018, the ecologist reviewed the updated report and the claimant's representations. The ecologist then changed her recommendation to no objection subject to conditions. In her full comments she said:

“The findings of the newly submitted report are accepted.

I note concerns raised in comments by the public, including that the scope of the survey did not extend to the main pub building or its roof. I have considered this but am satisfied that the works affecting this building are of a nature that would not damage or disturb features that could potentially be used by bats (which are limited in any case), in the unlikely event of bats being present.”

(iv) She was thus satisfied with the updated information and changed her recommendation to one of no objection with conditions.

(v) The Committee was informed of that change. No further issues were raised at the meeting.

(vi) In what I have called the second consultation phase, the claimant made further comments about the ecology report but the Officer did not consider that any of these representations raised any new material considerations.

105. It might be argued that others, who were not so assiduous in monitoring the Council website, were deprived of the opportunity to comment on the updated report prior to the Council's meeting. There is no evidence to this effect and there were no comment from others in what I have called the second consultation phase. Mr Fegan relied on the decision in *R (Wainwright) v Richmond upon Thames London Borough Council* [2001] EWCA Civ 2062 at [47] and [49] as authority for the propositions that it would be only

in a comparatively rare case that a claimant who had had the opportunity to make detailed representations would be able to rely on a failure to consult others. That submission is well-founded. On its facts, the *Wainwright* case was one in which the claimant had herself consulted widely amongst local residents and no-one else had complained that they were not consulted or said that they would have made any material point if they had been. Although the facts are not identical, in the present case, what is clear is that there were a number of local objectors and that none has complained about the lack of consultation on the updated ecology report or raised any issue that might have made a difference, even though they would have had the opportunity to do so at the Committee meeting and in the second consultation phase.

106. In this respect, it seems to me that there was no procedural unfairness. The claimant herself was able to comment on the updated report and did so fully.

Ground 4

107. The final ground is one of irrationality. Ms Pindham submits that this ground to a large extent flows from the previous grounds and it seems to me that in reality this is very much a further manifestation of the arguments that were advanced in respect of the reasons challenge.

108. The claimant submits that on the one side of the planning balance were significant departures from the development plan and that the Council was, pursuant to section 38(6), constrained only to depart from the development plan if that departure was outweighed by material considerations. The departures included the conflict with Policy CP5 (the sequential test), Policies CP6 and HE1 (in respect of heritage assets), Policy ST7 (the parking and highways issue), and Policy D6 (amenity). As Ms Pindham succinctly put it in her skeleton argument: *“No specific reasons were ever provided which set out clearly what material considerations outweighed these multiple and significant conflicts with the development plan.”*

109. Ms Pindham does not go quite so far as to say that absent such reasons, the decision can be inferred to be irrational but rather that that inference can be drawn if no material considerations can be identified. Those considerations could only be identified from

the minutes of the Council meeting and the claimant suggests three: the retention of the pub, the improvement of community facilities, and the provision of homes. Rengen asserts the same three factors.

110. I have addressed the first of these above. The second, the improvement in community facilities is barely referenced, and it is impossible to see how it could have weighed sufficiently against the multiple departures from the development plan. The provision of homes was itself a contentious issue: it was of relevance but it was not the case that housing was for any particular groups or with any particular benefit which was a material issue for at least some of the councillors.
111. Rengen submits that there was nothing irrational about the ultimate decision in light of the range of factors capable of being weighed in favour of the development. However, those factors were, for the reasons I have set out above, very largely a matter of assertion, and assertion that was demonstrably wrong or questionable, and cannot rationally have outweighed the multiple departures from the development plan that the Officer identified. The burden on the claimant, particularly where matters of planning judgment are concerned, is a high one but, in my judgment, in this case it is met.

Section 31(2A)

112. Rengen accepts that if the claimant is successful on grounds 2 or 4, the decision should be quashed. In light of my decision on these grounds, it is strictly speaking unnecessary for me to address, therefore, the argument on section 31(2A). It seems to me, however, appropriate to do so given the view I have formed in relation to ground 1.
113. On ground 1, Rengen submitted that this alone would not have been sufficient for the decision to be quashed. In short, it was submitted, it is highly likely that the decision would have been the same if the conduct complained of had not occurred and that all that would have happened was that more detailed reasons would have been given.
114. I do not accept that submission for the following reasons. Firstly, as Ms Pindham submitted, the Council's letter setting out the basis of its concession of ground 1 itself

makes clear that the view of the Council is that, if sufficient reasons for the decision had been given, the decision might have been different. Inherent within that is an acceptance that the process of giving such reasons might have led to a different conclusion. That articulates the good reason to accept the Council's concession. The failure to meet the sequential test was not a formality and nor was it the same as a flood risk assessment. The Council appears to have had no regard to it at all; the minutes disclose virtually no discussion or consideration of the flood risk; and any suggestion as to how the Council approached this is a suggestion and no more. Even if the Council might have concluded that there was no other available site and that the exception test was met, there is nothing in the minutes to lead to the conclusion that it was highly likely that the Council would have reached the same decision if it had given proper consideration to the issue and it is the absence of reasons which casts doubt on whether such proper consideration was given.

