

# Planning Committee

**Date: Wednesday, 5th April, 2023**

**Time: 11.00 am**

**Venue: Banqueting Room - Guildhall, Bath**

## Agenda

To: All Members of the Planning Committee

**Councillors:-** Sue Craig, Sally Davis, Shelley Bromley, Paul Crossley, Lucy Hodge, Duncan Hounsell, Shaun Hughes, Dr Eleanor Jackson, Hal MacFie and Brian Simmons

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

Chief Executive and other appropriate officers  
Press and Public

The agenda is set out overleaf.



**Corrina Haskins**

**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>

Paper copies are available for inspection at the Guildhall - Bath.

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](http://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, 5th April, 2023**

**at 11.00 am in the Banqueting Room - Guildhall, Bath**

**AGENDA**

1. EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer will 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 4.4 Appendix 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 CHAIR

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

To note that, regarding planning applications to be considered, members of the public who have given the requisite notice to Democratic Services 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 - 10)

To confirm the minutes of the meeting held on 8 March 2023 as a correct record for signing by the Chair.

7. SITE VISIT LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE

There are no site visit applications for consideration.

8. MAIN PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE (Pages 11 - 80)

The following items will be considered at 11am:

1. 22/00881/OUT - Parcel 9176, Langley's Lane, Paulton, Bristol, Bath and North East Somerset
2. 21/02973/OUT - Parcel 3589, Silver Street, Midsomer Norton, Bath and North East Somerset

The following items will be considered at 2pm:

3. 22/04787/FUL - Parcel 2065, Meadgate East, Camerton, Bath, Bath And North East Somerset
4. 23/00260/FUL - Heighgrove Barn, Scumbrum Lane, High Littleton, Bristol, Bath And North East Somerset

9. NEW PLANNING APPEALS LODGED, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES (Pages 81 - 86)

The Committee is asked to note the report.

The Democratic Services Officer for this meeting is Corrina Haskins who can be contacted on 01225 394357.

Delegated List Web Link: <https://beta.bathnes.gov.uk/document-and-policy-library/delegated-planning-decisions>

**PLANNING COMMITTEE****Minutes of the Meeting held**

Wednesday, 8th March, 2023, 11.00 am

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

**86 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer read out the emergency evacuation procedure.

**87 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were no apologies for absence or substitutions.

**88 DECLARATIONS OF INTEREST**

Cllr Brian Simmons declared a non-registerable interest in item 2 on the main application list 22/04670/REG03 – 20-30 Temple Street, Keynsham as a board member of Keynsham Heritage Action Zone (HAZ).

**89 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There was no urgent business.

**90 ITEMS FROM THE PUBLIC - TO RECEIVE 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.

**91 MINUTES OF THE PREVIOUS MEETING**

It was moved by Cllr Sally Davis, seconded by Cllr Shelley Bromley and:

**RESOLVED** that the minutes of the meeting held on Wednesday 8 February 2023 be confirmed as a correct record for signing by the Chair.

**92 SITE VISIT LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE**

The Committee considered:

A report by the Head of Planning and an update report in relation under the site visit applications list.

Oral statements by members of the public and representatives. A copy of the speakers' list is attached as Appendix 1 to these minutes.

**RESOLVED** that in accordance with the delegated powers, the applications be determined as set out in the site visit decisions list attached as Appendix 2 to these minutes.

(1) 22/02863/FUL - Mill Barn, Millards Hill, Welton, Midsomer Norton

The Case Officer introduced the report which considered an application for the erection of an external classroom, consisting of natural rendered clay bricks to form landscaping wall, pizza oven & rainwater collection with arrayed valleyed roof. She confirmed the officer recommendation was to permit the application.

The following public representations were received:

1. Charlotte Lucas, applicant, in support of the application.

In response to Members' questions, it was confirmed.

1. Parents/carers could drive into the school site to drop off/pick up students and did not need to wait on the highway.
2. The current vehicle movements peaked at 8am with 83 movements and officers would expect the increase of 8 pupils and 2 full time members of staff to result in a corresponding increase.
3. The proposals for a staggered drop/off pick up time would be included in the details of the travel plan which was a condition of the consent. The details of the travel plan would be assessed by officers.
4. The parking provision was considered to be acceptable to meet the additional demand relating to this application for an increase of 8 pupils and 2 full time members of staff.
5. The local bus services had been considered by officers and found to have marginal impact in relation to the development.
6. Although there was mention in the report that the application was the first stage of a masterplan for the site, a decision could only be made in relation to the current application and future applications would be considered on their merits.
7. The design of the roof was considered to be appropriate; the form was open rather than fully enclosed.
8. There would be some harm to the listed building, but this was considered to be less than substantial and would be outweighed by the public benefit.

Cllr Shaun Hughes opened the debate as ward member. He stated that he had no concerns about the proposed structure, but that there was a need to manage the transport issues and maintain a balance between the needs of the business and local residents. He welcomed the travel plan and proposals to stagger drop off and pick up times and hoped that the use of the nearby cycle track would also be encouraged. He also encouraged the applicant to have more dialogue with local residents, especially regarding transport. He concluded that, on balance, the benefits outweighed the harm.

Cllr Duncan Hounsell proposed the officer recommendation that permission be

granted subject to the conditions set out in the report. This was seconded by Cllr Shelley Bromley who agreed that the public benefits of the application outweighed any harm.

On being put to the vote the motion was CARRIED (10 in favour, 0 against UNANIMOUS)

**RESOLVED** that the application be permitted subject to the conditions set out in the report.

93 **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 under the main applications list.

Oral statements by members of the public and representatives. A copy of the speakers' list is attached as Appendix 1 to these minutes.

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

(1) 22/03288/FUL – St Julian's Church, Wellow

The Case Officer introduced the report which considered an application for the erection of a single storey extension to the church to provide WC and kitchen facilities.

She gave an update as follows:

1. Historic England had submitted a final response following a site visit to the church expressing concern that the application would cause some harm to the visual harmony of the exterior of the church and in views of it.
2. The Council's Ecology Officer had submitted a response to state that applicants had proposed the installation of a blackout blind for the rooflight triggered by light levels and provided details to show the stonework was in good condition and there was low risk of roosting bats being directly impacted. However, ecology concerns remained about how far light spill would project from the skylight if the blinds failed, and it was recommended that there should either be a report by a lighting engineer or a bat survey

She confirmed the officer recommendation that the application be refused as set out in the report with the removal of refusal reason 2 relating to biodiversity.

The following public representations were received:

1. Cllr Pat Caudle, Wellow Parish Council, spoke in support of the application.
2. Jonathan Hetreed, architect, and Jane Rees, St Julian's PCC, spoke in support of the application.

Cllr Matt McCabe, in attendance as local Member, raised the following points:

1. This was a difficult application as the church was a historic building, but there was a need to balance this with the community gain. The population had changed since the church was built in the 1400s and an ageing population needed access to toilet facilities.
2. The applicant had considered different options and the one put forward in the application caused the least harm.
3. A precedent had been set on the East Side when the Victorian Vestry was built.
4. The development was subservient to the original structure.
5. The church was a source of pride for local residents and the addition of kitchen and toilet facilities would allow the church to be used more by the local community.

In response to Members' questions, it was confirmed:

1. The Ecologist was concerned about the automated blackout blind in the event of the mechanism failing and the potential impact of light spill on bats. Although a high resolution photographic survey had shown there were no cracks or holes with bats, there were partially open louvres which had the potential for housing bats. Without a bat survey or lighting engineer report there was not sufficient information to satisfy concerns.
2. The proposed aluminium was unlikely to be seen but if Members were minded to permit the application, the materials could be the subject of a condition.
3. The 5 options considered with the Diocesan Advisory Committee were set out in the report. For both liturgy and physical reasons, the other options were not progressed. There was an option of locating the kitchenette in the tower and the toilet in the outside grounds which had not been fully explored but the PCC did not want the toilets to be located outside the church.
4. The proposal had been designed so that the main impact would be on the parapet well. There would not be an impact on the stained-glass window as the height would be below the window.
5. The issue as to whether or not it was appropriate for a toilet to open out onto a kitchenette was not a planning consideration.

Cllr Duncan Hounsell opened the debate and stated that although the proposal would cause harm to the fabric of the grade I listed church, this needed to be weighed against the public benefits and, in his view, the balance lay in favour of the public benefits, and he was minded to permit the application.

Cllr Shaun Hughes concurred with this view stating that the church was a community hub and permitting the application for a kitchenette/toilet area would allow the church to organise events to help secure its financial viability. He stated that, while he did not accept the Ecologist's conclusion about the blind mechanism, he was disappointed that there was not a bat survey.

Cllr Eleanor Jackson also spoke in support of the application for the reasons already cited and she also stated that she was mindful of equalities considerations as the plans for an accessible toilet would benefit groups with protected characteristics. She proposed that officers be delegated to permit the application subject to suitable conditions, including an archaeological condition. This was seconded by Cllr Sally



Davis.

There was a discussion as to whether permission should be subject to a bat survey, but it was agreed that although this would be part of the negotiations between the Planning Officer and applicant, the granting of permission should not hinge on this issue.

On being put to the vote the motion was CARRIED (10 in favour, 0 against UNANIMOUS)

**RESOLVED** that officer be delegated to permit the application subject to suitable conditions including archaeology and wildlife enhancement for the following reason:

1. Although there would be the upper end of less than substantial harm to the Grade I church caused by the development with great weight given to its conservation and intrinsic significance, this was outweighed by the stronger public benefit.

[Cllr Paul Crossley withdrew from the meeting at this point.]

(2) 22/04670/REG03 – 20-30 Temple Street, Keynsham

The Case Officer introduced the report which considered an application for the refurbishment and repairs of shop fronts, windows and downpipes. She confirmed that the application had been referred to Committee under the scheme of delegation as it was a Council led application involving more than 2 properties. She confirmed the officer recommendation to permit the application.

Cllr Brian Simmons opened the debate as Local Member and advised that the Keynsham Heritage Action Zone was created 3 years ago with government funding to upgrade Temple Street and High Street. He confirmed that Keynsham Town Council supported the application.

In response to a Member's question, it was confirmed that the buildings were not listed but the existing signs would be altered to look more appropriate in the setting.

Cllr Duncan Hounsell moved the officer's recommendation to permit the application, and this was seconded by Cllr Eleanor Jackson.

On being put to the vote the motion was CARRIED (9 in favour, 0 against UNANIMOUS)

**RESOLVED** that the application be permitted subject to the conditions set out in the report.

(3) 22/02604/FUL – New Leaf Barn, Bathampton

The Case Officer introduced the report which considered an application for the change of use of an agricultural barn into a single dwelling with associated facilities for existing holiday lets which had been referred to the Planning Committee under the scheme of delegation due to the applicant's relationship to a Member of Council. He confirmed the officer recommendation to permit the application.

The following public representations were received:

1. Ben Smith, agent, speaking in support of the application.

In response to Member's questions, it was confirmed that the extension was within the acceptable volume increase recommended within a greenbelt location.

Cllr Sally Davis proposed the officer's recommendation that the application be permitted. This was seconded by Cllr Eleanor Jackson who stated that the development would not infringe on the greenbelt.

On being put to the vote the motion was CARRIED (9 in favour 0 against UNANIMOUS)

**RESOLVED** that the application be permitted subject to the conditions set out in the report.

94 **APPLICATION TO DIVERT PUBLIC FOOTPATH BC62/3, CHURCH LANE, COMBE DOWN, BATH UNDER SECTION 119 HIGHWAYS ACT 1980**

This application was withdrawn by the applicant in advance of the meeting.

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

In response to question about enforcement action in relation to the alterations on the façade of a building in High Street, Keynsham, the Team Manager (Development Management) undertook to bring a report back to the next committee.

**RESOLVED** that the report be noted.

The meeting ended at 1.11 pm

Chair .....

Date Confirmed and Signed .....

Prepared by Democratic Services

<b>Bath &amp; North East Somerset Council</b>	
<b>MEETING:</b>	<b>Planning Committee</b>
<b>MEETING DATE:</b>	<b>5th April 2023</b>
<b>RESPONSIBLE OFFICER:</b>	Simon de Beer – Head of Planning
<b>TITLE:</b>	<b>APPLICATIONS FOR PLANNING PERMISSION</b>
<b>WARDS:</b>	ALL
<b>BACKGROUND PAPERS:</b>	
<b>AN OPEN PUBLIC ITEM</b>	

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.

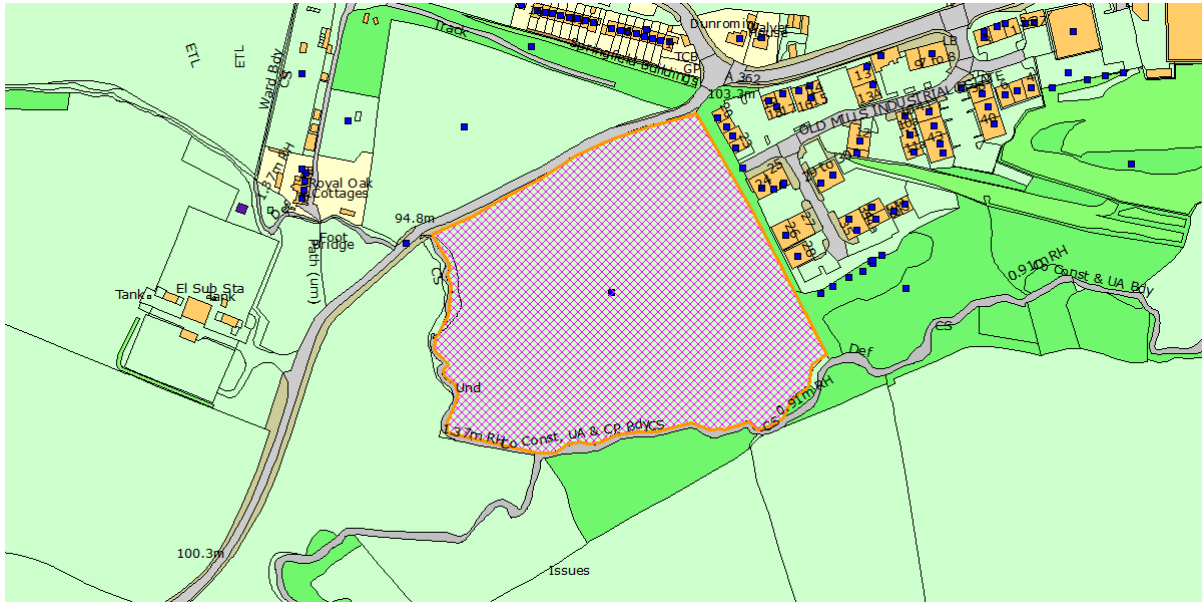
- [2] The papers identified or referred to in this List of Background Papers will only include letters, plans and other documents relating to applications/proposals referred to in the report if they have been relied on to a material extent in producing the report.
- [3] Although not necessary for meeting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

## INDEX

ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
01	22/00881/OUT 28 April 2023	Flower And Hayes Developments Ltd Parcel 9176, Langley's Lane, Paulton, Bristol, Bath And North East Somerset Outline planning application (with all matters reserved, except for access) for small scale industrial units with associated works and access from existing Old Mills development.	Paulton	Isabel Daone	Delegate to PERMIT
02	21/02973/OUT 14 April 2023	Waddeton Park Ltd Parcel 3589, Silver Street, Midsomer Norton, Bath And North East Somerset, Outline planning permission for formation of access road, footpath and cycle links, open space, landscaping and associated works (All matters except access reserved).	Midsomer Norton Redfield	Isabel Daone	PERMIT
03	22/04787/FUL 6 February 2023	Mr Ashley Pulsford Parcel 2065, Meadgate East, Camerton, Bath, Bath And North East Somerset Construction of an agricultural access off Camerton Road, to include erection of a gate (Partially retrospective).	Bathavon South	Pippa Brown	PERMIT
04	23/00260/FUL 6 April 2023	Ms Priscilla Roberts Heighgrove Barn , Scumbrum Lane, High Littleton, Bristol, Bath And North East Somerset Construction of car port.	Clutton And Farmboroug h	Paige Moseley	REFUSE

## REPORT OF THE HEAD OF PLANNING ON APPLICATIONS FOR DEVELOPMENT

**Item No:** 01  
**Application No:** 22/00881/OUT  
**Site Location:** Parcel 9176 Langley's Lane Paulton Bristol Bath And North East Somerset



**Ward:** Paulton                      **Parish:** Paulton                      **LB Grade:** N/A  
**Ward Members:** Councillor Liz Hardman      Councillor Grant Johnson

**Application Type:** Outline Application

**Proposal:** Outline planning application (with all matters reserved, except for access) for small scale industrial units with associated works and access from existing Old Mills development.

