

Planning Committee

Date: Wednesday, 13th December, 2023

Time: 11.00 am

Venue: Brunswick Room - Guildhall, Bath

Agenda

To: All Members of the Planning Committee

Councillors:- Duncan Hounsell, Ian Halsall, Paul Crossley, Lucy Hodge, Hal MacFie, Toby Simon, Shaun Hughes, Dr Eleanor Jackson and Tim Warren CBE

Permanent Substitutes:- Councillors: Ruth Malloy and Fiona Gourley

Chief Executive and other appropriate officers
Press and Public

The agenda is set out overleaf.



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NOTES:

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

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

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

3. **Recording at Meetings:-**

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

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4. **Public Speaking at Meetings**

The Council has a specific scheme for the public to make representations at Planning Committee meetings.

Advance notice is required by the close of business (5.00pm) two days before a committee. 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, 13th December, 2023

at 11.00 am in the Brunswick 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 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 - 20)

To confirm the minutes of the meeting held on Wednesday 15 November 2023 as a correct record for signing by the Chair.

7. SITE VISIT LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE (Pages 21 - 36)

The following item will be considered at 11am:

23/02731/FUL - 1 Drake Avenue, Combe Down, Bath

8. MAIN PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE (Pages 37 - 74)

The following items will be considered at 11am:

1. 23/02958/VAR - Waterworks Cottage, Charlcombe Way, Fairfield Park, Bath
2. 23/02194/FUL - Agricultural Buildings And Land, Blackrock Lane, Publow, Bristol
3. 23/03896/TCA - Audley House, Park Gardens, Lower Weston, Bath

9. NEW PLANNING APPEALS LODGED, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES (Pages 75 - 78)

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, 15th November, 2023, 11.00 am

Councillors: Duncan Hounsell (Chair), Ian Halsall (Vice-Chair), Paul Crossley, Lucy Hodge, Hal MacFie, Shaun Hughes, Dr Eleanor Jackson, Tim Warren CBE, Ruth Malloy and Fiona Gourley

58 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the emergency evacuation procedure.

59 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Cllr Ruth Malloy was substituting for Cllr Toby Simon.

60 DECLARATIONS OF INTEREST

Cllr Fiona Gourley declared an interest in item (1) 22/02169/EOUT – Parcel 4234, Combe Hay Lane, Combe Hay, Bath as she had already commented on the application and would stand down from the Committee during consideration of the item and speak as ward member.

Cllr Paul Crossley declared a minor interest in item (1) 22/02169/EOUT – Parcel 4234, Combe Hay Lane, Combe Hay, Bath as a Council representative on Cotswolds AONB Conservation Board but confirmed that this would not prejudice him in considering this item and he had not prejudged the application.

Cllr Paul Crossley declared an interest in item (6) 23/02731/FUL 1 Drake Avenue, Combe Down, Bath as he had a relative who lived near the application site and withdrew from the meeting during this item.

Cllr Duncan Hounsell declared an interest in item (7) 23/03159/FUL Rockside, Mead Lane, Saltford, Bristol as he would be speaking on behalf of the applicants as ward member. He confirmed that he would withdraw from the meeting during the debate on the item and that Cllr Ian Halsall would take the Chair.

61 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was no urgent business.

62 ITEMS FROM THE PUBLIC

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.

63 MINUTES OF THE PREVIOUS MEETING

It was moved by Cllr Eleanor Jackson, seconded by Cllr Paul Crossley and:

RESOLVED that the minutes of the meeting held on Wednesday 18 October 2023 be confirmed as a correct record for signing by the Chair.

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

The Committee considered:

A report and update 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 2 to these minutes.

(1) 22/02169/EOUT – Parcel 4234, Combe Hay Lane, Combe Hay, Bath

The Planning Case Officer introduced the report which considered a hybrid application as follows:

1. an outline application for Phases 3 and 4 for up to 290 dwellings; landscaping; drainage; open space; allotments; footpaths and emergency access; all matters reserved, except access from Combe Hay Lane via the approved Phase 1 spine road.
2. Detailed application for the continuation of the spine road (from Phase 1), to and through Sulis Manor and associated works comprising: the demolition of existing dilapidated buildings and tree removal; drainage; landscaping; lighting; boundary treatment; and the erection of 4 x Bat Night Roosts; to enable construction of the spine road; with the ecologic mitigation on Derrymans and the field known as 30Acres.

He confirmed the recommendation that officers be delegated to permit the application subject to:

- (1) Authorising the Head of Legal and Democratic Services to enter into a Section 106 Agreement to cover the heads of terms detailed within the report.
- (2) the conditions set out in the report (or such conditions as may be appropriate).

He drew attention to a number of issues raised by objectors and responded as follows:

1. *Number of dwellings for both phases was 461 which was higher than the 300 allocation* – the figure of 300 in the Core Strategy was not a cap, the number could be greater if the placemaking principles of the allocation could be met.
2. *The Masterplan was not comprehensive* – the masterplan did cover the full extent of the allocation with sufficient level of detail of what is proposed.
3. *The allocation was for mixed use and the application was for residential* - the requirement for mixed and community use covered the whole allocation and

there were other uses outside of this application. The application also included allotments and community squares.

4. *Highways impact had not been properly assessed* – traffic surveys and modelling had been undertaken and the highways team were satisfied with the process and conclusions.
5. *Loss of trees due to the spine road* – there would be a loss of 69 trees and this was regrettable. Other options to access the site were not considered to be viable. The impact on trees was minimalised and there would be replacement planting.
6. *AONB exceptional circumstances were not met* – officers considered there to be exceptional circumstances due to the housing need.
7. *Brownfield sites should be used for development before greenfield sites* – there was no requirement to deliver on brownfield sites first, both greenfield and brownfield sites were required to deliver on housing needs, including affordable housing. The scheme consisted of 40% affordable housing and no other scheme in Bath had delivered this much (except for phase 1).

The following public representations were received:

1. Malcolm Austwick, Combe Hay Parish Council objecting to the application.
2. Paul Beazley-Long, South Stoke Parish Council objecting to the application.
3. Ned Garnett (South of Bath Alliance) and Alex Sherman (Bath Preservation Trust) objecting to the application.
4. Peter Frampton, Frampton Town Planning, supporting the application.

Cllr Joel Hirst addressed the Committee as adjacent ward member and raised the following issues:

1. The application would cause irreversible damage to ecology and traffic management in the surrounding area.
2. There was a large number of objectors who considered the application to be harmful.
3. The AONB test for exceptional circumstances had not been met as it was tested against the 2014 Core Strategy. There had been changes since 2014 with the Council declaring a climate emergency. The proposal was too big, and the location would encourage car dependency. The Council also declared a nature emergency and the application would harm bats and nesting skylarks.
4. Housing needs had changed since 2014, and B&NES now had a 7-year housing supply as identified in the LPPU.
5. The combined harm of the following factors had not been taken into consideration: traffic management; ecology; built in car dependency; AONB; world heritage site; loss of mature trees; impact on Sulis Manor and the Wansdyke Scheduled Ancient Monument.
6. It was the wrong housing in the wrong place with no infrastructure e.g., schools, medical facilities.

He asked the Committee to refuse the application.

Cllr Fiona Gourley addressed the Committee as local ward member and raised the following issues:

1. The Core Strategy Inspector approved a plan for 300 homes in the area to balance meeting an exceptional housing need with minimising the harm to the area.
2. The application was more harmful than the Inspector intended with 290 proposed dwellings in addition to the 171 agreed as part of the phase 1 development.

3. There was a lot of public concern about the proposed development as demonstrated by the number of objectors including Parish Councils and local members.
4. The key benefit of the application was to meet the need for affordable housing, but affordable housing needed to be located in the right place. This application would result in an unsustainably large housing estate with an absence of community facilities.
5. There was also a concern that when the site was sold for development the number of affordable houses could be reduced.
6. The proposed Section 106 agreement contribution to highways was not enough to mitigate the traffic problems that would be caused by the development.
7. 2017 traffic modelling concluded that there would be a severe impact on highways network, but further modelling in April 2022 suggested that the volume of traffic had reduced. However, since 2022, the volume of traffic had started to increase again. There had been no traffic modelling to assess the impact on nearby villages.
8. Nearby roads were acting at capacity and the traffic impact analysis needed to be revisited.
9. The proposal would cause irrevocable harm to the environment and heritage setting.