115. In relation to ground 3, however, and had I decided that ground in the claimant's favour, I would also have concluded that the decision was highly likely to have been the same had the conduct complained of not occurred.

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Bath & North East Somerset Council	
MEETING:	Planning Committee
MEETING DATE:	15th December 2021
RESPONSIBLE OFFICER:	Simon de Beer – Head of Planning
TITLE:	NEW PLANNING APPEALS, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES
WARD:	ALL
BACKGROUND PAPERS:	None
AN OPEN PUBLIC ITEM	

APPEALS LODGED

App. Ref: 21/01356/FUL
Location: 71 North Road Combe Down Bath Bath And North East Somerset
Proposal: Proposed new dwelling to side plot of 71 North Road with existing flat reconfigurations.
Decision: REFUSE
Decision Date: 14 July 2021
Decision Level: Delegated
Appeal Lodged: 2 November 2021

Case Ref: 21/00091/UNDEV
Location: Parcel 0096 Ramscombe Lane Batheaston Bath
Breach: Without planning permission, the erection of a building.
Notice Issued Date: 20 September 2021
Appeal Lodged: 3 November 2021

App. Ref: 21/01409/FUL
Location: 15 St Catherine's Close Bathwick Bath Bath And North East Somerset BA2 6BS
Proposal: Erection of 2 storey rear extension, loft conversion including rear dormer and front roof-light, demolition of existing single-storey garage and 'pop-up' rear access and replacement with two-storey side extension. Associated external amendments including replacement of all existing windows and front and rear landscaping.
Decision: REFUSE

Decision Date: 7 June 2021
Decision Level: Planning Committee
Appeal Lodged: 29 November 2021

APPEALS DECIDED

App. Ref: 21/00308/FUL
Location: Lower Maisonette 4 Albion Terrace Kingsmead Bath Bath And North East Somerset
Proposal: External and internal works for the erection of a single storey rear extension atop the existing bathroom and the installation of a flat glass sky light to cover the open trench at the front entrance
Decision: REFUSE
Decision Date: 23 March 2021
Decision Level: Delegated
Appeal Lodged: 26 August 2021
Appeal Decision: Appeal Dismissed
Appeal Decided Date: 3 November 2021

App. Ref: 21/00345/LBA
Location: Lower Maisonette 4 Albion Terrace Kingsmead Bath Bath And North East Somerset
Proposal: External and internal works for the erection of a single storey rear extension atop the existing bathroom and the installation of a flat glass sky light to cover the open trench at the front entrance
Decision: REFUSE
Decision Date: 23 March 2021
Decision Level: Delegated
Appeal Lodged: 8 June 2021
Appeal Decision: Appeal Dismissed
Appeal Decided Date: 3 November 2021

App. Ref: 21/01131/FUL
Location: Shockerwick Cottage Shockerwick Lane Bathford Bath Bath And North East Somerset
Proposal: Proposed conversion of the 1980s garage structure to residential accommodation; including the erection of a first floor extension, side extension and amendments to the fenestration of the garage and existing link extension. Further works include the removal of the existing shed, as well as the removal of the stable door to the kitchen and reinstating window.
Decision: REFUSE
Decision Date: 5 July 2021
Decision Level: Delegated
Appeal Lodged: 26 August 2021
Appeal Decision: Appeal Dismissed
Appeal Decided Date: 10 November 2021

App. Ref: 21/01132/LBA
Location: Shockerwick Cottage Shockerwick Lane Bathford Bath Bath And North East Somerset
Proposal: Internal and external works for the conversion of the 1980s garage structure to residential accommodation; including the erection of a first floor extension, side extension and amendments to the fenestration of the garage and existing link extension. Further works include the removal of the existing shed, as well as the removal of the stable door to the kitchen and reinstating window.
Decision: REFUSE
Decision Date: 5 July 2021
Decision Level: Delegated
Appeal Lodged: 26 August 2021
Appeal Decision: Appeal Allowed
Appeal Decided Date: 10 November 2021