**Constraints:** Agric Land Class 1,2,3a, Coal - Standing Advice Area, Contaminated Land, Policy CP9 Affordable Housing Zones, Policy ED2A Strategic & Other Primary In, Flood Zone 2, Flood Zone 3, LLFA - Flood Risk Management, Policy M1 Minerals Safeguarding Area, Policy NE3 SNCI, Policy NE5 Ecological Networks, SSSI - Impact Risk Zones,

**Applicant:** Flower And Hayes Developments Ltd

**Expiry Date:** 28th April 2023

**Case Officer:** Isabel Daone

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

### REPORT

Reason for Committee:

The application was referred to the Chair and Vice Chair of the Planning Committee following an objection from Paulton Parish Council. The Chair and Vice Chair both considered that the application should be debated at Planning Committee. Their comments are as follows:

Chair: "I have reviewed this application carefully, noting the objections from various parties, and the history of the site. This is an Outline application meaning that some objections raised will be addressed at a later stage. The officer has worked with the applicant to resolve other issues raised - either by adjustments to the proposed scheme or by conditions - it remains, however, a complex proposal and should therefore be debated in public by the planning committee. "

Vice Chair: "I have read through this application, all related information including the history of the site, the appeal decision & objection comments from both third party & statutory consultees. The application is outline & relating to access only, all other matters are reserved. The highways/access was an issue in previous submissions therefore the applicants have submitted technical highways notes to address points raised, this aspect remains controversial & although a Section 106 agreement is recommended to secure various conditions this application would benefit from discussion in the public arena therefore, I recommend it be determined by the Planning committee."

#### Site Description and proposal:

The application relates to a parcel of land located off Langley's Lane in Paulton. It sits adjacent to the existing Old Mills industrial estate. The site slopes from north to south, falling away at the northwest corner towards the Wellow Brook.

The application seeks outline planning permission for small scale industrial units with associated works and access from the existing Old Mills development. Approval is sought for access at this stage, with matters of appearance, landscaping, layout, and scale reserved. Indicative layout plans and elevation drawings accompany the application.

The quantum of development is not specified within the description of development and again, layout is a reserved matter. However, it is noted that the application form references that the total floor area will be 6991 square metres and a total of 51 units are shown on the indicative layout plan.

#### Relevant Planning History:

19/03984/OUT

REFUSED - 6 February 2020

APPEAL DISMISSED - 19 July 2021

Outline planning application for small scale industrial units with associated works and access from existing Old Mills development.

20/01950/OUT

REFUSED - 16 October 2020

Outline planning application for small scale industrial units with associated works and access from existing Old Mills development. (Resubmission)

#### EIA Screening:

As part of the appeal for 19/03984/OUT (APP/F0114/W/20/3250068) the Planning Inspectorate undertook an Environmental Screening Opinion for the site. The Planning Inspectorate concluded the following:

"The development proposed, namely, Outline planning application for small scale industrial units with associated works and access from existing Old Mills development, falls within the description at 10A of Schedule 2 to the above Regulations. In the opinion of the Secretary of State, having considered the criteria in Schedule 3 to the above Regulations, the proposal would not be likely to have significant effect on the environment for the following reasons:

The development is small in scale and there would be no likely significant effects in terms of noise, water, contamination, flooding, traffic, ecology or archaeology. Accordingly, in exercise of the powers conferred on the Secretary of State by Regulations 14(1) and 7(5) of the above Regulations, the Secretary of State hereby directs that this development is not Environmental Impact Assessment (EIA) development."

This decision was issued on 24th May 2021. The appeal scheme is highly comparable to the current scheme; the indicative number of units has in fact decreased as part of the current application. As such, the Council do not consider it is necessary to undertake an additional screening opinion. The development is not considered to be EIA development.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Consultation Responses :

PAULTON PARISH COUNCIL (20th June 2022):

### Objection

- Despite highway improvements, a travel plan and roundabout remodelling, the measures will be insufficient to mitigate the extra traffic generated
- Remodelled roundabout will not be sufficient to stop traffic queuing on this roundabout
- Cycle to work once a week (as per travel plan) is not deliverable due to poor cycle routes
- The ecological assessment contains insufficient information to demonstrate compliance with the Conservation and Species Regulations 2017
- Security for phase 2 needs to be improved
- Units in Phase 1 are empty, and this demonstrates Phase 2 is not needed
- An Enterprise Zone is proposed on the site opposite

### ECOLOGY:

8th June 2022 - Objection; Insufficient information 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 and potential harm as a result of the scheme parameters, in relation to dispersing light-sensitive bat species and a badger sett. Loss of a habitat corridor (hedgerow) and no evidence to demonstrate no net loss and net gain of biodiversity contrary to Policies NE3 and CP6.

8th August 2022 - Objection; Insufficient information 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 and potential harm as a result of the scheme parameters, in relation to dispersing light-sensitive bat species and a badger sett. Loss of a habitat corridor (hedgerow) and no evidence to demonstrate no net loss and net gain of biodiversity contrary to Policies NE3 and CP6.

16th November 2022 - Objection; Insufficient information 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 and potential harm as a result of the scheme parameters, in relation to dispersing light-sensitive bat species and a badger sett. Clarifications are required to demonstrate no net loss and net gain of biodiversity in accordance with Policies NE3 and NE3a.

25th January 2023 - No objection subject to conditions; The following clarifications should be provided before determination to avoid potential design conflicts with a Reserved Matters scheme:

- Consistency and clarity with regards to scrub buffers and comments about mowing/grazing as well as potential conflicts with drainage and landscaping requirements in relation to Biodiversity Net Gain assessment;
- More detailed assessment of impacts on Wellow Brook SNCI including water pollution and habitat removal;
- Adjustments to the external lighting strategy to further minimise light spill onto retained and created habitats; and
- Exclusion zone of 20m from sett entrances (no excavation, large vehicle movements, or landscaping within 10m) to be demonstrated on plans (including from enabling works) or confirmation that the sett will be temporarily closed under Natural England licence.

However, it is accepted that in principle, ecological matters should be able to be addressed satisfactorily, subject to detailed design. If consent is granted, conditions would be recommended for a detailed Wildlife Protection and Enhancement Scheme, CEMP, Biodiversity Gain Plan/management plan, detailed external and where relevant internal lighting scheme and compliance report.

## HIGHWAYS:

27th July 2022 - Scope for revision

HDM request that the applicant be afforded the opportunity to provide the following information and updates to the application:

- Confirmation of the road type used within the calculation is requested to ensure the correct road type has been used for the location of the proposed development
- Clarification on the apparent omission of the Radco redevelopment (18/05623/OUT) and the allocated Somer Valley Enterprise Zone LDO from committed development assessment
- Clarification from B&NES Road Safety Department that there have been no recent accidents in the vicinity of the site
- Clarification on how the proposed pedestrian/cycle provision complies with LTN 1/20 and justification of the location of the tactile paving across the site access junction.



- Further justification on how the proposes pedestrian/cycle improvements connect with existing infrastructure, namely Norton Radstock Greenway
- Further information in the form of Lane Simulation or microsimulation of the mitigation scheme at A362/B3355 Thicketmead Roundabout to establish the impact of traffic through the mitigation scheme
- Provision of a sensitivity test removing the hatched areas from the measurement to assess the true entry width provided at the junction
- Confirmation of the way conflict angles have been measured to ensure the correct method has been used for the proposed roundabout design

18th November 2022 - No objection subject to conditions and S106 obligations being secured.

#### ARBORICULTURE:

7th June 2022 - No objection subject to conditions

26th September 2022 - No objection subject to conditions

#### DRAINAGE AND FLOODING:

27th May 2022 - Scope for revision

9th December 2022 - Scope for revision

13th February 2023 - Scope for revision; The Drainage and Flooding Team have received a revised drainage strategy drawing and Micro drainage calculations. It has been confirmed that the system will remain private. The Drainage and flooding team will need to see the proposed maintenance manual.

6th March 2023 - No objection subject to conditions

#### LANDSCAPE:

7th June 2022 - Objection

1st September 2022 - Objection; requirements of policies NE2 and SSV9 are not met

#### ECONOMIC DEVELOPMENT:

24th May 2022 - No objection

#### REGENERATION AND HOUSING:

10th June 2022 - Scope for revision; In summary, there are a number of queries raised regarding the TA including: approach to background traffic growth forecasting; lack of consideration of Radco and SVEZ as committed development; approach to modelling Thicket Mead mitigation scheme; and compliance with design standards for proposed offsite pedestrian and cyclist infrastructure.

## AVON AND SOMERSET POLICE:

7th June 2022 - No objection subject to comments

## MENDIP DISTRICT COUNCIL:

21st June 2022 - The site abuts Mendip District Council, with the boundary being formed by a watercourse. The site is in a sensitive location in landscape, drainage, and arboricultural terms. Whilst it is noted that the application is in outline with all matters except access reserved, it has not been demonstrated that this level of development can be achieved without causing a detrimental impact on landscape or flood risk. Accordingly, Mendip District Council recommends refusal of the application as submitted and supports the comments of the specialist officers at Bath and North East Somerset Council, with particular regard to the comments made by the Landscape and Historic Environment, LLFA and Arboriculture officers.

### Representations Received :

18 objection comments have been received as part of this application. The main points are summarised as follows and full comments can be viewed on the public website. The Planning Officer has assessed the comments in full.

- Existing industrial estate on Old Mills has empty units
- Impact to and loss of biodiversity
- Impact to protected species
- Impact to Wellow Brook SNCI
- Light pollution during construction and operation phases
- Increase in traffic
- Langley's Lane and A362 cannot cope with increased traffic volume
- Lack of sustainable transport routes
- Loss of agricultural land
- Loss of green fields
- Noise during construction
- Noise during site occupation/operation
- Dust and pollution
- Concerns regarding height of proposed buildings
- Existing drainage system is insufficient
- May devalue residents' properties

## **POLICIES/LEGISLATION**

The Development Plan for Bath and North East Somerset comprises:

- o Bath & North East Somerset Core Strategy (July 2014)
- o Bath & North East Somerset Placemaking Plan (July 2017)
- o Bath & North East Somerset Local Plan Partial Update (2023)
- o West of England Joint Waste Core Strategy (2011)
- o Made Neighbourhood Plans

## CORE STRATEGY:

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

CP5: Flood Risk Management  
CP6: Environmental Quality  
CP13: Infrastructure provision  
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:

SV1: Somer Valley Spatial strategy  
SSV9: Old Mills Industrial Estate  
D1: General urban design principles  
D2: Local character and distinctiveness  
D3: Urban fabric  
D4: Streets and spaces  
D6: Amenity  
NE2A: Landscape setting of settlements  
NE4: Ecosystem services  
SCR2: Roof-mounted/ building integrated scale solar PV  
SCR5: Water efficiency  
ST2: Sustainable transport routes  
SU1: Sustainable drainage policy

#### LOCAL PLAN PARTIAL UPDATE:

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

CP3: Renewable Energy  
CP7: Green infrastructure  
D5: Building design  
D8: Lighting  
ED2A: Strategic and other primary industrial estates  
NE1: Development and green infrastructure  
NE2: Conserving and enhancing the landscape and landscape character  
NE3: Sites, species, and habitats  
NE3a: Biodiversity Net Gain  
NE5: Ecological networks  
NE6: Trees and woodland conservation  
PCS5: Contamination  
ST1: Promoting Sustainable Travel

ST7: Transport requirements for managing development

#### SUPPLEMENTARY PLANNING DOCUMENTS:

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

Sustainable Construction Checklist Supplementary Planning Document (January 2023)

Transport and Development Supplementary Planning Document (January 2023)

Planning Obligations Supplementary Planning Document (January 2023)

#### NATIONAL POLICY:

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

#### LOW CARBON AND SUSTAINABLE CREDENTIALS

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

#### **OFFICER ASSESSMENT**

##### PRINCIPLE OF DEVELOPMENT:

Policy SSV9 of the Placemaking Plan allocates this application site for light industrial, heavy industrial, warehousing (classes B1c, B2 and B8), builder's merchants and car show rooms (sui generis). It sets out the development requirements and design principles which a planning application will need to respond to and incorporate into any scheme.

The proposed 51 units equate to 6991 sqm of industrial floorspace, which equates to 149 full time employment positions. The development would provide a significant positive contribution to the aspirations of policy SV1 of the Placemaking Plan which provides the overarching spatial strategy for the Somer Valley. Policy SV1 aims to boost employment in the Somer Valley by around 900 net additional jobs between 2011 and 2029. It also supports policy SSV9 and notes that this land has been allocated to provide a long-term supply of new employment land and boosts jobs in the area.

The comments from third parties that there are industrial units on the site next door are acknowledged. A turnover of occupation of existing premises, at a particular snapshot in time, is not unusual and does not in itself suggest a lack of need for employment development. The site is allocated for such development and there is currently an overall shortage of industrial floorspace across the district and an aspiration to boost employment in this area.

It is noted that criterion 6 policy SSV9 references the need for community facilities to meet the need of workers and this is not proposed within this application. However, the Local Development Order (LDO) which has been put forward by B&NES does propose such facilities on the northern site of the allocation. Even if the LDO was not adopted, the allocation site to the north is much larger and it is not unreasonable to assume that such facilities could come forward on this site.

Third parties have raised that the proposal would result in the loss of agricultural land, and it is noted that the site falls within the highest quality classification of land, where its loss would not generally be acceptable. However, the site is an allocated site and therefore the principle of the loss is established through this allocation. This would be an unreasonable and unjustifiable reason to refuse the development, given that the allocation has established the principle.