She urged the Committee to refuse the application.

In response to Members' questions, it was confirmed:

1. The Odd Down Area VISSIM model referred to in the highways section of the report was a simulation model that assessed the impact of multiple junctions rather than individual junctions in isolation. It had not been used by the applicant as it was not considered to reflect the changing nature of trips post-Covid. Instead, standalone modelling was used, and the process and conclusions were deemed to be acceptable by Highways officers.
2. In response to suggestions that traffic levels were now increasing to pre-Covid levels, Highways officers had assessed this using B&NES data and found there to be little difference (1%) from the assessment in Spring 2022 to September 2023.
3. Officers were satisfied that the applicants would be granted a licence to disturb bats.
4. The arrangements for the management of allotments and allotment allocations would be part of the Section 106 Agreement.
5. Sulis Manor/agricultural land could not be protected by legal agreement or condition as it was not part of this application.
6. The spine road would be required to access the residential development even if the proposed number of dwellings was lower and the road would be delivered via the Section 106 Agreement.
7. Officers were not aware of any difficulties in the affordable housing figures being met in relation to phase 1 of the development. The affordable housing would be secured by the legal agreement and the applicant would be unable to challenge this for a 5 year period.
8. The applicant was required to undertake reasonable endeavours to secure Schedule Monument Consent (SMC) to deliver the Wansdyke crossing. If consent was not secured, they would need to propose an alternative route. There was no obligation for the applicant to apply for this consent in advance of

- applying for planning permission, and requiring confirmation of the SMC was not a sufficient reason in itself to delay making a decision on this application.
9. Since the Core Strategy in 2014, there was still an identified need for housing and affordable housing in the area and so the exceptional need still applied. There were a number of tests in paragraph 177 of NPPF to allow development in an AONB and officers considered that these had been met.
 10. The policy requirement for mixed use referred to the whole allocation and not just the site of the current planning application.
 11. In relation to archaeology, there were investigations carried out as part of the phase 1 development and it was concluded that no further investigations were required as part of this application. In terms of the Wansdyke, SMC had been secured to undertake archaeological investigations and so there would be controls outside of this planning application.
 12. Officers considered the S106 contribution in relation to sustainable transport and education to be proportionate. The site was close to the Park and Ride and there was sufficient capacity in local schools.
 13. In relation to the accuracy of the plans, further details would be confirmed in a reserved matters application.

Cllr Duncan Hounsell opened the debate and stated that he felt further information was required on traffic impact; the Wansdyke crossing and AONB exceptional circumstances before a decision could be taken.

Cllr Eleanor Jackson agreed with the need for further information before making a decision. She also stated that she would also like more information about the number of trees as she was aware that some trees on the site had been lost to Ash dieback disease.

Cllr Duncan Hounsell proposed that a decision be deferred for further information. This was seconded by Cllr Ian Halsall.

Cllr Paul Crossley stated that he felt that the Committee had sufficient information to take a decision and he did not support a deferral.

Cllr Lucy Hodge agreed with the motion to defer and requested that a further traffic assessment take into account the impact of local communities and roads and should also include recent planning developments.

Cllr Tim Warren stated that he did not support the motion to defer a decision.

The Planning Officer confirmed it was appropriate for the Committee to defer a decision for more information, however the officers' view was that there was a sufficient information for the Committee to take a decision. He advised the Committee that there was a risk that the applicant may appeal for non-determination or choose not to supply additional information.

On voting for the motion, it was CARRIED (6 in favour, 3 against)

RESOLVED that a decision be deferred pending further information in relation to:

1. Further traffic survey analysis including the impact on local villages and local roads to include all recent planning developments.
2. Update on securing of Schedule Monument Consent for the Wansdyke crossing.

3. Clarification on the number of trees to be retained/replaced/lost including those lost to ash dieback.
4. More information on exceptional circumstances relating to Areas of Outstanding Natural Beauty (AONB).

(2) 23/00660/FUL Proximity House, Pixash Business Centre, Pixash Lane, Keynsham

The Planning Officer introduced the report which considered an application for the construction of 2 industrial units (Use classes B8 and E(g)) with associated parking, external yards, landscaping and services.

He updated that Keynsham Town Council had now submitted an objection to the application.

He reported that a decision on the application had been deferred from the September Committee pending a site visit and further information in relation to the following:

- a) To allow the developer to provide a swept path analysis for 16m vehicles.
- b) To allow further information to be provided to demonstrate that there would be no negative impact on the viability of existing businesses.
- c) To give clarity on the access road in terms of ownership and use.
- d) To review the class B2 use to see if conditions could be attached in relation to the future use of the site.
- e) To allow further information to be provided on the viability of the loading and unloading of forklift trucks.

He confirmed that the issues raised previously had now been addressed and recommended that permission be granted subject to the conditions set out in the report.

The following public representations were received:

1. Chris Beaver objecting to the application.
2. Mike Taylor, agent, supporting the application.

Cllr Andy Wait, ward member was unable to attend the meeting and a statement was read in his absence:

1. He had objected to the B2 use but understood that this classification had now been withdrawn.
2. He remained concerned that the application constituted overdevelopment of the site and would impact on existing businesses.
3. He was concerned about highway safety, in particular in relation to HGV deliveries; restrictions caused by the covenant on the land and HGVs reversing out onto Pixash Lane.

He asked the Committee to refuse the application.

In response to Members' questions, it was confirmed:

1. In relation to the concerns expressed about the covenant, interests in land was related to deliverability, which was not generally a material consideration.
2. Keynsham Town Council's objection referred to the B2 classification, but this had now been withdrawn.
3. The removal of B2 would reduce concerns about noise associated with the

application.

4. The swept path analysis had demonstrated that HGVs would not need to reverse onto Pixash Lane.
5. There would be no material change in the use of forklift trucks as a result of the development.
6. The number of additional vehicles visiting the site was negligible in relation to the impact on the local highway network.
7. There would be an impact on Wessex House in terms of overshadowing, but as this was an office, there would not be an impact on residential amenity.

Cllr Hal MacFie opened the debate as ward member, he welcomed the removal of B2 classification but stated that he was still unable to support the application as he considered the scale and massing to constitute an overdevelopment of the site. He also raised concerns about HGV movement within the application site. He moved that the application be refused.

Cllr Shaun Hughes seconded the motion. He acknowledged that a lot of the previous concerns had been addressed but he was still concerned about the size of the development and the loss of amenity to Wessex House due to overshadowing.

Cllr Tim Warren spoke in support of the application, he stated that there was a shortage of industrial space, and he did not consider there to be any issues with HGV movements within the site.

Cllr Ian Halsall also spoke in support of the application, stating that the withdrawal of the B2 classification addressed comments about noise and he did not have concerns about the scale and massing of the proposed development.

Members were advised that the reason relating to HGVs would be difficult to sustain as Highways officers had not raised an objection. It was agreed that this reason be removed from the motion.

On voting for the motion, it was NOT CARRIED (3 in favour, 7 against)

Cllr Tim Warren moved the officers' recommendation that permission be granted. This was seconded by Cllr Ian Halsall.

On voting for the motion, it was CARRIED (7 in favour, 3 against)

RESOLVED that permission be granted subject to the conditions set out in the report.

Items 3 and 4 were considered together.

(3) 23/01692/LBA Bloomfield House, 146 Bloomfield Road, Bloomfield, Bath

(4) 23/23/01693/FUL Bloomfield House, 146 Bloomfield Road, Bloomfield, Bath

The Planning Officer introduced the report which considered an application for the provision of a garden room building and new entrance gates and an application for listed building consent in relation to the new entrance gates.