App. Ref: 19/04933/FUL
Location: Royal National Hospital For Rheumatic Diseases Upper Borough Walls City Centre Bath Bath And North East Somerset
Proposal: Change of use from hospital (Use Class D1) to 164 -bedroom hotel (Use Class C1) and 66 sq m of restaurant/café (Use Class A3); to include publicly accessible restaurant, health spa, bar, lounge/meeting spaces at ground and first floor; external alterations to East Wing roof including removal of lift room and flu, demolition and replacement of roof top plant area and extension to existing pitched roof; demolition and replacement of modern infill development to south elevation and new infill development to north elevation of the East Wing internal courtyard and new glazed roof to spa area; removal of modern external staircase to rear of West Wing and replacement infill development and glazed link to new extension; demolition and replacement of 3rd storey extension to West Wing; alterations to the roof of West Wing including new lift shaft and plant screen; erection of 3.5-storey extension to rear of West Wing with glazed link/conservatory space; removal of two trees and replacement tree planting; landscaping and associated works.
Decision: REFUSE
Decision Date: 25 September 2020
Decision Level: Planning Committee
Appeal Lodged: 5 July 2021
Appeal Decision: Appeal Withdrawn
Appeal Decided Date: 11 November 2021
Officer Recommendation: PERMIT

App. Ref: 19/04934/LBA
Location: Royal National Hospital For Rheumatic Diseases Upper Borough Walls City Centre Bath Bath And North East Somerset
Proposal: Listed Building Consent: Internal and external alterations associated with proposed conversion to hotel (Use Class C1); demolition and replacement of modern infill extension, new glazed roof and new infill development of northern elevation to internal courtyard of East Wing; alterations to the roof of east and West Wings; removal of external staircase to West Wing and replacement with glazed link to new extension and replacement infill development; abutment of new glazed structure with West Wing chapel south wall; demolition and replacement of 3rd floor extension to West Wing and additional plant screen and lift overrun to West Wing roof; partial demolition of the boundary wall on Parsonage Lane; construction of replacement glass screen to main internal ground floor lobby of West Wing; changes to internal layout and consequential changes to internal partitions and other fabric.
Decision: REFUSE
Decision Date: 25 September 2020
Decision Level: Planning Committee
Appeal Lodged: 5 July 2021
Appeal Decision: Appeal Withdrawn
Appeal Decided Date: 11 November 2021
Officer Recommendation: CONSENT

App. Ref: 21/00411/FUL
Location: Eagle Farm House Northend Batheaston Bath Bath And North East Somerset
Proposal: Erection of a small timber barn for domestic storage
Decision: REFUSE
Decision Date: 24 March 2021
Decision Level: Delegated
Appeal Lodged: 5 October 2021
Appeal Decision: Appeal Dismissed
Appeal Decided Date: 12 November 2021

App. Ref: 20/03074/FUL
Location: 4 The Old Forge Bath Road Tunley Bath Bath And North East Somerset
Proposal: Change of use of land to the rear of 4 The Old Forge from agricultural to domestic garden use.
Decision: REFUSE
Decision Date: 19 April 2021
Decision Level: Chair Referral - Delegated
Appeal Lodged: 8 September 2021
Appeal Decision: Appeal Allowed
Appeal Decided Date: 16 November 2021

App. Ref: 21/00886/FUL
Location: Parcel 7805 Mill Road Radstock Bath And North East Somerset
Proposal: Erection of an outbuilding (Retrospective).
Decision: REFUSE
Decision Date: 6 May 2021
Decision Level: Delegated
Appeal Lodged: 8 September 2021
Appeal Decision: Appeal Allowed
Appeal Decided Date: 16 November 2021

FORTHCOMING HEARINGS & INQUIRIES

App. Ref: 20/00552/FUL

Location: The Scala, Shaftesbury Road, Oldfield Park, Bath, BA2 3LH

Proposal: Mixed Use Redevelopment of The Scala site including the demolition of existing extensions and new extensions to improve retail store at ground floor level, provide a new dance centre space (Use Class E) and residential accommodation at first floor (including affordable apartments). Erection of student accommodation including 92no. student bedrooms and associated ancillary space. Erection of residential accommodation (16 no. total residential units). Parking for cars and cycles and associated landscaping

Decision: Refused

Decision Date: 07.05.2021

Decision Level: Committee

Appeal Lodged: 14.10.2021

Hearing to be held on 11th January at Guildhall, Bath

Cancelled due to the appeal being placed in abeyance by the Planning Inspectorate

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