Subject to compliance with the development requirements and design principles of policy SSV9, the scheme is considered to be acceptable in principle.

#### HIGHWAYS SAFETY AND PARKING:

Although the application is for outline planning permission, access is not a reserved matter and must be considered at this stage. Policy SSV9 confirms that access to the site should be taken from the existing Old Mills Industrial Estate. The proposal and submitted indicative layout comply with policy SSV9 in this regard.

In response to comments and concerns raised by the Council's Highways and Regeneration Teams, additional Technical Notes have been provided. These have been assessed by officers.

#### Predicted Traffic Growth:

The submitted Transport Note (TN) provides confirmation that the Temprow "All" road types was used in calculating traffic growth for the analysis undertaken due to the various road types within the study area. A comparison of "all" and "principal" road types is presented within the submitted TN which shows that the use of "all" road types would marginally drop baseline traffic. It is accepted that the use of "all" road types presents a worse case of the two options.

#### Committed Development:

Clarification was requested on the apparent omission of the Radco development (18/05623/OUT) and the allocated Somer Valley Enterprise Zone LDO from the committed development assessment.

The submitted TN confirms that the Radco development will result in a minor decrease in traffic arising from the proposals, with no material impact. As such, baseline traffic has not been amended to reflect the scheme; this is accepted by officers.

With regard to the allocated Somer Valley Enterprise Zone (SVEZ) LDO, the applicant has set out an extract from the Inspector's decision on the appeal for 19/03984/OUT, regarding the impact of the SVEZ. The extract notes that there is no current planning application and that it would need to be assessed on its own merits, including any

highways mitigation. The Transport Note argues that with no known proposals for the SVEZ site, the applicant should not speculate on what the SVEZ site may deliver. Since the Inspectors decision and the TN being submitted, proposals for the LDO have been out forward by the Council. A consultation on the LDO has been undertaken and has now closed, with comments being reviewed and assessed by the Council. It is important to note that the LDO is not adopted and therefore, none of the proposals are definitive at this stage. Additionally, the applicant can use the parameters set out within Policy SSV9 (Old Mills Industrial Estate Site Allocation) which clearly sets out that the development should mitigate any transport impacts arising from it. It does not specify that other sites must be considered. It is also acknowledged that the SVEZ site will be included as allocated development within TEMPPro growth factors. The LDO Transport Assessment accounts for the development at Old Mills and so, in this regard, the cumulative impacts of the proposals have been assessed.

As such, the Local Planning Authority accepts that the impact can be satisfactorily addressed through the use of TEMPPro and no further analysis is required.

#### Collision Data:

Clarification was previously requested that the applicant provide clarification from the B&NES Road Safety Department that there have been no recent accidents in the vicinity of the site.

The submitted Transport Note highlights that a Personal Injury Collision data request has been obtained from B&NES for the period 01/08/2017 to 31/07/2022 and shows no collisions recorded at the site access, Thicketmead Roundabout or on the A362 between those two junctions. Notwithstanding the above, no evidence has been submitted. However, given the previously submitted crashmap summary within the Transport Assessment and a further review by the B&NES Highways Team, no further information is required in respect of these matters and the findings are accepted.

#### Pedestrian/Cycle Access:

Policy SSV9 requires the development to deliver wider transport enhancements for sustainable modes. Clarification was requested by officers in respect of how the proposed pedestrian and cycle provision complies with LTN 1/20. A justification as to the proposed location of the tactile paving across the site access junction was also requested. Additionally, further justification was requested to determine how the proposed pedestrian/cycle improvements connect with existing infrastructure, namely Norton Radstock Greenway.

The submitted TN provides further clarification on the provision of a 3m footway/cycleway along the site frontage and would connect with the scheme proposed by B&NES Council for a link between the northern SSV9 site and the Norton Radstock Greenway. No explanation has been provided within the TN to confirm how the proposed pedestrian/cycle provision complies with LTN 1/20, however the proposals are an extension of a scheme proposed by B&NES and this is therefore considered acceptable.

The TN also sets out an area of land required to provide possible improvements along the northern side of the A362, which would require third party land outside of the developers control but could possibly be brought forward via any future application for the northern part of the SSV9 site allocation (which includes the LDO). The TN sets out the applicant's

willingness to commit to providing an additional refuge on the A362 to connect to this potential future footway/cycleway link which is welcomed. Prior to the delivery of any improvements along the northern edge of the A362 (associated with the northern part of the policy SSV9 site or B&NES proposed improvements), the applicant concludes that the proposed shared path along the proposed site frontage would allow cyclists heading to the development from the east to separate themselves from the A362 carriageway and would improve pedestrian crossing points over the A362.

Previously, officers noted that the tactile paving proposed at the existing Old Mills Industrial Estate access was off the desire line. The TN states that this was intended as the desire line to serve the development. However, to address officer concerns, the submitted TN details additional tactile paving added at the existing dropped kerb as shown on plan 001 Revision B which is welcomed and accepted.

The Placemaking Plan Policy Map shows that there is a gap in the safeguarded route associated with the former railway line running west from the existing Norton Radstock Greenway (Policy ST2). To facilitate future improvements to the connectivity of the development, the TN sets out that the applicant is willing to dedicate land to allow the route to continue through their site to each Langley's Lane as detailed in submitted plan 013 which is welcomed. This can be secured through a Section 106 agreement.

Thicketmead Roundabout:

Further information was previously requested in relation to the operation of the S362/B3355 Thicketmead Roundabout which the applicant has provided with the submitted TN.

It details Lane Simulation of the existing arrangement at A362/B3355 Thicketmead Roundabout to provide clarity of lane usage to reflect observed levels. By altering the proportions of secondary lane use in the model of the existing roundabout using 2021 survey traffic, queues have been balanced to reflect observed levels without having to apply artificial reductions in entry capacity, thereby improving the precision of modelling. The queues from the land simulation model are generally consistent with the observed peak queues from three days of surveys.

The model of the proposed mitigation scheme for TMR has been revised to reflect the lane simulation inputs from the model of the existing junction, ensuring it is calibrated similarly whilst also taking account of the additional storage capacity on the approaches and the geometry modifications.

The results of the altered land simulation ARCADY model indicates that the proposed mitigation will reduce queues on the widened approaches, relative to existing conditions, mitigating the effects of the development. The analysis submitted within the TN provides reduced entry width of the proposed mitigation by way of removing the hatched areas from the measurement to assess the true entry width provided at the junction, reducing the entry width of B3355 (N) and A362 (W) by 1.1m and 0.84m respectively.

The proposed improvements are considered acceptable in mitigating the impacts of the proposed development. The LDO which has been put forward by B&NES Council also proposed modifications to the Thicketmead Roundabout and surrounding road network. The modifications proposed by B&NES differ from those proposed by the developer and

would go further in regard to mitigating traffic impact. Officers consider it appropriate to secure a financial contribution equal to the cost of the improvements proposed by the developer for B&NES Council to put towards Thicketmead Highway Improvements. This is to avoid a situation where improvements are provided by the developer, which then are replaced with Council improvements. This would be a significant waste of resource. If the LDO did not come forward, B&NES Council would still have sufficient capital to undertake the highway works to Thicketmead which will mitigate the traffic impact of this development. The developer has agreed to this in principle and the final costings are being agreed.

#### Highway conclusion:

The additionally submitted information satisfactorily addresses previously raised highway concerns. The proposal is considered to accord with the requirements of policy SSV9 of the Placemaking Plan and policies ST1 and ST7 of the Local Plan Partial Update. The improvements and financial contributions discussed above will need to be secured through a S106 agreement which is in the process of being agreed.

#### LANDSCAPE:

Allocation policy SSV9 requires "major landscaping" in order to mitigate the impact on the surrounding countryside and nearby residential properties. Policy NE2 of the Bath and North East Somerset adopted Local Plan Partial Update makes clear that development should seek to avoid or adequately mitigate any adverse impact on landscape and that proposals with the potential to impact on the landscape/townscape character of an area or on views should be accompanied by a Landscape and Visual Impact Assessment undertaken by a qualified practitioner to inform the design and location of any new development. A Landscape Statement has been provided.

The application site is located within the Farrington Gurney Farmlands Landscape Character Area. The landscape character features gently undulating hillsides and an open character. The nearby industrial and commercial uses, electrical sub-station and yard detract from and change this character somewhat.

The Council's Landscape Officer has objected to the application on the basis that no landscape and ecological strategy plan has been provided which sufficiently demonstrates that a landscape buffer will be provided to mitigate the visual impacts of the development. Concerns have also been raised in this respect by Mendip District Council who are the neighbouring authority.

The scheme must also be viewed in the context of the previous appeal decision at the site (19/03984/OUT). Landscaping matters formed reason for refusal 4 within this application. The Inspector noted that the countryside retains a "prevailing expensive rural character" and also accepted that, given the site allocation, there is "an expectation of change to this local context". The site is surrounded by trees and vegetation which the Inspector considered "atypical" of the character area.

The site layout is, at this stage, indicative. The number of units has been slightly reduced since the appeal scheme, which has pushed the development further away from the northern boundary slightly. Again, the quantum of development is indicative, but this gives more confidence that a landscaping belt along this boundary can be achieved. The



indicative layout shows a landscape belt along the southern boundary of the site which is between 20m and 50m in depth approximately. This is similar to the appeal scheme where the Inspector noted that this was "quite extensive" although accepted that this was partly due to the fact that this part of the site was unsuitable for development. The western boundary also shows a landscaping belt of up to 15m in depth. At the appeal hearing for 19/03984/OUT the Council accepted that this enhancement of the existing planting would mitigate the landscape and visual impact from the south and west. Nothing has substantially changed since the hearing, both in terms of the scheme itself or the policy position and as such, the planning officer is satisfied in respect of these indicative landscaping proposals.

Along the northern and eastern boundaries, less extensive belts of landscaping are proposed. An indicative landscape buffer of approximately 10m in depth. The Council's Landscape Officer notes that the proposed layout plan does not show this being planted with sufficient vegetation to the full depth of 10m. However, it should be noted that these plans are, at this stage, indicative only. The Inspector for application 19/03984/OUT noted that there was no substantive evidence to suggest that the entire length or depth of a 10m structural landscaping belt could not be planted. Whilst the comments of the Landscape Officer are noted in that they seek a more detailed landscaping strategy to be submitted, this is an outline planning consent. At reserved matters stage, officers would expect a detailed landscaping strategy to come forward which showed that sufficient vegetation screening could be arranged in this location. The principle has been accepted at appeal and the planning officer considers that, given this material consideration, and the fact that the application and policy position have not significantly changed since this decision, that there is insufficient reason for refuse the application on the basis of character and landscape.

Overall, therefore, it is concluded that the development would not likely adversely affect the countryside and landscape character in this location. Therefore, it is not considered that it would be unduly visible, subject to a sufficient landscaping scheme being secured at reserved matters stage, which is considered, in principle, to be feasible. The scheme is considered to be compliant with SSV9 in this regard.

#### ARBORICULTURE:

The Arboricultural Report which has been submitted contains a Tree Survey, Arboricultural Impact Assessment, Method Statement and Tree Protection Plan and this provides comprehensive detail.

The fence protection must be correctly installed and monitored throughout the development. Additionally, the construction of the no-dig parking spaces adjacent to Oak T1 must also be overseen by the project ecologist to ensure that the method of construction is consistent with best practice. A revised method statement to this effect can be secured by condition.

Of note, the Arboricultural survey details the removal of 25 category C trees and confirms that this will be mitigated through the planting of 100 trees in accordance with the B&NES Tree Replacement Policy. The trees are considered to have some cultural important and provide links to the industrial past of the area. They have become softened by dense, naturalized woodland vegetation and herbaceous layers. These areas have development

to become unique natural habitat typologies with many faunae relying on connectivity within the wider landscape. It is therefore essential that the B&NES Tree Replacement Policy is adhered to; the replacement trees will also screen the development and provide the landscaping which has been discussed in the previous section of this report. It is considered that this can be secured through planning condition.

#### ECOLOGY:

A number of concerns were raised by the Council's Ecologist in regard to the initial planning application submission. However, the applicant has submitted revised and additional in response to the matters raised which includes the following:

- An updated Ecological Appraisal report (Crossman Associated, November 2022)
- A letter from Crossman Associated (25th November 2022)
- Biodiversity Net Gain Metric and Spreadsheet
- Drawing D1727/500 "Ecology Constraints/BNG Plan"
- "Horizontal Illuminance" (lux) plan, revision P03

#### Wellow Brook Site of Natural Conservation Interest:

The Wellow Brook which runs along the southern boundary of the site is a Site of Nature Conservation Interest (SNCI). There is some concern from the Council's Ecologist in regard to the discharge of surface water from an industrial site into an SNCI. There is no detailed assessment of installation works within the updated Ecological Appraisal. Instead, the report recommends that the measures are covered by a Construction Environmental Management Plan, following details provided with a reserved matters application. No other consultees have raised objection in regard to water pollution into the watercourse and the Council's Ecologist accepts that a robustly worded condition can secure mitigation measures (such as oil interceptors). It is therefore considered that this information can be secured by condition and/or submitted at reserved matters stage. It is highlighted that if satisfactory levels of information are not submitted at reserved matters stage, this may result in an ecological objection.

#### Boundary Habitat:

Drawing D1727/500 (Ecology Constraints/BNG Plan) indicates buffer areas which are, for the most part, consistent with ecological recommendations. This includes a 10m wide landscape buffer on the northern and eastern boundaries of the site, a 15m wide boundary on the western edge and native scrub planting to the southern boundary. The layout is, at this stage, indicative. It is therefore requested that, at reserved matters stage, the western boundary remains ecologically valuable habitat, particularly where it narrows to 10m. It is considered that the layout could likely be reconsidered along this boundary to accommodate this request.

#### Lighting:

At least 11 bat species were recorded as using the site, indicating a high bat biodiversity. Details of the static detector deployment dates and results have been provided by the applicant. The results demonstrate that all boundaries are used by Horseshoe and Barbastelle Bats in low numbers. The western boundary appears to be the most regularly used habitat.

In general, the outline lighting strategy demonstrates that most, but not all, buffer habitat is likely to be subject to light spill below 0.5 lux on the horizontal plane. It is requested that

more consideration is given to various light fittings which will cause additional spill onto retained and created habitats such as the hedgerow along the northern edge of the southern buffer. These most relate to car parking areas, and bollard/low level lighting should be considered instead. Fittings which should be re-considered and re-designed include 13B, 14B, 24B, 33D and 47D. Part-night lighting would also be welcomed. Given that it has been demonstrated that it is feasible that existing bat habitats can be primarily retained without significant light spill in accordance with Local Plan Partial Update Policy D8, a full and final lighting plan can be satisfactorily secured by condition. This should be submitted at reserved matters stage to ensure that full compliance with policy D8 can be demonstrated. The design of elevations facing the boundaries used as bat corridors will also need to be carefully considered when the detailed design comes forward with the reserved matters application. More detailed light contour plans evidencing light spill from relevant internal as well as external lighting on the horizontal and vertical planes will also be required at reserved matters stage.