He confirmed the recommendation that listed building consent and planning permission be granted subject to the conditions set out in the reports.

The following public representations were received:

1. James Leyland objecting to the application.
2. Roger Parsons, applicant, supporting the application.

Cllr Deborah Collins addressed the Committee on behalf of herself and Cllr Alison Born as local ward members and raised the following issues:

1. There was a concern about the impact on the residential amenity of neighbouring properties as a result of the proposed garden room.
2. The proposed garden room was large and intended for social use and there were concerns about unacceptable levels of noise in a quiet residential street.
3. There were no concerns about the proposed gates.

She asked the Committee to refuse the application.

Cllr Jess David addressed the Committee as adjacent ward member and raised the following issues:

1. A number of local residents were concerned about the impact on residential amenity.
2. There were also concerns that there may be a potential application for change of use to holiday lets which was considered inappropriate.

In response to Members' questions, it was confirmed:

1. The dimensions of the proposed building were 11m w 4m d and 44 square metres (66 square metres including the decking area).
2. It would be possible to add conditions to limit the hours of use of the proposed garden building, but restrictions could not be applied to the rest of the site including the garden.
3. There had been no objection from the Conservation Officer in relation to the design of the gates.
4. The positioning and site of the proposed garden building would ensure that neighbouring properties would not be overlooked.

Cllr Eleanor Jackson moved the officers' recommendation to permit the applications. This was seconded by Cllr Tim Warren.

Members debated whether to add a condition to limit the hours of operation of the garden room, but as there was no time limit to using the garden it was agreed that this would not be appropriate.

Cllr Ruth Malloy spoke against the application due to reservations about the design of the garden room in the context of a listed building within the Bath Conservation Area and World Heritage Site.

Vote on item (3)

23/01692/LBA Bloomfield House, 146 Bloomfield Road, Bloomfield, Bath

On voting for the motion, it was CARRIED (9 in favour, 1 against)

RESOLVED that listed building consent be granted subject to the conditions set out in the report.

Vote on item (4)

23/23/01693/FUL Bloomfield House, 146 Bloomfield Road, Bloomfield, Bath

On voting for the motion, it was CARRIED (6 in favour, 4 against)

RESOLVED that permission be granted subject to the conditions set out in the report.

(5) 22/04109/FUL Elm Grove Farm, Lower Road, Hinton Blewett, Bristol

The Planning Case Officer introduced the report which considered an application for the conversion and extension of a barn to create 1 dwelling and replacement of all remaining buildings with 4 dwellings together with associated hard/soft landscape works, drainage, and access improvements.

She reported that due to the proposed development conflicting with policy RA1 and RA2 of the Placemaking Plan, the application had been advertised as a departure and the period of public consultation would expire on the 23 November 2023. She confirmed the recommendation as amended in the update report that officers be delegated to permit subject to the period of the advertisement of the departure expiring without any substantive new issues arising.

The following public representations were received:

1. David Duckett, Hinton Blewett Parish Council.
2. Rebecca Morgan, speaking in support of the application.

Cllr David Wood addressed the Committee as ward member and raised the following issues:

1. Hinton Blewett was a small village with very few amenities.
2. The proposed site was outside the development area.
3. The original application for the conversion of agricultural buildings was supported, but the new application sought to demolish the existing buildings and rebuild them in a different location and at a higher level which was not appropriate.

He asked the committee to reject the application.

In response to Members' questions, it was confirmed:

1. As there was an extant consent on the site, weight could be given to whether the new scheme was better than the fallback position. It was the view of officers that it was better in terms of design, landscaping, sustainable construction and biodiversity net gain provision.
2. The extant consent was a material consideration in considering the application.
3. The area was outside the housing boundary, but the principle of residential development had been established by the extant permission.
4. It would be possible to include a condition to restrict the building of outbuildings if the Committee was minded to do so.
5. The prior approval was granted based on statutory instruments, conditions were imposed as part of the approval, but these were limited to prior approval matters and would not cover sustainable construction or biodiversity net gain.
6. In terms of CIL charges, it was not possible to confirm whether the prior approval application would result in a charge, but in relation to the proposed scheme, the

new buildings would likely be liable for a CIL charge but there may be an offset from the buildings being demolished.

7. There was no community benefit such as social housing/housing for farmworkers.
8. It was not known if there had been a request to move the housing boundary to include this site as part of the Local Plan Partial Update process.
9. The buildings proposed for demolition were considered to be capable of conversion.

Cllr Ian Halsall acknowledged the difficult situation with the prior approval, but stated that he did not support the application and proposed that it should be refused. This was seconded by Cllr Paul Crossley who stated that the application was contrary to the development plan in terms of an unacceptable design and siting in the context of the rural location and due to its unsustainable location, which was outside the housing development boundary.

On voting for the motion, it was CARRIED (10 in favour, 0 against UNANIMOUS)

RESOLVED that the application be refused for the following reason:

1. The application was contrary to the Development Plan due to its unacceptable design and siting in the context of the rural location and its unsustainable location outside of the housing development boundary.

(6) 23/02731/FUL 1 Drake Avenue, Combe Down, Bath

The Planning Case Officer introduced the report which considered a retrospective application for change of use from a 5-bedroom dwelling (Use Class C3) to a 5-bedroom House in Multiple Occupation (HMO) for 3-6 people (Use Class C4).

He confirmed the recommendation that the application be permitted subject to the conditions set out in the report.

The following public representations were received:

1. Malcolm Morgan objecting to the application.
2. Jo Lumb, Julian House, supporting the application.

In response to Members' questions, it was confirmed:

1. A management plan would be secured by condition and the non-compliance of residents could result in eviction. It was not known if the plan was already being used by the operators.
2. The operators would be responsible for ensuring residents complied with the terms of the management plan. If the Council received complaints, enforcement action could be taken.
3. The application had been submitted by the owner of the property and not the operator. Although the current operators were exempt from HMO licensing as social housing providers, a future operator may not be exempt.
4. The management plan would stay in place if the occupants changed but an application could be submitted to vary the condition.
5. Avon and Somerset Police had raised an objection but could not provide information on whether incidents of crime and anti-social behaviour were connected to the residents of the house.

6. There was a duty for local authorities to give due regard to crime and disorder when exercising functions.
7. In terms of the safety of the tenants, there was a condition requiring the submission of details of the security measures to be incorporated into the development.

Cllr Shaun Hughes stated that without knowing if the management plan was already in use, it was difficult to know if it would mitigate the concerns of residents.

Cllr Hal MacFie proposed that a decision be deferred pending a visit to the site. This was seconded by Cllr Eleanor Jackson who stated that, as a retrospective application, it would be beneficial to see how the site was currently operating.

On voting for the motion, it was CARRIED (5 in favour, 4 against)

RESOLVED that a decision be deferred for a site visit.

Cllr Duncan Hounsell stood down from the Committee at this point to speak on the next application as the Ward Member.

[Cllr Ian Halsall chaired the meeting during the following application].

(7) 23/03159/FUL Rockside, Mead Lane, Saltford, Bristol

The Planning Case Officer introduced the report which considered an application for the erection of a front balcony, two storey side extension, garage and associated alterations following removal of conservatory and existing garage.

He confirmed the recommendation that the application be refused.

The following public representations were received:

1. Ian Campbell supporting the application.

Cllr Duncan Hounsell addressed the Committee as the ward member and raised the following points:

1. Although Mead Lane was in the green belt, it did not meet the tests of a green belt location.
2. Adjacent properties have been rebuilt, modernised, and extended and Saltford Parish Council had commented that the application would be in keeping with neighbouring properties.
3. The application would improve vehicular access.
4. There were exceptional circumstances in that none of tests for green belt were served in this location.

In response to Members' questions, it was confirmed:

1. In relation to whether the extensions of neighbouring properties were recent, some had taken place in the last 10 years.
2. The application would result in a 155% increase above the size of the original property.
3. If the property was demolished and rebuilt, it would still need to comply with green belt policies relating to the volume of the development.