#### Badger Mitigation Strategy:

Section 4.25 of the updated Ecological Appraisal states that the badger sett is located 25m from the edge of the development. The sett location was confirmed in September 2022. However, there appears to be landscaping and drainage works, as well as potential excavations for buildings within 20m. The distance of the proposed protective fencing from the sett has not been stated. If this is closer than 20m temporary closure of the sett is likely to be required due to the potential for underground tunnels to be impacted. It is stated that a Natural England License will be required, even though a detailed live dig methodology (with a justification as to why the sett cannot be closed) or temporary sett closure has not been detailed. Ideally, confirmation of a legally compliant approach (i.e., sett closure or implementation of a 20m+ exclusion zone) should be provided prior to determination. However, it is accepted that it is feasible that the sett can be closed temporarily. Even if compensatory sett creation is required, there is sufficient space for this to be achieved within the southern site buffer. Therefore, a condition can secure full details to be provided at Reserved Matters stage as it appears that the law can be met.

#### Biodiversity Net Gain:

An updated version of the Defra Metric and framework plan has been provided, which identifies areas which can be planted with semi-natural habitat. The location of 1 hectare of native shrub planting has been shown and the pre- and post-development areas are now consistent with one another. A detailed specification has not been provided, but it appears feasible that in principle, at least 10% net gain can be achieved in accordance with policy NE3a of the Local Plan Partial Update. Although the metric shows mixed scrub and the western boundary watercourse targeted as in "good" condition, the covering letters states that these habitats may be in "fairly good" condition. Either way, having adjusted the condition in the metric to take account of the lower target, at least 10% gain can be provided for all elements. Measures to achieve and maintain the target condition will need to be detailed in a Biodiversity Gain Plan and regular monitoring will be required and can be secured by condition.

Habitat creation to achieve net gain will require very careful consideration alongside landscaping and drainage measures which may have conflicting requirements. Ideally, these matters would have been resolved prior to determination, however this is an outline application and detailed design is not available at this stage. A pre-commencement condition will be required to secure a final Biodiversity Gain Plan; the final iteration of

which will need to be provided following or concurrent to the approval of all other design elements which may conflict with the number of Habitat Units achieved. In addition, the Reserved Matters application will also need to provide an updated Biodiversity Metric. Biodiversity Net Gain is an iterative process and to comply with policy NE3a, Biodiversity Net Gain (10%) will need to be demonstrated at each stage.

There is also some concern about the discussion in Section 4.42 of the updated Ecological Appraisal, which mentions mowing or grazing to manage areas of scrub. Either areas allocated for habitat creation will be mixed scrub in "good" condition, or the metric requires updating to take account of other habitat types. Soils are likely to be fertile and establishing diverse species-rich grasslands may be challenging. However, it is considered that when final details are presented at reserved matters stage, this can be addressed.

Overall, it is considered that the ecological principles of the development can be met, and the scheme is capable of being compliant with ecological planning policy and UK law at following detailed design at reserved matters stage. Appropriately worded planning conditions can secure the necessary information, and these are recommended.

#### FLOODING AND DRAINAGE:

Concerns have been raised by third parties in relation to flooding and drainage. In response to concerns raised by the Lead Local Flood Authority, a revised drainage strategy and micro drainage calculations have been submitted. These are acceptable, subject to conditions, and demonstrate that the development would not result in additional flood risk.

#### RESIDENTIAL AMENITY:

The site is not directly adjacent to any residential units, although Springfield Buildings is located in relatively close proximity to it. However, the site is separated from these units by Langley's Lane, agricultural land and the rear gardens of these properties. It is therefore considered that although there is the potential for them to be some impact as a result of the development, given the fact the units are relatively small scale, these impacts can be controlled through conditions. Any plant equipment etc. would require the benefit of planning permission the impact of this would be fully considered at this stage.

Hours of delivery restrictions may need to be attached as conditions on any reserved matters application when the final layout is determined, to protect neighbourhood amenity from the adverse impact of noise and disturbance.

Overall, it is considered that the scheme is capable of complying with policy D6.

#### TARGETED TRAINING AND RECRUITMENT:

A financial contribution of £6545 has been agreed with the development and will be secured through a S106 agreement to be used towards Targeted Training and Recruitment. This figure is in line with the Council's Planning Obligations Supplementary Planning Document.

## SUSTAINABLE CONSTRUCTION:

Policy SCR7 relates to sustainable construction for new build non-residential buildings. It makes clear that new build non-residential major development will maximise carbon reduction through sustainable construction measures. Design is a reserved matter and therefore at reserved matters stage, the applicant would be required to submit an appropriate energy assessment having regard to the Sustainable Construction Checklist SPD. Major development is required to achieve a 100% regulated operational carbon emissions reduction from Building Regulations Part L 2013 (or future equivalent legislation), following the hierarchy outlined in the policy.

Additionally, policy SCR8 is relevant as the scheme proposes in excess of 5000m<sup>2</sup> of commercial floorspace. At reserved matters stage, an Embodied Carbon Assessment will be required to be submitted, again having regard to the Sustainable Construction Checklist SPD, which demonstrates that a score of less than 900 kgCO<sub>2</sub>e/m<sup>2</sup> can be achieved within the development for the substructure, superstructure and finishes.

## OTHER MATTERS:

A number of third parties have raised that the development has the potential to de-value their properties. This is not a material planning consideration.

Concerns have also been raised in regard to dust and pollution. A Construction Management Plan can be secured via planning condition which would ensure that this was managed during construction. The units are small scale and given the distance from residential properties, during operation it is not considered that this would be a significant issue. However, as reserved matters this can be more fully assessed, and planning conditions secured as appropriate.

The proposed heights of the buildings have also been raised as a concern. Appearance is a reserved matter and any plans in relation to scale and height are, at this stage, indicative. This matter will be fully assessed at reserved matters stage.

Concerns have been raised by third parties and the Avon and Somerset Policy Design Officer in relation to crime and surveillance. It is considered that these matters can be satisfactorily addressed at reserved matters stage when a detailed design is put forward.

## PUBLIC SECTOR EQUALITY DUTY:

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

Section 149 provides that the Council must have due regard to the need to—

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

- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
  - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- Protected characteristics include disability.

The proposed development is not considered to have an impact upon protected characteristics. At reserved matters stage, measures can be designed into the scheme to ensure that protected characteristics are not discriminated against.

## CONCLUSION:

Given the additional information which has been received during the course of the application, it is now considered that when assessed within the context of the current development plan and against other material considerations such as the appeal decision for application 19/03984/OUT the development complies with the relevant planning policies and can be recommended for permission. This permission will be subject to a Section 106 agreement being agreed to secure the necessary highway works and contributions and a contribution towards Targeted Training and Recruitment, as well as a number of planning conditions.

## RECOMMENDATION

Delegate to PERMIT

## CONDITIONS

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

1. A financial contribution towards the upgrading of Thicketmead Roundabout and associated infrastructure
2. A financial contribution of £6,545 towards Targeted Training and Recruitment
3. The delivery of the highway works shown on plan 001B (Appendix TN1-2 of the IMA Transport Note)
4. The delivery of the link to Sustainable Transport Link ST2 as shown on plan 013 (Appendix TN1-3 of the IMA Transport Note)

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 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 Wildlife Protection and Enhancement Scheme (Bespoke Trigger)**

As part of any reserved matters application, full details of a Wildlife Protection and Enhancement Scheme produced by a suitably experienced professional ecologist shall be submitted to and approved in writing by the Local Planning Authority. These details shall be consistent with, by not limited to, the approach detailed in Section 4 of the Ecological Appraisal Report V4 (Crossman Associated, November 2022) and 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, for the avoidance of harm to bats, badger, reptiles, nesting birds and other wildlife, and proposed reporting findings to the Local Planning Authority prior to the commencement of works;
2. A detailed badger mitigation strategy based on an update survey which demonstrates legal compliance;
3. Detailed method statement for any drainage proposals, avoiding and mitigating any impacts on the Wellow Brook SNCI;
4. Detailed location plan and specification for species-specific ecological enhancement measures; and
5. Updated biodiversity net gain metric demonstrating at least 10% net gain including detailed specifications for planting consistent with other plans and constraints.

The development shall be carried out in accordance with the approved details and completed in accordance with the specified timescales and prior to the occupation of the development.

Reason: To comply 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 and to provide biodiversity enhancement in accordance with policies NE3, NE3a and D5e of the Bath and North East Somerset Local Plan Partial Update.

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

As part of any reserved matters application full details of both hard and soft landscape proposals and programme of implementation shall be submitted to and approved by the Local Planning Authority. These details shall include:

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

Soft landscape details shall include:

1. Planting plans, including 100 replacement trees
2. Written specifications (including cultivation and other operations associated with plant, tree and grass establishment)
3. Schedules of plants and trees, noting species, planting sizes and proposed numbers / densities

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

#### **6 Reserved Matters - Existing and Proposed Levels (Bespoke Trigger)**

Any application for reserved matters shall be accompanied by details of the existing and proposed ground levels. These details shall include:

1. A topographical plan of the site including spot levels;
2. A proposed site plan/s including spot levels;
2. Site sections showing existing and proposed ground levels.

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

Reason: For the avoidance of doubt and to clarify the finished ground levels of the development to accord with policies D1 and D2 of the Bath and North East Somerset Placemaking Plan and NE2 of the Bath and North East Somerset Local Plan Partial Update.

#### **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;

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

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

### **8 Construction Environmental Management Plan (CEMP) Biodiversity (Pre-commencement)**

No development shall take place (including demolition, ground works and vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include the following details:

1. Risk assessment of potentially damaging construction activities
2. Boundaries of mapped exclusion zones for the protection of ecologically sensitive species or retained habitats and features, with boundaries shown to scale on a plan, and details and specifications for proposed fencing, barriers and warning signs as applicable
3. The role and responsibilities on site of an ecological clerk of work or similarly competent person
4. The times and frequency of visits during construction when a professional ecologist needs to be present on site to oversee works
5. Responsible persons and lines of communication
6. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements), to include the location, timing, and methodologies of specified works to avoid harm to wildlife and sensitive features

The development shall be carried out in strict accordance with the approved CEMP, which shall be adhered to and implemented throughout the construction period.

Reason: To protect biodiversity in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act of 1981 (as amended) and the Protection of Badgers Act 1992 and policies NE3, NE3a, Ne5 and D5e of the Bath and North East Somerset Local Plan Partial Update.

### **9 Biodiversity Gain and Habitat Management Plans (Pre-commencement)**

No development shall commence until full details of a Biodiversity Gain Plan for delivery and monitoring of Biodiversity Net Gain, and a Habitat Management Plan have been submitted to and approved in writing by the Local Planning Authority. The Plans shall deliver at least 8.8 Habitat Units, 8.4 Hedgerow Units and 4.5 River Units (or adjusted figure to achieve at least 10% gain if habitat loss changes based on detailed design). The Plans shall be in accordance with the approved Defra Metric V3.1 or any subsequently approved iterations and with current best practice guidelines shall include the following:

1. An up to date BNG habitat map for on-site proposed habitats.
2. Habitat Management Plan- long-term management and protection measures for all retained habitats and species, including fencing and boundary details.
3. Long term aims and objectives for habitats (extents, quality) and species.
4. Detailed management prescriptions and operations for newly created habitats; locations, timing, frequency, durations; methods; specialist expertise (if required), specialist tools/machinery or equipment and personnel as required to meet the stated aims and objectives.
5. A detailed prescription and specification for the management of boundary habitats including hedgerows, woodland, and scrub.
6. Details of any management requirements for species-specific habitat enhancements.
7. Annual work schedule for at least a 30 year period.
8. A list of activities and operations that shall not take place and shall not be permitted within the HMP Plan area (for example use of herbicides; disposing of grass cuttings / arisings in "compost" heaps on-site or in hedgerows (or other on-site waste disposal); routinely cutting ivy where there is no specific arboricultural justification; inappropriate maintenance methods; storage of materials; machine or vehicle access).
9. Detailed monitoring strategy for habitats and species, particularly (xx mod/high distinctiveness) habitats, and methods of measuring progress towards and achievement of stated objectives.
10. Details of proposed reporting to the Local Planning Authority and proposed review and remediation mechanism.
11. Proposed costs and resourcing, and legal responsibilities.

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

Reason: To protect and enhance ecological interests in accordance with policy D5e of the Bath and North East Somerset Placemaking Plan and policies NE3, NE3a and NE5 of the Bath and North East Somerset Local Plan Partial Update.

#### **10 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 Local Plan Partial Update. This is a condition precedent because the works comprising the development have the potential to harm retained trees. Therefore, these details need to be agreed before work commences.

#### **11 Drainage Strategy (Pre-commencement)**

No development shall commence until a Drainage Strategy demonstrating an appropriate method of surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The drainage strategy shall be installed prior to the first use of the site in accordance with the approved details.

Reason: To ensure that an appropriate method of surface water drainage is installed and in the interests of flood risk management in accordance with Policy CP5 of the Bath and North East Somerset Core Strategy and Policy SU1 of the Bath and North East Somerset Placemaking Plan. This is a condition precedent because it is necessary to ensure an appropriate of surface water drainage can be achieved following the approval of the site layout.

#### **12 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, completion and implementation of the Wildlife Protection and Enhancement Scheme, Construction Environmental Management Plan, habitat creation in relation to biodiversity net gain and lighting in accordance with the approved details, has been submitted to and approved in writing by the Local Planning Authority. Measures to benefit wildlife shall be retained and maintained as installed, for the lifetime of the development.

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

#### **13 Highway Works (Pre-occupation)**

No occupation of the development shall commence until the highway works shown on drawing number 001 Revision B (Technical note 1 IMA-21-167 Appendix TN1-2, dated August 2022) have been completed.

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

#### **14 Travel Plan (Pre-occupation)**

Prior to the occupation or use of the development hereby permitted, a report demonstrating that the pre-occupation elements of the submitted Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented and monitored in accordance with the approved Travel Plan.

Reason: To support sustainable transport objectives including a reduction in single occupancy car journeys and the increased use of public transport, walking and cycling methods in accordance with policy ST1 of the Bath and North East Somerset Local Plan Partial Update.

### **15 Drainage Operations Maintenance Manual (Pre-occupation)**

Prior to the first occupation and use of the site, a written operations maintenance manual for the specification of the drainage design shall be submitted to and approved in writing by the Local Planning Authority. The development shall be operated strictly in accordance with the approved details for the lifetime of the development.

Reason: In the interests of flood risk management in accordance with policy CP5 of the Bath and North East Somerset Core Strategy.

### **16 External and Internal Lighting (Bespoke Trigger)**

As part of any reserved matters application, full details of any proposed external lighting design, and internal lighting with potential to cause light spill above 0.5 lux onto boundary habitats used by light-sensitive bats, have been submitted to and approved in writing by the Local Planning Authority. These details shall include:

1. Lamp models and manufacturer's specifications, positions, numbers, and heights;
2. Predicted lux levels and light spill on both the horizontal and vertical planes;
3. Measures to limit use of lights when not required, to prevent upward light spill and to prevent light spill onto nearby vegetation and adjacent land.

The lighting shall be installed and operated thereafter in accordance with the approved details.

Reason: To avoid harm to bats and wildlife in accordance with policy CP6 of the Bath and North East Somerset Core Strategy and policies NE3 and D8 of the Bath and North East Somerset Local Plan Partial Update.

### **17 Electric Vehicle Charging Points (Bespoke Trigger)**

No construction of the external walls of the development shall commence until details of the total number of car parking spaces, the number of car parking spaces, the number/type/location/means of operation and a programme for the installation and maintenance of Electric Vehicle Charging Points and points of passive provision for the integration of future charging points has been submitted to and approved in writing by the Local Planning Authority. The Electric Vehicle Charging Points shall be installed prior to the occupation or use of the development and shall be retained for its lifetime.

Reason: To promote sustainable travel, aid in the reduction of air pollution levels and help mitigate climate change in accordance with policy ST1 of the Bath and North East Somerset Local Plan Partial Update.

### **18 Materials - Submission of Schedule and Samples (Bespoke Trigger)**

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

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

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

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

### **19 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 and to ensure appropriate biodiversity net gain is secured in accordance with Policies D1 and D2 of the Bath and North East Somerset Placemaking Plan and NE2, NE3, and NE3a of the Bath and North East Somerset Local Plan Partial Update.

### **20 Arboriculture - Compliance with Arboricultural Method Statement (Compliance)**

All protective measures as stated in the approved Arboricultural Method Statement and Tree Protection Plan shall be fully implemented prior to the commencement of development and retained for the duration of the construction. No development or other operations shall thereafter take place except in accordance with the approved details.

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

### **21 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.

## **22 Plans List (Compliance)**

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

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

### **PLANS LIST:**

#### 1 Plans List:

Site Layout Option A (in so far as it relates to the access) 1663/115. Received 23rd February 2022

Site Location Plan 1663/110. Received 23rd February 2022

Ecology Constraints/BNG Plan F1272/500. Received 22nd December 2022

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

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

## **3 Condition Categories**

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

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

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

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

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

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

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

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

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

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

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

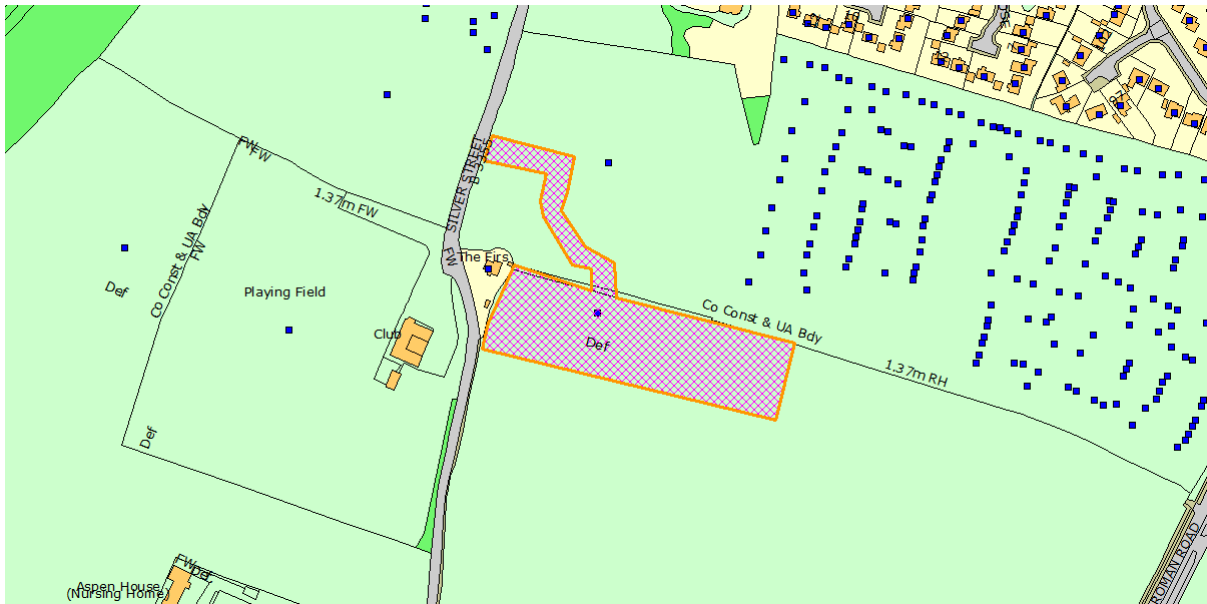
The CIL regulations are non-discretionary in respect of exemption claims. If you are intending to claim a relief or exemption from CIL (such as a "self-build relief") it is important that you understand and follow the correct procedure **before** commencing **any** development on site. You must apply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

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

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

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

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



**Ward:** Midsomer Norton Redfield      **Parish:** Midsomer Norton      **LB Grade:** N/A

**Ward Members:** Councillor Chris Watt      Councillor Paul Myers

**Application Type:** Outline Application

**Proposal:** Outline planning permission for formation of access road, footpath and cycle links, open space, landscaping and associated works (All matters except access reserved).

**Constraints:** Agric Land Class 1,2,3a, Coal - Standing Advice Area, Contaminated Land, Policy CP9 Affordable Housing Zones, Greenfield site, SSSI - Impact Risk Zones,

**Applicant:** Waddeton Park Ltd

**Expiry Date:** 14th April 2023

**Case Officer:** Isabel Daone

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

## REPORT

Application History:

This outline planning application was validated by the Local Planning Authority on 23rd June 2021. The application first came before Planning Committee with an officer recommendation for approval following a referral to the Chair and Vice Chair of the Planning Committee. Their comments were as follows:

Chair: "I have reviewed this application and note the comments from both ward councillors [sic] and other statutory consultees. Due to the complex and controversial nature of the proposal I believe it should be debated in the public forum of the planning committee"



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

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

The application was therefore first debated at the 29th June 2022 Committee. The Planning Committee resolved to defer the decision to allow officers to fully investigate whether a controlled pedestrian crossing between the site access and the school on the opposite side of Silver Street would be necessary to make the development acceptable and fully justifiable. It was concluded by officers that such a crossing would be necessary and would pass the tests for planning obligations; a Section 106 (S106) contribution was agreed with the applicant to this effect.

The application returned to Planning Committee in August 2022. After debate, members of the Committee resolved to "Delegate to Permit", subject to the S106 agreement being secured. Officers continued to negotiate and resolve the S106 matters.

On 16th December 2022, prior to the issuing of the decision for 21/02973/OUT, a judgement and Order were published following the successful Judicial Review (JR) of the Mendip Local Plan Part II: Sites and Policies. This judgement and order specified that site allocation policy MN1 (and others), its supporting text and other related text, tables and diagrams shall be remitted. Allocation MN1 (and others) should be treated as not being adopted as part of the development plan. Therefore, the allocated site which the access proposed as part of this application (21/02973/OUT) was no longer allocated and for the purposes of planning policy is considered a development site in the open countryside.

B&NES planning officers consider that the shift in the policy context was significant and a re-consultation of third parties was issued. It was considered appropriate that the application be fully re-considered by officers due to this change in policy context. Additionally, B&NES adopted the Local Plan Partial Update on 19th January and therefore the application must also now be assessed against the most up to date policies within B&NES. The application is therefore before the committee again in April 2023. Should Members wish to refer to the previous committee reports, these are available on the public file on the Council's website.

On 15th March 2023, Mendip District Council resolved to "Delegate to Permit" the outline planning application for up to 270 homes at the previously allocated MN1 site. The presumption in favour of sustainable development detailed within the NPPF makes clear that in area where there is no up-to-date development plan (as is now the case in Mendip), decision-taking means granting permission "unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole." Councillors in Mendip debated the application and resolved that there were not harms which demonstrably outweighed the benefits of permitting the application and as such, the decision to delegate to permit (subject to a S106 being agreed) was taken.

### Site Location and Proposal:

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

The application site to be considered as part of the application is a 0.61 hectare parcel of land which lies within the B&NES boundary. In parallel to this application, an application has been submitted to Mendip District Council for outline planning permission for the erection of up to 270 dwellings, the formation of vehicular accesses, open space, landscaping, and associated works on 11.73 hectares of land. This is located immediately adjacent to the B&NES application site. The application within Mendip was permitted at the Mendip Planning Board on 15th March 2023, where Councillors resolved to delegate to permit, subject to a S106 agreement being completed.

### Relevant Planning History:

16/01899/OUT

APP - 11 July 2016

Development of 0.37 ha of public open space

2021/1480/OTS

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

Permitted by the Mendip Planning Board on 15th March 2023, subject to a Section 106 agreement

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

Consultation Responses :

COUNILLOR PAUL MYERS (12th July 2021):

"I am writing to formally request the calling in to committee of the above application. Whilst I appreciate that this application is for little more than an access road, it is a controversial application on the basis that it is in fact part of the much larger and significant proposed White Post housing development in Mendip abutting our border. My own and public concern in general is that this larger housing development will have a significant adverse impact on Midsomer Norton's infrastructure whilst adding no commensurate planning gain contribution to tackle it. This larger development, if approved by Mendip, would mean all these new home owners would largely access Midsomer Norton's Schools, roads, doctors' surgeries, green space etc. In my view Mendip I'd they were to pursue the development at the White Post should handover significant planning gain to provide for investment in Midsomer Norton projects such as the town Park and other infrastructure projects and banes should ensure that such moneys are specified/ring fenced for Midsomer Norton in any agreement. It is essential that the public generally and ward councillors have the opportunity to speak at full committee about these concerns as a basis for a strong case being put to Mendip."

COUNCILLOR CHRIS WATT (12th July 2021):

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

#### MIDSOMER NORTON TOWN COUNCIL

14th July 2021:

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

18th January 2023:

Object to the Mendip development using the existing access road. Mendip should be responsible for the upgrade of the B3355 as the road is dangerous with no pavements.

#### PLANNING POLICY:

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

#### DRAINAGE AND FLOODING:

27th July 2021 - No objection

#### ECOLOGY:

19th August 2021 - More information required

26th May 2022 - No objection subject to conditions

#### ARBORICULTURE:

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

14th October 2021 - The amendments to the illustrative masterplan indicate that the combined emergency access and path beside the tree identified as T21 (Pine) has been moved to avoid the root protection area. A detailed arboricultural method statement will be required and should be conditioned. As trees are proposed for removal in the interest of

development, they trigger an obligation for replacement under planning policy (Planning Obligations Supplementary Planning Document). The loss of 2a and 4 equates to 5 replacements which can be readily accommodated along the administrative border with Mendip District Council. No objection subject to conditions.

#### HIGHWAYS:

15th July 2021 - Scope for revision

20th April 2022 - Scope for revision

28th May 2022 - No objection subject to conditions

#### PARKS AND GREENSPACES:

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

#### Representations Received :

24 comments of objection were received by the Local Planning Authority prior to the successful Judicial Review on the Mendip Local Plan Part II. All comments have been read and assessed by the planning officer. The comments have not been provided verbatim but a summary of the main issues is presented below:

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

Following the successful JR on the Mendip Local Plan Part II, B&NES issued a re-consultation to give parties the opportunity to comment on the application following this change in policy context. One comment was received and is summarised as follows:

- Do not concur that the tests in Regulation 122 of the Community Infrastructure Levy are met in the spirit of the legislation
- I do not agree that the Somer Valley Enterprise Zone is directly related to the development or agree that completion on this project is necessary to make the access-way acceptable in planning terms
- Impacts are most likely to be on Silver Street

- No provision has been made to improve onward travel to Somervale School
- Over one hundred residents have signed a petition arguing that there is no safe crossing on Silver Street for people seeking to travel from east to west other than in the town centre
- Other than making the quarter mile detour to cross in the town centre, the only other pedestrian route is through the Silver Street Nature reserve which is steep, unlit, not accessible and where cycling is prohibited
- The legislation does not specify that developer contributions must only be allocated to existing projects.
- The legislation does indicate that contributions should mitigate the impact of the development which will be additional traffic on Silver Street making it even more hazardous for pedestrians needing to cross east to west in order to access essential services such as schools.
- Midsomer Norton Town Council has already requested the Local Authority consider installation of a defined pedestrian crossing on the northern side of Silver Street where a natural pedestrian desire line exists connecting many residential developments through Ivy Walk to the schools on the eastern side.
- I believe, as part of this application, as well as seeking contributions for a defined crossing on the northern section of Silver Street, the Local Authority should seek contributions towards a feasibility study to create a traffic-free option through the Nature Reserve for pedestrians and cyclists, including residents using the new access-way, wishing to access the schools on the eastern side of Silver Street.

## **POLICIES/LEGISLATION**

The Development Plan for Bath and North East Somerset comprises:

- o Bath & North East Somerset Core Strategy (July 2014)
- o Bath & North East Somerset Placemaking Plan (July 2017)
- o Bath & North East Somerset Local Plan Partial Update (2023)
- o West of England Joint Waste Core Strategy (2011)
- o Made Neighbourhood Plans

## **CORE STRATEGY:**

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

CP5: Flood Risk Management  
 CP6: Environmental Quality  
 CP13: Infrastructure provision  
 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:

SV1: Somer Valley Spatial strategy

D1: General urban design principles  
D2: Local character and distinctiveness  
D3: Urban fabric  
D6: Amenity  
LCR6a: Local green spaces  
RE5: Agricultural Land

#### LOCAL PLAN PARTIAL UPDATE:

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

D5: Building design  
NE3: Sites, species, and habitats  
NE3a: Biodiversity Net Gain  
NE5: Ecological networks  
NE6: Trees and woodland conservation  
ST1: Promoting Sustainable Travel  
ST7: Transport requirements for managing development

#### SUPPLEMENTARY PLANNING DOCUMENTS:

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

Transport and Development Supplementary Planning Document (January 2023)

Planning Obligations Supplementary Planning Document (January 2023)

#### NATIONAL POLICY:

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

#### LOW CARBON AND SUSTAINABLE CREDENTIALS

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

#### **OFFICER ASSESSMENT**

##### PRINCIPLE OF DEVELOPMENT:

The application site relates to a 0.61 hectare parcel of land located within the Bath and North East Somerset boundary. An access is proposed, along with cycle links, footpaths and other associated works. The site will form an access to a development within the Mendip Local Authority boundary which borders Midsomer Norton to the south. The site is not an allocated site within Mendip and forms open countryside. However, an outline planning application has a resolution to grant at this site for up to 270 houses and associated infrastructure (2021/1480/OTS). This is a material planning consideration.

B&NES Council provided a number of representations on the Mendip planning application (2021/1480/OTS), which now has a resolution from the Mendip Planning Board to grant permission subject to a S106. B&NES Council objected to this scheme.