Cllr Tim Warren stated that every house in the road was unique, and the application site was in need of improvement. In view of this he considered there were very special circumstances and he proposed that officers be delegated to permit the application subject to suitable conditions. This was seconded by Cllr Hal MacFie. Both mover and seconder agreed that there was no significant impact on residential amenity.

Cllr Eleanor Jackson spoke in support of the motion as she considered that it would improve the appearance of the street scene by introducing more uniformity.

Cllr Lucy Hodge stated the need for the Committee to be consistent in applying policy and that she did not think special circumstances had been met to allow the development within the green belt.

On voting for the motion, it was CARRIED (8 in favour, 1 against)

RESOLVED that officers be delegated to permit the application subject to suitable conditions for the following reasons:

1. There were very special circumstances that clearly outweighed the harm to the green belt due to the context of the site and the improvements to the street scene.
2. There was no significant impact on residential amenity.

[Cllr Duncan Hounsell resumed the Chair]

(8) 22/04565/FUL The Old Post Office, Tucking Mill Lane, Midford, Bath

The Planning Case Officer introduced the report which considered an application for the erection of new single storey rear extension to dwelling and relocated pedestrian gate access.

He gave a verbal update to report that South Stoke Parish Council was content with the revised proposals but had asked the Committee to consider the impact on a non-designated heritage asset.

He confirmed that officers had concluded that there were benefits to the application to outweigh the impact on the non-designated heritage asset and recommended that the application be permitted subject to the conditions set out in the report.

The following public representations were received:

1. Mike Coupe, applicant supporting the application.

Cllr Fiona Gourley opened the debate as ward member and stated that she supported the application.

Cllr Lucy Hodge moved the officers' recommendation to permit the application. This was seconded by Cllr Fiona Gourley.

Cllr Ian Hounsell stated that although he acknowledged the impact on the non-designated heritage asset, he concluded that this was outweighed by the public benefits of the application.

On voting for the motion, it was CARRIED (10 in favour, 0 against)

RESOLVED that permission be granted subject to the conditions set out in the report.

(9) 23/02958/VAR Waterworks Cottage, Charlcombe Way, Fairfield Park, Bath

The Planning Case Officer introduced the report which considered an application for variation of conditions 5 (Bicycle Storage (Pre-occupation)), 7 (Implementation of Landscaping Scheme (Bespoke Trigger)) and 15 (Plans List (Compliance)) of application 23/00895/FUL.

She confirmed the recommendation that permission be granted subject to the conditions set out in the report.

The following public representations were received:

1. David Metcalfe, objecting to the application.
2. Tom Rocke, supporting the application.

Cllr Joanna Wright addressed the Committee as ward member and raised the following points:

1. This application and previous applications had been the subject of many local objections.
2. She was concerned about the proposed variation to condition 7 in relation to landscaping and condition 15 which would result in a 4-bedroom house rather than a 3-bedroom house.

She asked the Committee to refuse the variation.

In response to Members' questions, it was confirmed:

Condition 5 – This had originally been worded to request the applicant supply further plans and as the plans had now been submitted, the condition had been rewritten accordingly.

Condition 7 – It was proposed to take out the last sentence “all hard and soft landscape works shall be retained in accordance with the approved details for the lifetime of the development”. This was considered onerous as plants would die and be replaced during the lifetime of the development. The amended condition would protect landscaping for a maximum of 10 years. The original wording was more appropriate for larger developments rather than individual dwellings.

Condition 15 – The variation would result in an increase in footprint. The footprint would be similar to that of the application that was refused on appeal but in that case the plot was more restricted. Permitted development rights had not been removed as part of the original consent, but it was not possible to confirm that the applicants could achieve the same through permitted development rights.

Members were advised that if they were concerned with the changes to the plans (condition 15) they needed to consider the application as a whole rather than each separate variation.

Cllr Ruth Malloy stated that the change to the plans to include an additional bedroom

did make a difference in terms of overdevelopment of the site and the residential amenity of other residents.

Cllr Ian Halsall expressed concern about the amendment to the landscaping condition as the condition had offered mitigation against concerns about the impact on ecology and the rural setting of the development.

Cllr Paul Crossley stated that there had been a lot of unease about the previous application and that the variation to increase the floorplan to make the 3-bedroom house a 4-bedroom house was unacceptable, and he did not support the variation of Condition 15.

Cllr Tim Warren expressed the view that the variation to the landscaping condition was reasonable as it was not possible to protect the landscaping for the life of the development. He questioned if it was better to accept the variation to Condition 15 and remove permitted development rights. The Legal Officer advised that it was too fundamental a change to include this as part of this application at this stage.

Cllr Lucy Hodge proposed that the application to vary conditions be refused as the change to the plans would result in overdevelopment of the plot and would be out of character with the area and the change to the landscaping condition would have a detrimental impact on ecology and the rural setting. This was seconded by Cllr Shaun Hughes.

On voting for the motion, it was CARRIED (9 in favour, 1 against)

RESOLVED that the application be refused for the following reasons:

Condition 7 – landscaping: the amendment to delete the requirement to retain landscaping for the lifetime of the development would have a detrimental impact on ecology and the rural setting of the development.

Condition 15 – plans: the amendment to the plans to increase the footprint to allow for a 4 bedroom rather than 3-bedroom house would result in over- development of the plot and would be out of character with the area.

(10) 23/23/02496/FUL 9 St Ann's Way, Bathwick, Bath

The Planning Officer introduced the report which considered an application for the erection of single storey rear extension, two storey and single storey side extension (replacing existing), internal re-organisation and extended loft conversion (including new dormers).

She reported that the application had been referred to Planning Committee under the scheme of delegation as the officer was an employee of the Council.

She confirmed the recommendation that permission be granted subject to the conditions set out in the report.

There were no public speakers on this application.

Cllr Duncan Hounsell moved the officers' recommendation that permission be granted. This was seconded by Cllr Eleanor Jackson.

On voting for the motion, it was CARRIED (10 in favour, 0 against)

RESOLVED that permission be granted subject to the conditions set out in the report.

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

The Committee considered the appeals report.

RESOLVED that the report be noted.

The meeting ended at 6.38 pm

Chair

Date Confirmed and Signed

Prepared by Democratic Services

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Bath & North East Somerset Council	
MEETING:	Planning Committee
MEETING DATE:	13th December 2023
RESPONSIBLE OFFICER:	Gary Collins – Head of Planning
TITLE:	APPLICATIONS FOR PLANNING PERMISSION SITE VISIT AGENDA
WARDS:	ALL
BACKGROUND PAPERS:	
AN OPEN PUBLIC ITEM	

BACKGROUND PAPERS

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

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

The following notes are for information only:-

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

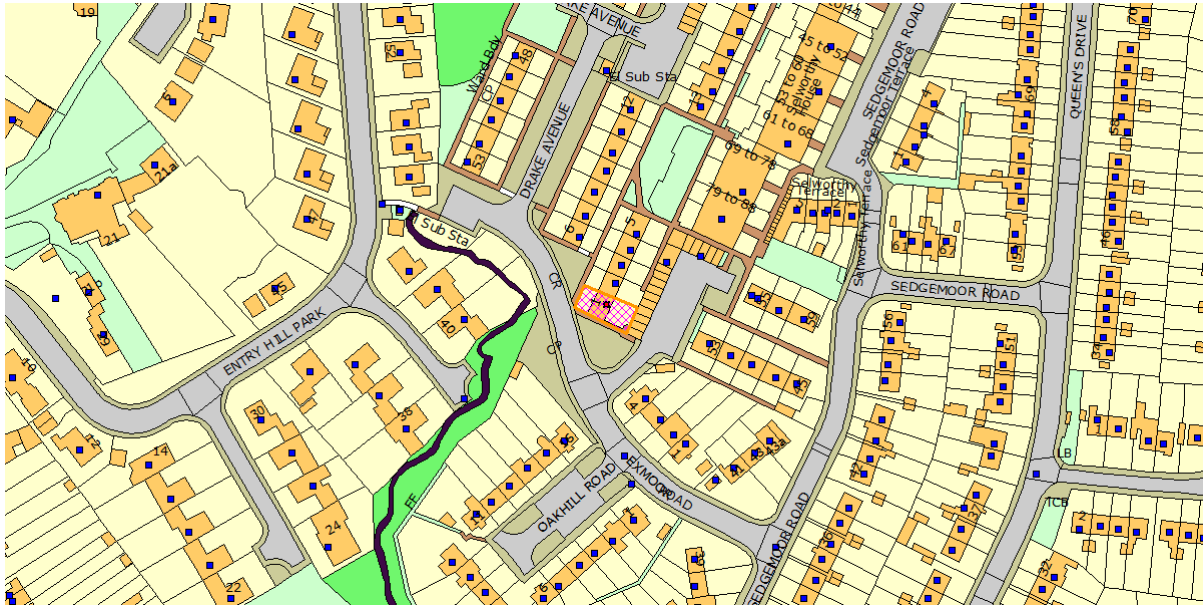
- [2] The papers identified or referred to in this List of Background Papers will only include letters, plans and other documents relating to applications/proposals referred to in the report if they have been relied on to a material extent in producing the report.
- [3] Although not necessary for meeting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

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ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
001	23/02731/FUL 15 December 2023	Vertex Investments Ltd 1 Drake Avenue, Combe Down, Bath, Bath And North East Somerset, BA2 5NX Change of use from dwelling (Use Class C3c) to House in Multiple Occupation (Use Class C4).	Combe Down	Christopher Masters	PERMIT

REPORT OF THE HEAD OF PLANNING ON APPLICATIONS FOR DEVELOPMENT

Item No: 001
Application No: 23/02731/FUL
Site Location: 1 Drake Avenue Combe Down Bath Bath And North East Somerset
BA2 5NX



Ward: Combe Down **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor Bharat Pankhania Councillor Onkar Saini
Application Type: Full Application
Proposal: Change of use from dwelling (Use Class C3c) to House in Multiple Occupation (Use Class C4).
Constraints: Article 4 HMO, Colerne Airfield Buffer, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Policy CP9 Affordable Housing, MOD Safeguarded Areas, Policy NE3 SNCI 200m Buffer, Ecological Networks Policy NE5, NRN Woodland Strategic Networ Policy NE5, SSSI - Impact Risk Zones,
Applicant: Vertex Investments Ltd
Expiry Date: 15th December 2023
Case Officer: Christopher Masters
To view the case click on the link [here](#).

REPORT Reasons For Reporting To Committee

The application has been reported to Committee as the application was called in by Cllr. Onkar Saini. In line with the Council's Scheme of Delegation the application was referred to the Chair of the Planning Committee, who stated:

"The Avon and Somerset Constabulary has indicated a significantly high number of crimes and anti-social behaviour in the vicinity of the dwelling.

The committee will wish to know to what extent, if any, these are directly related to the premises in the application and examine the statements from Environmental Protection and Housing Services that there have been no direct complaints regarding this property. Concerns about an increase in crime and ASB have also been raised by some objectors to this application.

Safety and security are essential to sustainable communities. Crime prevention can be a material planning consideration.

The committee will also want to consider if the planning conditions proposed are sufficient and appropriate for this application.

I consider that it is in the public interest that this application is determined in public at committee."

In addition, the Vice Chair commented:

"There have been a significant number of objections to this application. Whilst this does not automatically warrant referral to planning committee in light of the concerns raised by Avon and Somerset police yet no record of complaints by the Council's own Environmental Protection and Housing Services teams in respect of amenity issues, it is considered that this retrospective application should be considered by the committee to fully understand the concerns raised by third parties and to consider the adequacy of the conditions proposed should the committee be minded to support the officer's recommendation."

The application refers to 1 Drake Avenue, a two-storey end of terrace property located within the City of Bath World Heritage Sites and HMO Article 4 Area.

Planning permission is sought for the change of use from a 5 bedroom dwelling (Use Class C3) to a 5 bedroom House in Multiple Occupation (HMO) for 3-6 people (Use Class C4).

The application has been deferred by the Committee so that a site visit can be undertaken. During the last Committee it came to light that given the premises are currently managed by a non-profit registered provider of social housing the current use, although akin to that of a C4 HMO, does in fact fall under Use Class C3(c).

To elaborate, Schedule 1, Part C of The Town and Country Planning (Use Classes) Order 1987 (as amended) sets out that for the purposes of Class C4 a "house in multiple occupation" does not include a converted block of flats to which section 257 of the Housing Act 2004 applies but otherwise has the same meaning as in Section 254 of the Housing Act 2004.

Turning to Section 254 of the Housing Act 2004, which relates to meaning of "house in multiple occupation", Paragraph 5 sets out that for any purposes of the Housing Act (other than those of Part 1) a building or part of a building within subsection (1) is not a house in multiple occupation if it is listed in Schedule 14.

At Schedule 14 (Buildings which are not HMOs for purposes of this Act (excluding Part 1)) it is stated that one instance in which a property is not a HMO is a building where the person managing or having control of it is a non-profit registered provider of social housing. It follows that in this instance the existing use should be considered as falling within C3(c) which encompasses 'not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4)'.

Relevant Planning History:

There is no relevant planning history on this site.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation Responses :

Avon and Somerset Constabulary - Not acceptable in current form. Over the past 12 months within a 300m radius of the site address there have been 111 crimes and 174 instances of Anti Social Behaviour (ASB). The premises do not appear to meet secure by design standards. Properties let in a shared capacity present different security risks from standard homes. With an HMO, not only must you provide security of an adequate nature for the overall property, you must also provide a safe method for tenants to be able to access common areas such as hallways, landings and kitchens, without threat of unauthorised entry by unwanted visitors. Details of the security measures to be incorporated into the development could be secured by condition. The covering letter indicates complaints in relation to ASB would be dealt with under "environmental protection legislation". This requires clarification as ASB is dealt with by Avon and Somerset Constabulary the Local Authority and the Police under the Anti-social Behaviour, Crime and Policing Act 2014. Other similar housing sectors deal with this issue by having a Management Plan for the property and where necessary including an ASB section within the tenancy agreements.

Cllr. Onkar Saini - I respectfully urge the referral of the planning application (23/02731/FUL) to the committee, should officers be minded to approve it. Concerns regarding amenity loss, building size, historical anti-social issues (refuse waste, noise), neighbourhood vulnerability, and potential parking impact highlight the need for comprehensive evaluation.

Environmental Protection - Environmental Protection have not received any complaints at present at cannot comment on concerns raised by residents. However, as the property is a HMO it is best to consult Housing team who regulates HMO licenses for their opinion regarding the application.

Housing Services - Housing Services also hasn't received any direct complaints regarding anti-social behaviour regarding this property and has no comments to make on this application.

The property is already operating a 5 bedroom HMO and the HMO licence was issued for this property on 8 April 2021. A HMO Licence application was submitted on 09 September 2020.

Representations Received :

97 Objections and two representations have been received. The comments made can be summarised as follows:

- o If permitted the upgrade from EPC D to C should be secured by condition.
- o The property has been a HMO since 2021.
- o Other properties in the vicinity are in the same use.
- o There has been an increase in crime and antisocial behaviour.
- o The use of the property as a HMO prejudices the safety and security of the community and the perception thereof.
- o The number of bedspaces has been increased without permission.
- o The proposal harms the housing mix of the area.
- o The development would create an increase in on street parking.
- o The application has been inadequately publicised.
- o The appearance of the area has declined.
- o The use devalues nearby properties.