One of the key strategic issues the B&NES Core Strategy, Placemaking Plan and Local Plan Partial Update seek to address is the imbalance between jobs and homes resulting from recent incremental housing development, a decline in the manufacturing sector in this area and a high degree of out commuting. The B&NES development plan therefore seeks to facilitate more employment, including allocating the Somer Valley Enterprise Zone, and therefore only facilitates some additional housing primarily reflecting committed sites (either permitted or allocated in the previous Local Plan). The granting of the proposed Mendip development adjacent to B&NES is therefore contrary to the adopted B&NES development plan, worsening the imbalance between jobs and homes and resulting in unsustainable levels of out-commuting for work. Furthermore, the approved development will add cumulative impacts on key infrastructure within Westfield and Midsomer Norton.

Notwithstanding the above, B&NES accept that the housing development adjacent to the B&NES boundary has a resolution to grant, subject to a S106 agreement being completed. This is a material planning consideration. A vehicular access from Silver Street in the same location as the proposed development has already been granted permission as part of 20/02303/OUT. This current application seeks the same access directly from Silver Street but will alter the path through the approved development site so that it can also be used to access the Mendip Housing site.

The proposed access will result in the loss of a small amount of Grade 3 agricultural land. Policy RE5 of the Placemaking Plan states that development which would result in the loss of the best and most versatile agricultural land particularly Grade 1 and 2 will not be permitted unless significant sustainability benefits are demonstrated to outweigh any loss. The land which will be lost as a result of the access and other landscaping works is Grade 3 and is therefore not considered the best and most versatile land. As such, the loss of this small parcel of agricultural land is considered acceptable in principle.

Given that the Mendip housing site has a resolution to grant planning permission, a vehicular access from Silver Street in this location already has permission and the proposal will result in the loss of a small area of agricultural land which is not of the best and most versatile quality, the principle of this development in this location within B&NES is accepted.

Given that the Mendip Housing site has planning permission, and that a vehicular access from Silver Street has been permitted in this location, it is considered that the principle of

the proposed development in this location is acceptable, subject to the material considerations discussed below.

#### DESIGN, CHARACTER AND APPEARANCE:

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

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

There are areas of green space proposed within the B&NES land shown on the indicative layout and it is not considered that the proposal is likely to cause a significant detrimental impact to the character and appearance of its context, subject to the reserved matters layout scheme.

#### RESIDENTIAL AMENITY:

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

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

The development is considered to be capable of complying with policy D6.

#### HIGHWAY SAFETY AND PARKING:

Access is the only matter to be determined at outline application stage. The Council's Highways Officer has assessed the scheme. Many of the comments given by the Highways Officer and third parties relate to the impact of the wider scheme, including the



housing element within Mendip. The case officer has had regard to these comments, and they have formed part of the planning assessment.

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

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

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

The outline planning application for up to 270 houses which has recently received a resolution to grant permission at the Mendip Planning Board is a material planning consideration. The proposed access will help to facilitate the successful operation of this development. The provision of the access in this location will provide route choice and benefit the operation of both junctions in capacity terms. This development will cause pressure on the surrounding road network, notwithstanding the acceptance of capacity analysis (noted in the Highway Officer's comments). Within the Mendip Planning Officer's report, it is accepted by Mendip that the development will impact upon B&NES infrastructure. Mendip Local Plan Part 1 (paragraph 4.7) highlights the considerations that must be made if allocations are considered abutting Midsomer Norton and Radstock. It goes on to explain that if allocations are considered, there will be consultation with B&NES and local communities and any impact upon infrastructure within B&NES will be addressed through planning obligations including S106 contributions. Whilst this site is no longer allocated, it has been considered as a windfall site in the open countryside by Mendip and has a resolution to grant permission. Mendip District Council make clear in

their report that the impacts on B&NES must still be considered, and B&NES agree with this approach.

In regard to the impacts, the development within Mendip would generate around 78 primary/secondary school children. The majority of these pupils are likely to walk/be walked to school given the proximity of the site to both the schools, during the morning peak hour. The Transport Assessment predicts walking to represent 18 and 21 two-way person trips in the AM and PM peaks respectively, and a 12 hour generation of 167 person trips.

Taking the pupil yield figures, this shows a significant uplift in the potential pedestrian using the crossing facility compared with the Transport Assessment figures. Although there is insufficient information to definitively determine that these pedestrians will use the crossing, given the proximity to both primary and secondary schools and walking/cycle link along the western side of Silver Street, it is likely that the majority of these will walk/cycle to school and cross at this point. It is also worth noting that primary school pupils will generate parents likely to be undertaking a two-way trip at drop off and pick up, potentially doubling the number of peds in the AM peak and PM school peak.

Although the existing crossing facility was initially deemed suitable for the proposals and from the information set out in the Transport Assessment, a request from the Planning Committee in June 2022 to investigate improvement facilities prompted the Council to review these matters further. From a further assessment, it appears that the potential pupil yield information which has been supplied by our Education Officer and provided to Highways Officers suggests that a significant number of school aged residents will be generated by the proposals. Given the proximity to the schools, an improved crossing facility would encourage sustainable travel for existing/future residents and be beneficial to highway safety. Given the increased use of this junction which will occur as a result of the development, a financial contribution towards the cost of a crossing is considered justified. The Travel Plan Target is to increase walking as a modal share from 9.8% to 11.6%, which an improved crossing would help to achieve.

It has been concluded that due to the road speeds stated in the Transport Assessment, that a controlled crossing is necessary. Speed surveys were carried out on 21st and 22nd July 2022 to determine what type of crossing would be the most appropriate. The 85th percentile speeds recorded were 34.5mph (northbound towards Midsomer Norton) and 37.4mph (southbound away from Midsomer Norton). Across the same period the mean speeds were 29.4mph (northbound) and 31.4 mph (southbound). Having reviewed the data with the Highways Development Management Team and the Traffic and Network Management Team, it has been concluded that based on the initial assessment of the site and speed surveys that a toucan crossing would be the most appropriate crossing type in this location. This is because the Traffic Signs Manual states that zebra crossings are not suitable if approach speeds have an 85th percentile of 35mph and above. A toucan crossing would also be consistent with the crossing which is located 300m to the north.

The estimated cost for such a crossing, including the detection loops and commuted sum for the Section 278 signal crossing is £180,419.53. This contribution towards an upgraded crossing is considered necessary and justified for the reasons set out above. The applicant has agreed to this contribution, and it will be secured through a legal agreement as appropriate.

B&NES officers have concerns that the approved housing development will increase the imbalance between housing and jobs in the area. Whilst it is recognised that the housing application is within Mendip, it being granted permission is a material planning consideration given that the two sites are intrinsically linked. B&NES officers consider that it is important that B&NES residents do not become disadvantaged due to the extra pressures on infrastructure which will likely be caused by the Mendip proposals. This is also recognised by Mendip planning officers. The applicant has therefore agreed to a financial contribution of £392,300.77 towards a cycleway proposed within the Somer Valley Enterprise Zone. This contribution will facilitate a sustainable transport link to employment land within the area. A third party has raised that they do not consider that this contribution passes the 3 tests within the 122 CIL regulations for contributions. They have commented that contributions should be sought to upgrade additional facilities on Silver Street and provide other vehicle free routes to the schools. B&NES officers consider that there is no necessity for such contributions and facilities; the additional crossing to the school has been justified in terms of pupil yield but no additional facilities are required beyond that. However, the B&NES spatial strategy for the area makes clear that the imbalance between housing and jobs needs to be address. The financial contribution to the SVEZ cycleway will mitigate the impacts of the housing development; the B&NES access from Silver Street will help to facilitate the integration and successful occupation of this development and they are directly related in this respect. The contribution amount is also considered to be fairly and reasonable related to the scale and kind of development.

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

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

Officers consider that these contributions will improve the public transport infrastructure in the locality. Highways Officers have requested conditions to secure a construction management plan, travel plan and resident's welcome pack. The case officer considers that a construction management plan is reasonable and necessary to ensure that construction of the access does not cause harm to highway safety. However, it is not considered that B&NES Council can reasonably condition a travel plan and resident's welcome pack for houses which will not be within B&NES land. The B&NES application is for the access land only.

Overall, the development is considered to comply with policies ST1 and ST7 of the Local Plan Partial Update.

#### ECOLOGY:

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

Measures will need to be in place to avoid harm to wildlife during the construction of this part of the site.

Policy NE3a of the Local Plan Partial Update makes clear that for minor development, development will only be permitted where no net loss and appropriate net gain of biodiversity is secured using the DEFRA Small Sites Metric or agreed equivalent.

A pre-commencement condition has been recommended which secures a Wildlife Protection and Enhancement Scheme. This condition requires that detailed proposals for wildlife mitigation and compensation measures, including measures to avoid measurable net loss of biodiversity and achieve measurable biodiversity net gain either within the development boundary or on balance across the wider development site are provided. The condition also requires details of new planting and habitat creation; provision of bat and bird boxes, and provision of routes for safe passage of wildlife.

It is considered that at the reserved matters stage, the development is capable of demonstrating no net loss in biodiversity and a measurable biodiversity gain in accordance with policy NE3a. However, no metric has been submitted. However, given the fact that the scheme is considered capable of achieving the requirement of the policy and there is a condition securing this to this effect, officers consider that on balance a metric is not required at this stage. The application is being advertised as a departure from the development plan on the basis that no metric has been submitted.

#### ARBORICULTURE:

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

#### PARKS AND GREEN SPACE:

The B&NES Parks Team have reviewed the planning application. The proposed access within the B&NES site would not trigger the requirement for any on or off site parks/green space contributions. However, as noted above the access will help to facilitate the successful operation and integration of the approved housing development which is proposed within Mendip. It is therefore considered that any impacts of the development as a whole must be mitigated as appropriate.

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

space, followed by Ha per 1000 population, m2 per person and demand generated for each typology:

Allotments - 0.3, 3, 1863  
Amenity Green Space - 0.3, 3, 1863  
Parks and Recreation Grounds - 1.3, 13, 8073  
Play Space (Children) - 0.05, 0.5, 311  
Play Space (Youth) - 0.03, 0.3, 186  
Natural Green Space - 1.3, 13, 8073

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

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

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

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

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

Necessary to the make the development acceptable in planning terms:

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

Directly related to the development:

The calculations are directly related to the estimated residential occupancy of the housing site. Again, as the access is directly related to the wider proposals within Mendip it is considered that the contribution is directly related to the development.

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

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

#### OTHER MATTERS:

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

The matters concerning the CIL 122 Regulations Tests for planning obligations has been thoroughly assessed throughout this report. B&NES officers do not consider that further contributions/obligations would be justifiable or necessary to make the development acceptable.

#### PUBLIC SECTOR EQUALITY DUTY:

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

Section 149 provides that the Council must have due regard to the need to—

- (a) eliminate discrimination, harassment, victimisation
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

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

- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

Protected characteristics include disability.

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

#### PLANNING OBLIGATIONS:

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

1. A financial contribution of £10,000 towards improving local bus infrastructure

2. A financial contribution of £392,300.77 towards the Somer Valley Enterprise Zone Cycleway
3. A financial contribution of £21, 285 towards Targeted Training and Recruitment
4. A financial contribution of £488,255 towards Green Space and Parks Infrastructure
5. A financial contribution of £180,419.53 towards a controlled pedestrian/cycle crossing on Silver Street

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

#### **PLANNING BALANCE AND CONCLUSION:**

As discussed within this report, the proposal is considered acceptable on all policy grounds with the exception of NE3a. In some circumstances, the failure to submit a Defra Small Sites Metric could be considered sufficient reason to refuse the application. However, there are a number of material considerations which must be weighed into the planning balance. The development is considered capable of providing no net loss of biodiversity and a net gain, in accordance with policy NE3a, which requires an appropriate gain. Although this has not been demonstrated using the metric, an appropriately worded planning condition will secure this. As such, it is not considered that this alone would warrant a reason for refusal, when the scheme is acceptable in all other aspects and is considered capable of meeting the aims of policy NE3a, which is to ultimately achieve biodiversity net gain.

On balance, it is considered that in this circumstance and given the merits of the scheme, it is appropriate to depart from the development plan in order to permit the development. As such, the scheme is being advertised as a departure from the development in accordance with statutory requirements.

#### **RECOMMENDATION**

PERMIT

#### **CONDITIONS**

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

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

5. A financial contribution of £180,419.53 towards a controlled pedestrian/cycle crossing on Silver Street

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 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, appearance, landscaping and scale 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 (as amended) and Parts 1 and 3 of the Development Management Procedure Order 2015.

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

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

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

**5 Wildlife Protection and Enhancement (Pre-commencement)**

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



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

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

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

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

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

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

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

No occupation of the development hereby approved shall commence until a report produced by a suitably experienced professional ecologist (based on post-construction on-site inspection by the ecologist) confirming and demonstrating, using photographs, adherence to and completion of the Wildlife Protection and Enhancement Scheme in

accordance with approved details, has been submitted to and approved in writing by the Local Planning Authority.

Reason: To demonstrate compliance with the Wildlife Protection and Enhancement Scheme, to prevent ecological harm and to provide biodiversity gain in accordance with NPPF and policies NE3, NE3a, NE5 and D5e of the Bath and North East Somerset Local Plan Partial Update.

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

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

Reason: To ensure that the approved method statement is complied with for the duration of the development to protect the trees to be retained in accordance with policy NE6 of the Bath and North East Somerset Local Plan Partial Update.

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

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

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

#### **10 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:

17 Feb 2022 190920 L 01 01 B LOCATION PLAN - CONSOLIDATED

17 Feb 2022 190920 L 01 03 B LOCATION PLAN - B&NES

17 Feb 2022 190920 L 02 02 K ILLUSTRATIVE LAYOUT

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

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

## 2 Permit/Consent Decision Making Statement

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

## 3 Condition Categories

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

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

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

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

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

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

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

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

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

**Do not commence development** until you been notified in writing by the Council that you have complied with CIL; failure to comply with the regulations can result in surcharges,

interest and additional payments being added and will result in the forfeiture of any instalment payment periods and other reliefs which may have been granted.

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

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

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

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

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

**Item No:** 03  
**Application No:** 22/04787/FUL  
**Site Location:** Parcel 2065 Meadgate East Camerton Bath Bath And North East Somerset



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

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

**Application Type:** Full Application

**Proposal:** Construction of an agricultural access off Camerton Road, to include erection of a gate (Partially retrospective).

**Constraints:** Agric Land Class 1,2,3a, Coal - Standing Advice Area, Policy CP8 Green Belt, Policy CP9 Affordable Housing Zones, Policy NE1 Green Infrastructure Network, Policy NE5 Ecological Networks, Policy NE5 Strategic Nature Areas, SSSI - Impact Risk Zones,

**Applicant:** Mr Ashley Pulsford

**Expiry Date:** 6th February 2023

**Case Officer:** Pippa Brown

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

## REPORT

Reason for Committee:

The application was referred to the Chair and Vice Chair of the Planning Committee following a call in request from Cllr McCabe. The Chair and Vice Chair both considered that the application should be debated at Planning Committee. Their comments are as follows:

Chair: " I have reviewed this application and note the objections and comments from all parties. The officer has worked with the applicant to address the issues raised but concern remains about some aspects of the proposal. I therefore refer this application to be debated by the Planning Committee."

Vice Chair: "I have looked carefully at this application noting all comments from third party & statutory consultees, I also note the Ward Cllr's planning committee request.