POLICIES/LEGISLATION

CORE STRATEGY:

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

B4: The World Heritage Site and its Setting

CP6: Environmental Quality

SD1: Presumption in favour of sustainable development

PLACEMAKING PLAN:

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

B1: Bath Spatial Strategy

D1: General urban design principles

D2: Local character and distinctiveness

D3: Urban fabric

D4: Streets and spaces

D6: Amenity

HE1: Historic environment

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:

D5: Building design
H2: Houses in multiple occupation
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 City of Bath World Heritage Site Setting Supplementary Planning Document (August 2021)

The Houses in Multiple Occupation in Bath Supplementary Planning Document (January 2022)

NATIONAL POLICY:

The updated National Planning Policy Framework (NPPF) was published in September 2023 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

Policy H2 of the Local Plan Partial Update sets out that Proposals for:

Change of use from residential (C3) to small HMO (C4) in Bath;
Change of use from residential (C3) to large HMO (Sui Generis) district wide;
Provision of new build HMO district-wide;
Change of use from other uses to HMO district-wide; and
Intensification of small HMO (C4) to large HMO (Sui Generis) district Wide

will be refused if:

The site is within an area with a high concentration of existing HMOs (having regard to the Houses in Multiple Occupation Supplementary Planning Document, or successor document), as they will be contrary to supporting a balanced community;
The HMO is incompatible with the character and amenity of established adjacent uses;
The HMO significantly harms the amenity of adjoining residents through a loss of privacy, visual and noise intrusion;

The HMO creates a severe transport impact;
The HMO does not provide a good standard of accommodation for occupiers;
The HMO property does not achieve an Energy Performance Certificate "C" rating unless one or more of the following exemptions applies:

The cost of making the cheapest recommended improvement would exceed £10,000 (including VAT).

Where all relevant energy efficiency improvements for the property have been made (or there are none that can be made) and the property remains below EPC C.

Where the proposed energy efficiency measures are not appropriate for the property due to potential negative impact on fabric or structure.

Where the minimum energy performance requirements would unacceptably harm the heritage significance of a heritage asset.

The HMO use results in the unacceptable loss of accommodation in a locality, in terms of mix, size and type;

The development prejudices the continued commercial use of ground/lower floors.

Where a new build HMO is proposed, development should be consistent with other relevant Local Plan policies and guidance relating to new build residential accommodation.

A condition restricting the number of occupants may be attached to permissions where deemed necessary to ensure that no further harmful intensification will occur.

In this instance permission is sought for the Change of use from a dwelling (C3) to small HMO (C4) in Bath. It is understood that the property is currently occupied as supported housing in a manner consistent with that of a HMO but falls under Use Class C3c.

The Houses in Multiple Occupation SPD (February 2023) states that applications for the change of use from C3 dwellings to C4 or sui generis (HMOs) will not be permitted where:

Criterion 1: It would result in any residential property (C3 use) being 'sandwiched' between 2 HMOs or

Criterion 2: HMO properties represent 10% or more of households within a 100 metre radius of the application property, or the application property tips the concentration to 10% or more.

It has been confirmed through a GIS search that the development would not 'sandwich' any residential property between other HMO certified properties and so the proposal is considered to accord with Criterion 1.

With regards to Criterion 2, the schemes' contribution to the concentration of HMOs within the surrounding area has been calculated as set out in section 4.3 of the SPD. In this instance it has been calculated that within a 100m radius of the site there would be 5 HMOs (including 1 Drake Avenue and a total of 137 Residential properties. Accordingly, the proposal would result in a HMO concentration of 3.65%. The scheme therefore accords with Criterion 2.

On this basis the scheme is not considered to be located within an area with a high concentration of existing HMOs and would contribute to supporting a balanced community. It would not result in the unacceptable loss of accommodation in a locality, in terms of mix, size and type nor given the solely residential use of the premises would the development prejudice the continued commercial use of ground/lower floors.

The remaining criteria shall be dealt with in the following Character and appearance, residential amenity and highway sections.

CHARACTER AND APPEARANCE:

Policies D1, D2, D3 and D4 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.

The proposed scheme does not include any external alterations. The proposal accords with policy CP6 of the Core Strategy, policies D1, D2, D3 and D4 of the Placemaking Plan, Policy D5 of the Local Plan Partial Update 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.

In this instance it is noted that there are a significant number of comments from members of the public alleging that with the present use of the property has diminished the safety and security of the surrounding area (or perception thereof) which has resulted in harm to the amenity of nearby residents. It is understood the Council's Environmental Protection and Housing Teams have not received any complaints regarding the property.

According to the data held by the Council, the proposal would not result in a residential property becoming sandwiched between two HMOs. Criterion 1 aims to prevent the potential for negative impacts upon an existing dwelling resulting from the sandwiching effect of an HMO use to both sides of a C3 dwelling. It is appreciated that C3 dwellinghouses are occupied by single households which typically have co-ordinated routines, lifestyles, visitors and patterns of movement. Conversely, HMOs are occupied by unrelated individuals, each possibly acting as a separate household, with their own friends, lifestyles, and patterns and times of movements. The comings and goings of the occupiers of an HMO are likely to be less regimented and may occur at earlier and later times in the day than a C3 family home. Such a change of use can therefore result in increased comings and goings, noise and other disturbance compared to a C3 use. Notwithstanding this, it is generally held that individually HMOs do not result in demonstrable harm to residential amenity as it is only a concentration of HMOs that

creates significant effect. As set out above, it is not considered that such a concentration exists in this location.

The submitted information demonstrates that an acceptable standard of HMO accommodation is proposed. The five bedrooms are considered to be of an adequate size exceeding the standard of 6.51m² (GIA) as set out within the updated HMO SPD.

The submitted information demonstrates that each bedroom benefits from good levels of natural light and outlook through large windows. The communal amenity space at ground floor is of acceptable proportions measuring 18.3m² which is sufficient for up to five occupants. As the maximum number of occupants would be mandated by the HMO licence against the same criteria it is not considered necessary for this function to be duplicated by attaching a planning condition.

Whilst the EPC rating of the property is currently D, the applicant has indicated that they intend to undertake works which shall result in the EPC level increasing to C. Officers are satisfied that there is a realistic prospect of the requisite EPC rating being achieved and a condition can therefore be attached to ensure the requisite EPC rating is obtained prior to the property being occupied as a HMO.

It follows that subject to a satisfactory EPC rating being achieved the property provides an acceptable level of amenity for occupants.

It is acknowledged that previously officers believed the existing use of the property to fall within Use Class C4 and advised the Committee accordingly. As explained above, it has since been discovered that this is not that case and that the application seeks permission to change from the existing C3c use to use class C4. As such, officers no longer consider it necessary to secure compliance with a management plan as the comments received from members of the public are not pertinent to the proposed manner of use. C4 properties can be occupied by a wide spectrum of individuals, and it is not normally considered appropriate for management plans to be secured through the planning process. There is no evidence to suggest that use of the property as a C4 HMO would diminish the amenity levels of nearby residents. Such a condition would therefore not be appropriate as it would fail to meet at least one of the six tests required for conditions to be attached as set out at Paragraph 56 of the NPPF.

In this instance it is therefore considered that subject to the property being fitted with the security measures outlined in the response from Avon and Somerset Constabulary there is no overriding reason why occupation of the property could not occur in a way which affords occupiers with an adequate level of amenity and maintains the levels of residential amenity enjoyed by nearby residents. Security details for the property should be secured by condition to ensure the residential amenity of the area is maintained.

WORLD HERITAGE SITE:

The proposed development is within two World Heritage Sites and therefore consideration must be given to the effect the proposal might have on the settings of these World Heritage Sites.

In this instance, due to the size, location and appearance of the proposed development it is not considered that it will result in harm to the outstanding universal values of the wider World Heritage Site. The proposal accords with policy B4 of the Core Strategy, policy HE1 of the Placemaking Plan and Part 16 of the NPPF.

HIGHWAYS:

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

The recently adopted Transport and Development SPD contains revised parking standards. The maximum standard for C3 and C4 uses for the outer Bath area is 1.5 car parking spaces for a 3-bed property or greater.