The issues raised have been addressed as the application has been revised & assessed against relevant planning policies with some conditions recommended to mitigate outstanding concerns.

However, the application is controversial, I think the issues causing concern would benefit from debate in the public arena therefore I recommend the application be determined by the planning committee."

Details of location and proposal and Relevant History:

The application refers to a new agricultural access off Red Hill, in Camerton. The site is part of an agricultural unit, associated with Sheep House Farm and is located in the Green Belt. The proposed access is onto a classified highway.

Planning permission is sought for the creation of an access, to serve an agricultural building which was granted prior approval through application 21/00369/AGRA. The application includes the installation of a gate and fencing, to formalise the access which was temporarily created. As such, the application is part retrospective.

Relevant Planning History:

DC - 20/04935/AGRN (AGRICULTURAL PRIOR APPROVAL REQUIRED) - Erection of a portal framed agricultural building for storing forage, together with hedgerow planting on the boundaries of the field in native species in order to mitigate any adverse landscape and visual impact. (15.01.2021)

DC - 21/00369/AGRA (PERMIT) - Erection of a portal framed agricultural building for storing forage, together with hedgerow planting on the boundaries of the field in native species in order to mitigate any adverse landscape and visual impact. (05.03.2021)

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Consultation Responses :

Ecology - No objection subject to condition requiring the planting of native hedgerow.

There doesn't appear to be a reasonable likelihood of important habitats or protected species having been present or impacted in this location, meaning an ecological survey is not required. The proposal has required the removal of a section of stone wall and ruderal/tall herb. There is a very low risk of protected species having been impacted. The site is not designated for nature conservation.

The proposals for native hedgerow planting will result in net biodiversity gain in accordance with the NPPF and Local Plan Policies NE3 and NE3a.

Highways - No objection, subject to conditions.

- Location of access - Acceptable in principle.

- Visibility - Likelihood of visibility splays able to be provided within the site is high. (Information demonstrating this has since been submitted, instead of attaching condition)
- Position of gate - To meet required specification gates should be positioned a minimum of 6m back from the highway. (The location of the gate has been amended to 6m away from the highway and a plan submitted to demonstrate this)
- Surfacing and drainage - Bound and compacted surface required. (Applicant has confirmed this will be concrete, satisfying this requirement)

Conditions recommended regarding drainage, entrance surface and entrance gates to be attached to permission.

Camerton Parish Council - Objection.

Comments received on 05.01.2023 include:

- Proposed access and gate detrimental to proposed landscaping conditions through application 21/00369/AGRA.
- Harm to the landscape character and setting of the barn, the Green Belt and the Public Realm.
- Lack of need for a new access - existing access elsewhere on site.
- Loss of part of the boundary wall and subsequent harm to the historical character of the area.
- Highway safety concerns relating to debris on the road, entry onto the highway, potential blockages to the road.

Comments received on 01.02.2023 include:

- Concerns the planting scheme won't mitigate against harm of agricultural building due to gap created for entrance and gate.
- Hedgerow landscaping scheme impacting visibility splays - concerns for highway safety.

Representations Received:

Local residents - 3 comments from local residents received containing the following points:

Objection:

- Highway safety concerns due to proximity to traffic calming measures/area.
- Increase in traffic causing potential problems for nearby residents.
- Provision of agricultural access already exists on the site, so proposed access is not necessary.

General Comments:

- Concerns over implementation of planting scheme submitted with previous application.

## **POLICIES/LEGISLATION**

The Development Plan for Bath and North East Somerset comprises:

- o Bath & North East Somerset Core Strategy (July 2014)
- o Bath & North East Somerset Placemaking Plan (July 2017)

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

#### CORE STRATEGY:

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

SD1: Presumption in favour of sustainable development  
 CP5: Flood Risk Management  
 CP8: Green Belt

#### 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  
 D6: Amenity  
 HE1: Historic environment  
 GB1: Visual amenities of the Green Belt  
 RE2: Agricultural Development  
 SU1: Sustainable Drainage Policy

#### LOCAL PLAN PARTIAL UPDATE:

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

DW1: District Wide Spatial Strategy  
 ST7: Transport requirements for managing development  
 NE2: Conserving and enhancing the landscape and landscape character  
 NE3: Sites, species, and habitats  
 NE3a: Biodiversity Net Gain  
 NE5: Ecological networks  
 ST7: Transport requirements for managing development

#### SUPPLEMENTARY PLANNING DOCUMENTS:

Transport and Development Supplementary Planning Document (January 2023)

#### NATIONAL POLICY:



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

## LOW CARBON AND SUSTAINABLE CREDENTIALS

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

### **OFFICER ASSESSMENT**

#### PRINCIPLE OF DEVELOPMENT:

The site forms part of an established agricultural unit and the existing barn which the access would directly serve was established to be permitted development. Policy RE2 of the Placemaking Plan outlines how agricultural development will be permitted where there are no unacceptable environmental and/or health impacts and the proposed development is commensurate with the agricultural activities on the site.

Whilst it is recognised that there is an alternative means of access to the barn, it is in an isolated location, away from other agricultural buildings, yet less than 30m from Red Hill, where the access has been created.

The access is located on Camerton Road, approximately 140m south of the B3115 Weekesley Lane / Camerton Road mini-roundabout junction. The principle of an agricultural access in this location is considered to be acceptable for the expected level and type of agricultural vehicle movements.

As the access is linked closely to the use of the land for agriculture, it would be considered appropriate development in the Green Belt.

#### VISUAL IMPACT AND GREEN BELT:

Policy D1, and D2 of the Placemaking Plan have regard to the character and appearance of a development and its impact on the wider area. Development proposals will be supported, if amongst other things they contribute positively to and do not harm local character and distinctiveness. Policy GB1 of the Placemaking Plan outlines that development within the Green Belt should not prejudice but seek to enhance the visual amenities of the Green Belt by reason of its siting, design or use of materials.

The proposed access and gate is considered substantial and therefore it is reasonable to consider that the development can be defined as a 'building', as defined in S336 of the Town and Country Planning Act (1990). As such, due to its agricultural nature, this would be considered appropriate development in the Green Belt, as outlined in paragraph 149(a) of the NPPF and is therefore acceptable.

Concerns have been raised by local residents and the Parish Council around the non-compliance with the approved landscaping scheme for the barn, should this application be permitted. It is considered that the landscaping scheme submitted with this application would suitably mitigate against the visual impact of the barn on the countryside and Green Belt, as was the reasoning behind its requirement with the previous application.

Whilst the access has created a gap in the boundary wall adjacent to the road, it does not appear an incongruous feature in this location, due to the rural setting and is not detrimental to the character of the local area or Green Belt. Moreover, any views through the gap will generally be limited to fleeting glimpses from passing vehicles, as there is no footway along this section of road. There are a number of other accesses to properties along the road, including the main farm access and numerous residential properties, with varying boundary treatments.

The proposal includes the installation of a 1.2m high metal field gate and a post and rail fence along either side of the access. These are reasonably low in height and as such will have minimal impact on the openness of the Green Belt. It is not considered they will have a greater adverse impact than the stone boundary wall which has been removed to form the access.

The proposal 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 CP8 of the Core Strategy, policies D1, D2 and GB1 of the Placemaking Plan and part 13 of the NPPF.

#### HIGHWAY SAFETY:

Policy ST7 of the Local Plan Partial Update has regard to transport requirements for managing development and outlines how developments will be permitted where, among other things, highway safety isn't prejudiced. It sets out the policy framework for considering the requirements and the implications of development for the highway, transport systems and their users. The Transport and Development Supplementary Planning Document expands upon policy ST7.

Local residents and the Parish Council have raised concerns over the possible safety of the proposed access. Concerns include loose material being brought onto the highway and vehicles pulling out onto the road with poor visibility. It is considered that the site is suitable for an access in the proposed location and due to the speed restriction on this part of the road and number and type of vehicular movements the access would generate, this would not be adversely harmful and therefore would be acceptable.

The proposed gates would be installed 6m back from the edge of the highway, which would limit the possibility of vehicles stopping in and blocking the road, and the access surfaced with concrete, in order to minimise loose material spilling onto the highway. The installation and retention of the bound and compacted surface will be secured via condition.

It is considered that information provided by the applicant has satisfactorily demonstrated the visibility splays, allowing for clear visibility onto Red Hill, to the left and right of the

access. Given the proposed planting to be carried out, the maintenance of the visibility splays will need to be secured by way of a compliance condition.

Some points highlighted by our Highways team have been addressed through the submission of revised information, which officers are confident satisfy the requirements of the relevant policies. Officers consider that the outstanding highways issues can be suitably controlled by way of planning conditions.

Overall, it is considered that, subject to conditions relating to the direction of opening of the gates, maintenance of visibility splays and a bound and compacted surface in the entrance to the field, the proposal accords with policy ST7 of the Local Plan Partial Update, the Transport and Development Supplementary Planning Document (2023), and part 9 of the NPPF.

#### ECOLOGY AND CONSERVATION:

The boundary wall is not considered to be of specific historical significance, and it has been concluded that the boundary as a whole (including the stone wall and planting) is not a site of specific nature conservation and would unlikely be an important habitat for protected species. As such, the removal of the section of the boundary would not be considered to cause significant adverse harm in this instance and would therefore be acceptable.

Whilst a planting scheme would not ordinarily be required for a development of this scale and nature, in this instance, the submitted planting scheme seeks to replace that conditioned through application 21/00369/AGRA, including a minor change to incorporate the proposed access. The applicant's agent has informed us that the applicant has received a grant to provide the required hedging and due to the seasonal constraints restricting hedge planting, will have planted hedging, in line with the proposed landscaping scheme by the end of March.

Notwithstanding the fact that the proposal has been identified as having a low risk of any protected species being impacted, the planting of a native hedgerow will mitigate against any possible ecological impacts, caused by the removal of a small section of ruderal/tall herb, which has already been undertaken, providing biodiversity net gain on the site and, in accordance with the NPPF and Local Plan Policies NE3 and NE3a.

#### PUBLIC SECTOR EQUALITY DUTY:

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

Section 149 provides that the Council must have due regard to the need to—

- (a) eliminate discrimination, harassment, victimisation
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

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

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

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

Protected characteristics include disability.

**CONCLUSION:**

Overall, it is considered that the proposed access would be in a suitable location, posing minimal risk to highway safety, given the design and siting of the access and use of materials for the surface of the entrance off the highway.

Whilst issues have been raised by local residents and the Parish Council regarding the previously permitted scheme on the site, the submitted landscaping scheme has successfully addressed these points and it is therefore considered that the proposal complies with the relevant local and national planning policies.

As such, it is recommended that this application be permitted.

## **RECOMMENDATION**

PERMIT

## **CONDITIONS**

### **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.

### **2 Junction Visibility Splay (Pre-occupation)**

No use of the access shall commence until a visibility splay of 2.4m x 45.0m has been demonstrated, with no on-site obstruction exceeding 600mm above ground level (through the maintaining of the hedgerow and verge) within the visibility splay. The visibility splay shall be retained permanently thereafter.

Reason: To ensure sufficient visibility is provided in the interests of highways safety in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

### **3 Entrance Gates (Compliance)**

Any entrance gates erected shall be hung to open away from the highway only and shall be set back a minimum distance of six metres from the back edge of the adopted public highway.

Reason: In the interests of highway safety, in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan, and to enable vehicles to safely draw off the highway before the gates are opened.

#### **4 Bound/Compacted Vehicle Access (Compliance)**

The first 6 metres of the vehicular access hereby approved shall be constructed with a bound and compacted surfacing material (not loose stone or gravel). This shall be retained in perpetuity.

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

#### **PLANS LIST:**

- 1 This decision relates to the following plans and documents:
- Block plan (labelled Access to the Old Quarry, Sheephouse Farm) - Received 20/01/2023
  - Hedgerow landscaping scheme - Received 20/01/2023
  - Location plan - Received 28/11/2022
  - Proposed gate elevation - Received 12/12/2022

#### **2 Condition Categories**

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

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

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

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

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

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

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

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

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

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

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

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

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

### **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 Highways license**

In order for a new vehicular access to be created, HDM requires the applicant to apply for a Section 184 licence under the Highways Act 1980. The applicant should be advised to contact the Highway Maintenance Team at [Highways@bathnes.gov.uk](mailto:Highways@bathnes.gov.uk) with regard to securing a licence for the amendment to an existing and/or creation of a new 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. More information can be found following this link <https://www.bathnes.gov.uk/services/streets-and-highwaymaintenance/licences-and-permits/dropped-kerbs>

Please note even if full planning permission is permitted, an approved Section 184 licence is not guaranteed.

## **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.

## **7 Civil or legal consents**

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

**Item No:** 04  
**Application No:** 23/00260/FUL  
**Site Location:** Heighgrove Barn Scumbrum Lane High Littleton Bristol Bath And North East Somerset



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

**Ward Members:** Councillor Sally Davis

**Application Type:** Full Application

**Proposal:** Construction of car port.

**Constraints:** Clutton Airfield, Agric Land Class 3b,4,5, Coal - Standing Advice Area, Coal - Referral Area, Policy CP8 Green Belt, Policy CP9 Affordable Housing Zones, Policy M1 Minerals Safeguarding Area, Policy NE2A Landscapes and the green set, Policy NE3 SSCI 200m Buffer, Policy PCS6 Unstable Land-Coal Mining Le, SSSI - Impact Risk Zones, Policy ST8 Safeguarded Airport & Aerodro,

**Applicant:** Ms Priscilla Roberts

**Expiry Date:** 6th April 2023

**Case Officer:** Paige Moseley

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

## REPORT

### Reason for Committee:

Farmborough Parish Council have supported the application, contrary to the officer's recommendation to refuse. In accordance with the Council's Scheme of Delegation, the application was referred to the Chair and Vice Chair of the Planning Committee. The Chair decided that the application should be debated and decided at the Planning Committee. Their comments are as follows:

Chairs comments:



"I have reviewed this application and note the support from Farmborough Parish Council. The question posed is whether the permitted development rights referred to within the proposal can be considered as very special circumstances, and whether those very special circumstances outweigh harm to the green belt. I believe that this would benefit from debate in a public forum, so I am referring this application to the planning committee."

Vice Chair's comments:

"I have read through this application noting FPC support & the points made in the D & A statement which have been addressed as the application has been assessed against relevant planning policies.

The design & materials are acceptable but it is Greenbelt policy which the proposal contravenes & although PD rights are referred to by the applicant they are not assessed, by the officer, as being sufficient to become very special circumstances in the Greenbelt.

Options for placing the proposal elsewhere are considered in the report & the site is large however I feel the issue of very special circumstances would benefit from debate by the planning committee & whether they outweigh harm to the Greenbelt therefore I recommend the application be determined by the planning committee."

**Details of location and proposal:**

The application refers to Heighgrove Barn, which is a barn conversion dwelling located off Scumbrum Lane in Farmborough, outside of Farmborough Housing Development Boundary. There is a large drive and courtyard to the front and a rear garden. Within the courtyard are two existing outbuildings between which the space is used for carparking.

Planning permission is sought for the erection of a carport which would have space for 3 cars.

**Relevant Planning History:**

96/02657/FUL - REFUSED - 28 November 1996 - Barn conversion and single storey extension

97/02050/FUL - PERMITTED - 21 March 1997 - Conversion and extension of barn to form dwelling (revised scheme); as amended by plans received 19th March 1997.

00/00943/FUL - REFUSED - 23 June 2000 - Single storey side/rear extension to dwelling

00/02434/FUL - REFUSED - 29 January 2001 - Single storey extension and porch (revised scheme)

01/00525/FUL - PERMITTED - 14 June 2001 - Single storey front extension, loft conversion and retention of porch amended by plans received 21/05/01

**SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Consultation Responses :

Farmborough Parish Council: Support

"At the meeting of Farmborough Parish Council held on 14 February the Council voted to SUPPORT, this application on the basis that the proposed car port is unlikely to impact the openness of the greenbelt, nor be detrimental to it."

Representations Received:

None.

## **POLICIES/LEGISLATION**

The Development Plan for Bath and North East Somerset comprises:

- o Bath & North East Somerset Core Strategy (July 2014)
- o Bath & North East Somerset Placemaking Plan (July 2017)
- o Bath & North East Somerset Local Plan Partial Update (2023)
- o West of England Joint Waste Core Strategy (2011)
- o Made Neighbourhood Plans

### **CORE STRATEGY:**

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

CP6: Environmental Quality

CP8: Green Belt

### **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

D6: Amenity

GB1: Visual amenities of the Green Belt

NE2A: Landscape setting of settlements

### **LOCAL PLAN PARTIAL UPDATE:**

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

D5: Building design

GB3: Extensions and alterations to buildings in the Green Belt

ST7: Transport requirements for managing development

## **SUPPLEMENTARY PLANNING DOCUMENTS:**

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

Transport and Development Supplementary Planning Document (January 2023)  
The Existing Dwellings in the Green Belt Supplementary Planning Document (October 2008)

## **NATIONAL POLICY:**

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

## **LOW CARBON AND SUSTAINABLE CREDENTIALS**

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

## **OFFICER ASSESSMENT**

The main issues to consider are:

- Principle of development within the Green Belt
- Character and Appearance
- Residential Amenity
- Highways Safety and Parking

## **PRINCIPLE OF DEVELOPMENT**

The primary issue to consider is whether the proposal represents inappropriate development in the Green Belt. There is a general presumption against development within the Green Belt and substantial weight is given to the consideration of any harm to the principle and openness of the Green Belt. Paragraph 149 of the National Planning Policy Framework stipulates that the construction of new buildings within the Green Belt should be considered as inappropriate. But sets out some exceptions. One of the exceptions sets out that extensions and alterations which do not result in disproportionate additions over and above the size of the original building may be acceptable.

The Existing Dwellings in the Green Belt Supplementary Planning Document for Bath and North East Somerset explains that increases of around a third of the volume of the original dwelling will generally be permissible, but above this figure, additions will be considered disproportionate. Given the proposed use, location and overall relationship with the main dwelling, the outbuilding would be considered to be an extension to the dwelling.

No volume calculations have been submitted with the application, however evidence from previous planning applications and aerial photography show that the property has

undergone previous extensions which clearly represent more than 1/3 of the original building volume. This includes an additional outbuilding in front of the property for which planning records cannot be found, a rear conservatory and a large side/front extension nearly 10m in length approved under 01/00525/FUL. An informative was added to the decision notice for 01/00525/FUL bringing attention to the fact that once that permission is implemented, the property will have been substantially extended over its original size, over the 1/3 figure, and it being unlikely that planning permission would be given in future for further extensions which would be disproportionate to the size of the original dwelling. The proposed car port would add result in a further addition of approximately 150m<sup>3</sup>. Given the size of the proposed development and the previous extensions which already exceed the 1/3 rule of the Supplementary Planning Document, it is considered that the proposed car port would constitute inappropriate development within the Green Belt.

Additionally, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; one of the essential characteristics of Green Belts are their openness. Impact to openness must also be assessed. Impact to openness is based on a visual and spatial assessment. Although it is acknowledged that the proposed car port would be tucked between two other buildings, it is considered that it would increase the overall built form on the site, adding to the cumulative effect of extensions on the site, eroding openness.

Given the above it is considered that the proposal is contrary to policy CP8 of the BaNES Cores Strategy, policy GB3 of the BaNES Placemaking Plan and Part 13 of the NPPF.

## CHARACTER AND APPEARANCE

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

Officers have no objection to the proposed design and appearance of the development. The proposal by reason of its design, siting, scale, massing, layout and materials is acceptable and contributes and responds to the local context and maintains the character and appearance of the surrounding area. The proposal accords with policy CP6 of the Core Strategy, policies D1, D2, D3, D4 and D5 of the Placemaking Plan and part 12 of the NPPF.

## RESIDENTIAL AMENITY

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

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

## HIGHWAYS SAFETY AND PARKING

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

In line with the Transport and Development Supplementary Planning Document, dwellings with 3 bedrooms should provide a maximum of 2 off-street parking spaces and dwellings with 4 or more bedrooms should provide a maximum of three. This does not include parking spaces within garages. It is unknown how many bedrooms exactly the property has, however as the proposal would not be increasing the amount of parking spaces, rather providing a covered structure for the existing parking provision, it is considered that the proposal would comply with the guidance in the SPD.

The development is considered to be acceptable with regards to highways impacts and to be in accordance with Policy ST7.

## PUBLIC SECTOR EQUALITY DUTY

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

Section 149 provides that the Council must have due regard to the need to—

- (a) eliminate discrimination, harassment, victimisation
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

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

## VERY SPECIAL CIRCUMSTANCES

Paragraph 147 of the NPPF states that inappropriate development within the Green Belt should not be approved except in very special circumstances which outweigh harms

identified. The harm identified in this case is that the proposal would constitute inappropriate development within the Green Belt, in contravention with the provisions of the NPPF and policy CP8 of the BaNES Core Strategy and the relevant Supplementary Planning Document.

It has been raised by the agent that the proposed carport could be built under permitted development rights if situated behind the principle building line and 2.5m from the site boundary. Permitted development fallback positions can sometimes constitute very special circumstances and in determining whether this is the case officers must assess whether the permitted development alternative is comparable and realistic. To be permitted development, the carport would have to be located at the rear of the property, within the garden area, or to the side. This is not considered to be comparable, as these locations are entirely different to what is proposed. In terms of being realistic, it is not considered likely that the carport would be built to the rear as this would involve encroaching into the garden. Building to the side would mean extending the driveway, reconfiguring current parking arrangements, and unused space where the cars currently park.

Additionally, if this scheme were granted permission, it would not be possible to restrict the building of other permitted development outbuildings before the implementation of this development, which could lead to additional harm to the Green Belt.

It is therefore considered that the permitted development fallback put forward does not constitute very special circumstances and therefore there are no very special circumstances outweighing the harm identified to the Green Belt.

## **CONCLUSION**

The site is within the Bristol and Bath Green Belt and the proposed development would constitute inappropriate development within the Green Belt as it would represent a disproportionate addition to the dwelling. The proposal is contrary to policy CP8 of the BaNES Cores Strategy, policy GB3 of the BaNES Placemaking Plan and Part 13 of the NPPF.

## **RECOMMENDATION**

**REFUSE**

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

1 The site is within the Bristol and Bath Green Belt and the proposed development would constitute inappropriate development within the Green Belt as it would represent a disproportionate addition to the dwelling. The proposal is contrary to policy CP8 of the BaNES Cores Strategy, policy GB3 of the BaNES Placemaking Plan and Part 13 of the NPPF.

## **PLANS LIST:**

1 This decision relates to the following plans:

23 Jan 2023 LOCATION PLAN

23 Jan 2023 001 SITE PLAN  
23 Jan 2023 002 ROOF PLAN  
26 Jan 2023 003 REV 2 ELEVATIONS

2 In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework. Notwithstanding informal advice offered by the Local Planning Authority the submitted application was unacceptable for the stated reasons and the applicant was advised that the application was to be recommended for refusal. Despite this the applicant chose not to withdraw the application and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision. In considering whether to prepare a further application the applicant's attention is drawn to the original discussion/negotiation.

### **3 Community Infrastructure Levy**

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

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<b>Bath &amp; North East Somerset Council</b>	
MEETING:	<b>Planning Committee</b>
MEETING DATE:	<b>5<sup>th</sup> April 2023</b>
RESPONSIBLE OFFICER:	Simon de Beer – Head of Planning
TITLE:	<b>NEW PLANNING APPEALS, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES</b>
WARD:	ALL
BACKGROUND PAPERS:	None
<b>AN OPEN PUBLIC ITEM</b>	

AGENDA ITEM NUMBER
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**APPEALS LODGED**

**App. Ref:** 22/01666/EODPA  
**Location:** 120C Charlton Park Midsomer Norton Radstock Bath And North East Somerset BA3 4BP  
**Proposal:** Application for prior approval of a proposed enlargement of a dwellinghouse by construction of an additional storey.  
**Decision:** REFUSE  
**Decision Date:** 6 June 2022  
**Decision Level:** Delegated  
**Appeal Lodged:** 22 February 2023

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**App. Ref:** 22/04059/FUL  
**Location:** 7 Kennet Road Keynsham Bristol Bath And North East Somerset BS31 1NZ  
**Proposal:** Demolition of single-storey outbuildings. Erection of single-storey porch and rear extension. Two-storey side extension. Alterations to drive, including widening of access.  
**Decision:** REFUSE  
**Decision Date:** 1 December 2022  
**Decision Level:** Delegated  
**Appeal Lodged:** 23 February 2023

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**App. Ref:** 22/01466/FUL  
**Location:** Skylark Farm Braysdown Lane Peasedown St John Bath Bath And North East Somerset  
**Proposal:** Use of land for the siting of timber cabin for ten years for an agricultural worker.  
**Decision:** REFUSE  
**Decision Date:** 8 September 2022  
**Decision Level:** Delegated  
**Appeal Lodged:** 1 March 2023

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**App. Ref:** 22/00256/FUL  
**Location:** 93B Sydney Mews Bathwick Bath Bath And North East Somerset BA2 4ED  
**Proposal:** Works to include window alterations and insertion of skylights.  
**Decision:** REFUSE  
**Decision Date:** 6 September 2022  
**Decision Level:** Delegated  
**Appeal Lodged:** 6 March 2023

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**App. Ref:** 22/00257/LBA  
**Location:** 93B Sydney Mews Bathwick Bath Bath And North East Somerset BA2 4ED  
**Proposal:** Interior and exterior alterations to include new internal layout and new front fenestration, window alterations and insertion of skylights.  
**Decision:** REFUSE  
**Decision Date:** 6 September 2022  
**Decision Level:** Delegated  
**Appeal Lodged:** 6 March 2023

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**App. Ref:** 21/05684/FUL  
**Location:** Former Coach House To Rear Of 8 Edgar Buildings St Andrew's Terrace City Centre Bath Bath And North East Somerset  
**Proposal:** The renovation and extension of the historic former Coach House to provide 1no. residential dwelling  
**Decision:** REFUSE  
**Decision Date:** 22 September 2022  
**Decision Level:** Delegated  
**Appeal Lodged:** 7 March 2023

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**App. Ref:** 21/05685/LBA  
**Location:** Former Coach House To Rear Of 8 Edgar Buildings St Andrew's Terrace City Centre Bath Bath And North East Somerset  
**Proposal:** Internal and external works for the renovation and extension of the historic former Coach House to provide 1no. residential dwelling  
**Decision:** REFUSE  
**Decision Date:** 22 September 2022  
**Decision Level:** Delegated  
**Appeal Lodged:** 7 March 2023

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**App. Ref:** 22/01398/COND  
**Location:** Knoll Farm White Ox Mead Lane Peasedown St John Bath Bath And North East Somerset  
**Proposal:** Discharge of condition 5 (Hard and Soft Landscaping (Pre-occupation)) of application 20/02480/FUL (Erection of 3no agricultural buildings including Cattle Barn, Workshop/Feed Store, Farmyard Manure/Straw and Hay Shed along with associated yard areas and access track from Knoll Farmhouse, and other associated works).  
**Decision:** REFUSE  
**Decision Date:** 24 May 2022  
**Decision Level:** Non-Planning applications  
**Appeal Lodged:** 14 March 2023

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## APPEALS DECIDED

**App. Ref:** 21/03965/FUL  
**Location:** Manor House Watery Lane Burnett Keynsham Bristol  
**Proposal:** Installation of solar PV panels and ground source heat pump pipe work to eastern paddock to provide renewable energy sources for manor house. Connection of pipework to existing lower ground floor plant room.  
**Decision:** REFUSE  
**Decision Date:** 7 April 2022  
**Decision Level:** Planning Committee  
**Appeal Lodged:** 9 December 2022  
**Appeal Decision:** Appeal Allowed  
**Appeal Decided Date:** 22 February 2023  
**Officer Recommendation:** PERMIT

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**App. Ref:** 21/03966/LBA  
**Location:** Manor House Watery Lane Burnett Keynsham Bristol  
**Proposal:** Internal and external alterations for the installation of solar PV panels and ground source heat pump pipe work to eastern paddock to provide renewable energy sources for manor house. Connection of pipework to existing lower ground floor plant room.  
**Decision:** REFUSE  
**Decision Date:** 7 April 2022  
**Decision Level:** Planning Committee  
**Appeal Lodged:** 9 December 2022  
**Appeal Decision:** Appeal Allowed  
**Appeal Decided Date:** 22 February 2023  
**Officer Recommendation:** CONSENT

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**App. Ref:** 22/00235/FUL  
**Location:** 6 Summerleaze Keynsham Bristol Bath And North East Somerset BS31 2BZ  
**Proposal:** Erection of 2 storey side extension  
**Decision:** REFUSE  
**Decision Date:** 11 May 2022  
**Decision Level:** Delegated  
**Appeal Lodged:** 2 September 2022  
**Appeal Decision:** Appeal Dismissed  
**Appeal Decided Date:** 23 February 2023

**App. Ref:** 22/00526/FUL  
**Location:** 12 Cedric Road Lower Weston Bath Bath And North East Somerset BA1 3PA  
**Proposal:** Reconfiguration and enlarging of existing rear extension and garage. Reconstruction of neighbouring garage.  
**Decision:** REFUSE  
**Decision Date:** 27 July 2022  
**Decision Level:** Delegated  
**Appeal Lodged:** 12 December 2022  
**Appeal Decision:** Appeal Allowed  
**Appeal Decided Date:** 27 February 2023

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**App. Ref:** 22/00238/PIP  
**Location:** Woodland Area Ridgeway Gardens Whitchurch Bristol Bath And North East Somerset  
**Proposal:** Permission in Principle to construct 5no. dwellings  
**Decision:** REFUSE  
**Decision Date:** 15 March 2022  
**Decision Level:** Delegated  
**Appeal Lodged:** 7 June 2022  
**Appeal Decision:** Appeal Dismissed  
**Appeal Decided Date:** 16 March 2023

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