As it is understood the existing dwelling does not benefit from any off street car parking, and the adopted parking standards do not require a minimum number of car parking spaces to be provided, officers are satisfied that the development is acceptable in terms of its car parking provision.

The parking standards also set out that four bicycle parking spaces should be provided in C4 HMO's with four or more bedspaces. The submitted details state that the existing property benefits from a rear outbuilding within which cycles can be stored and it is understood that this shall be retained.

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

OTHER MATTERS:

It is understood that internal alteration has been undertaken which has increased the number of bedrooms. Such works do not in themselves require planning permission as they only affect the inside of the property and therefore do not constitute development.

It has been raised by contributors that insufficient publication of the application has occurred. The Local Authority is satisfied that the application has been publicised in line with its statutory duty and statement of community involvement. All interested parties have been notified of the change to the description of development since the previous Committee Meeting.

The impact of development on the value of nearby properties is not a material planning consideration.

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

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

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

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.

Whilst the characteristics of individuals in the host property and wider community are unknown it is inherent that there will be individuals in the locality who share a relevant protected characteristic. Elderly, young and otherwise vulnerable residents in the local area may be particularly vulnerable to crime or Anti-Social Behaviour and the fear thereof. In this instance given the use of the property as a HMO shall only be undertaken once enhanced security measures are provided, it is considered the levels of residential amenity of nearby residents and those residing at the property shall be satisfactory. Accordingly, the proposal is considered to have a neutral impact on equality.

CONCLUSION:

It is therefore considered that subject to the submission of further security and EPC details by condition the proposal complies with the relevant planning policies as outlined above and the proposal is recommended for approval.

RECOMMENDATION

PERMIT

CONDITIONS

1 Standard Time Limit (Compliance)

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

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

2 Plans List (Compliance)

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

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

3 Secure Design (Pre-Occupation)

Prior to first occupation of the House in Multiple Occupation hereby approved, details of the security measures to be incorporated into the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason: To ensure the development is served by adequate security measures in the interests of the safety, crime prevention and amenity of future occupiers of the development, and Policy D6 of the Placemaking Plan.

4 EPC Certificate (Pre occupation)

Prior to first occupation of the House in Multiple Occupation hereby approved an Energy Performance Certificate showing that the property has an EPC rating of C, B or A shall be submitted to the local planning authority and approved in writing.

Reason: To ensure the property has a EPC Rating of C, B or A in accordance with the Bath and North East Somerset Houses in Multiple Occupation Supplementary Planning Document, and Policies H2 and CP1 of the Local Plan Partial Update.

PLANS LIST:

1 This decision relates to the following plans:

Received 6th October 2023

BLOCK PLAN
SM01 FLOOR PLANS

Received 24th July 2023

LOCATION PLAN

2 Condition Categories

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

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

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

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

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

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

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

3 Community Infrastructure Levy - General Note for all Development

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

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

Community Infrastructure Levy - Exemptions and Reliefs Claims

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

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

4 Responding to Climate Change (Informative):

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

5 HMO Advice Note

Please note that you will also require an HMO Licence for your property to operate as an HMO. Planning and HMO licensing are two separate requirements and it is essential that an HMO licence is obtained after receiving planning permission. Although Planning Permission may be granted without an HMO licence, you may legally not be able to use the property as an HMO. If you have any queries, please contact Housing Services by email at hmo_licensing@bathnes.gov.uk or telephone 01225 396269.

6 Permit/Consent Decision Making Statement

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

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Bath & North East Somerset Council	
MEETING:	Planning Committee
MEETING DATE:	13th December 2023
RESPONSIBLE OFFICER:	Gary Collins – Head of Planning
TITLE:	APPLICATIONS FOR PLANNING PERMISSION
WARDS:	ALL
BACKGROUND PAPERS:	
AN OPEN PUBLIC ITEM	

AGENDA
ITEM
NUMBER

BACKGROUND PAPERS

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

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

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

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

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

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

The following notes are for information only:-

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

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

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

REPORT OF THE HEAD OF PLANNING ON APPLICATIONS FOR DEVELOPMENT

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



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

Ward Members: Councillor Joanna Wright Councillor Saskia Heijltjes

Application Type: Application for Variation of Condition

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

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

Applicant: Mr & Mrs J & S Flavell

Expiry Date: 15th December 2023

Case Officer: Samantha Mason

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

REPORT

Reason for going to committee:

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

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

Details of location and proposal and Relevant History:

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

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

Relevant Planning History:

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

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

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

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

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

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

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

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation Responses :

HIGHWAYS:

26th Sept: No objection

ECOLOGY:

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

Representations Received :

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

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

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

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

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

BATH PRESERVATION TRUST:

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

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

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

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

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

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

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

CPRE:

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

THIRD PARTY COMMENTS:

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

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

POLICIES/LEGISLATION

The Development Plan for Bath and North East Somerset comprises:

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

CORE STRATEGY:

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

B4: The World Heritage Site and its setting
CP6: Environmental quality
CP10: Housing mix
SD1: Presumption in favour of sustainable development

PLACEMAKING PLAN:

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

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

LOCAL PLAN PARTIAL UPDATE:

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

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

SUPPLEMENTARY PLANNING DOCUMENTS:

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

Sustainable Construction Checklist Supplementary Planning Document (January 2023)

Transport and Development Supplementary Planning Document (January 2023)

Planning Obligations Supplementary Planning Document (January 2023)

NATIONAL POLICY:

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

LOW CARBON AND SUSTAINABLE CREDENTIALS

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

OFFICER ASSESSMENT

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

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

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

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

- Character and appearance
- Residential amenity
- Highways

- Ecology
- Landscaping

CONDITION 5:

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

'No occupation of the development shall commence until secure, covered bicycle storage for bicycles has been provided in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. The bicycle storage shall be retained permanently thereafter.'

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

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

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

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

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

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

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

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

CONDITION 7:

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

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

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

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

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

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

The applicants therefore propose the following condition wording:

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

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

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

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

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

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

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

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

CONDITION 15:

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

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

Character and Appearance:

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

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

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

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

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

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

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

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

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

Residential Amenity:

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

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

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

Highways and Parking:

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

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

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

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

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

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

Conclusion on amending condition 15:

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

CONCLUSION:

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

RECOMMENDATION

PERMIT

CONDITIONS

1 Standard Time Limit (Compliance)

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

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

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

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

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

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

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

3 Parking (Compliance)

The areas allocated for parking and turning on submitted plans shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.

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

4 Bound/Compacted Vehicle Access (Compliance)

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

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

5 Bicycle Storage (Pre-occupation)

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

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

6 Construction Management Plan (Pre-commencement)

No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. This shall include details of the following:

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

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

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

7 Implementation of Landscaping Scheme (Bespoke Trigger)

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

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

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

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

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

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

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

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

9 Ecology Follow-up Report (Pre-occupation)

No occupation of the development hereby approved shall commence until a report produced by a suitably experienced professional ecologist based on post-construction on-site inspection by the ecologist, confirming and demonstrating, using photographs, adherence to and completion of all recommendations and measures of the approved ecological bat and biodiversity net gain reports and the Ecological Mitigation and Enhancement Scheme in accordance with approved details, has been submitted to and approved in writing by the Local Planning Authority.

Reason: To demonstrate compliance with the all ecological mitigation and compensation requirements during construction and post-construction phases, to prevent ecological harm and to provide biodiversity gain in accordance with NPPF and policies NE3 NE5 and D5e of the Bath and North East Somerset Local Plan.

10 External Lighting (Bespoke Trigger)

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

internal and external lighting design (which shall demonstrate compliance with the approved lighting strategy) being first submitted to and approved in writing by the Local Planning Authority; details to include proposed lamp models and manufacturer's specifications, proposed lamp positions, numbers and heights with details also to be shown on a plan; details of predicted lux levels and light spill; details of lighting controls, and details of all measures to limit use of lights when not required and to prevent upward light spill and light spill onto trees, wildlife habitat, boundary vegetation and adjacent land; and to avoid harm to bat activity and other wildlife. The lighting shall be installed maintained and operated thereafter in accordance with the approved details.

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

11 Green Roof Details (Bespoke Trigger)

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

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

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

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

12 Rainwater Harvesting (Pre-occupation)

No occupation of the approved dwellings shall commence until a scheme for rainwater harvesting or other methods of capturing rainwater for use by residents (e.g. Water butts) has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details.

Reason: In the interests of water efficiency in accordance with policy SCR5 of the Placemaking Plan.

13 Water Efficiency (Compliance)

The approved dwellings shall be constructed to meet the national optional Building Regulations requirement for water efficiency of 110 litres per person per day.

Reason: In the interests of water efficiency in accordance with Policy SCR5 of the Placemaking Plan.

14 SCR6 Residential Properties (Pre-occupation)

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

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

Minor Residential Development:

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

Major (or larger) Residential Development:

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

All Residential Development:

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

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

15 Plans List (Compliance)

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

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

PLANS LIST:

1 This decision relates to the following plans:

Plans Received 7th March 2023:

07 Mar 2023 P00 Existing - Site Location Plan

Plans received 15th March 2023:

15 Mar 2023 P05 Plot 1 Basement Floor Plan

15 Mar 2023 P06 Plot 1 Proposed Lower Ground Floor Plan

15 Mar 2023 P11 Proposed Plot 1 East Elevation [4]

15 Mar 2023 P19 Proposed Lighting Strategy

15 Mar 2023 P20 Proposed Street Elevation

15 Mar 2023 P21 Proposed Section Cc

15 Mar 2023 S01 Existing- Topographical Site Plan And Se

15 Mar 2023 S02 Existing Elevations

15 Mar 2023 S03 A Demolition Site Plan

15 Mar 2023 S04 Existing - Floor Plans

Plans received 1st May 2023:

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

Plans received 11th May 2023:

11 May 2023 P04 A Proposed Site Sections

11 May 2023 P08 A Plot 1 South Facing Elevation (1)

11 May 2023 P09 A Plot 1 West Facing Elevation (2)

11 May 2023 P10 A Plot 1 North Facing Elevation (3)

11 May 2023 P11 A Plot 1 East Facing Elevation (4)

11 May 2023 Sk05 Rev B Swept Path Analysis For Large Car Turning

11 May 2023 Sk12 Swept Path Analysis For Ambulance Turning

Plans received 9th August 2023:

09 Aug 2023 P02b Proposed Site Block Plan Plot 2

09 Aug 2023 P03b Proposed Setting Out Site Plan Plot 1 And 2

09 Aug 2023 P12a Proposed Floors Plan Plot 2

09 Aug 2023 P13b Proposed Elevations Plot 2

09 Aug 2023 P14b Proposed Elevations Plot 2

09 Aug 2023 P15a Proposed Section Plot 2

2 Condition Categories

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

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

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

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

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

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

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

3 Permit/Consent Decision Making Statement

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

4 Community Infrastructure Levy - General Note for all Development

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

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

Community Infrastructure Levy - Exemptions and Reliefs Claims

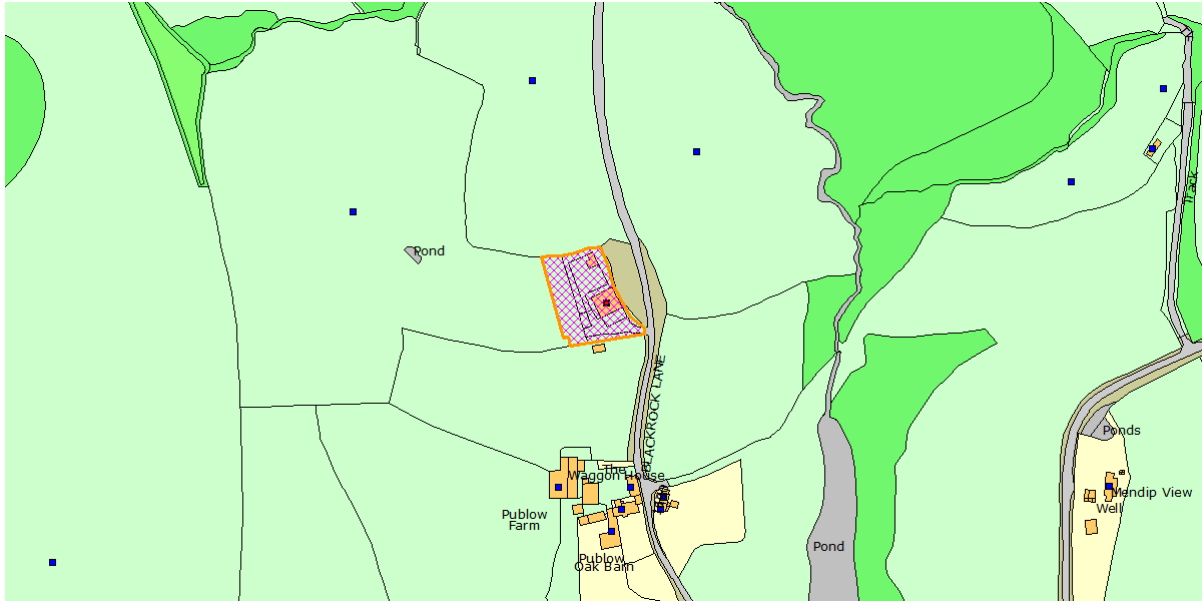
The CIL regulations are non-discretionary in respect of exemption claims. If you are intending to claim a relief or exemption from CIL (such as a "self-build relief") it is important that you understand and follow the correct procedure **before** commencing **any** development on site. You must apply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

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

5 Responding to Climate Change (Informative):

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

Item No: 02
Application No: 23/02194/FUL
Site Location: Agricultural Buildings And Land Blackrock Lane Publow Bristol Bath And North East Somerset



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

Ward Members: Councillor Paul May

Application Type: Full Application

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

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

Applicant: Mr and Mrs J Piper

Expiry Date: 9th August 2023

Case Officer: Ed Allsop

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

REPORT

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

Cllr Duncan Hounsell:

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

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

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

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

PLANNING HISTORY

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

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

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation responses:

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

Ecology: No objection, subject to condition.

Drainage: No objection, subject to condition.

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

Representations:

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

POLICIES/LEGISLATION

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

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

Core Strategy:

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

B1: Bath Spatial Strategy
CP5: Flood Risk Management
CP6: Environmental Quality
CP8: Green Belt
DW1: District Wide Spatial Strategy
SD1: Presumption in favour of sustainable development

Placemaking Plan:

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

D1: General urban design principles
D2: Local character and distinctiveness
D5: Building design
D.6: Amenity
CP8: Green Belt
GB1: Visual Amenities of the Green Belt
SU1: Sustainable drainage
NE3: Sites, species, and habitats
NE3A: Biodiversity Net Gain
NE1: Development and green infrastructure
NE5: Ecological networks
NE6: Trees and woodland conservation
SCR6: Sustainable Construction Policy for New Build Residential Development
ST7: Transport requirements for managing development

Local Plan Partial Update (LPPU):

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

SPDs:

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

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

National Policy:

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

Low carbon and sustainable credentials:

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

LOW CARBON AND SUSTAINABLE CREDENTIALS

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

OFFICER ASSESSMENT

PRINCIPLE OF DEVELOPMENT

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

GREEN BELT

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

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

CHARACTER AND APPEARANCE

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

RESIDENTIAL AMENITY

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

HIGHWAYS

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

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

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

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

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

ECOLOGY AND BIODIVERSITY NET GAIN

Great Crested Newts (GCN):

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

Reptiles:

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

Species Enhancements:

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

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

DRAINAGE AND FLOODING

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

SUSTAINABLE CONSTRUCTION

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

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

PUBLIC SECTOR EQUALITY DUTY

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

(a) eliminate discrimination, harassment, victimisation

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

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

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

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

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

VERY SPECIAL CIRCUMSTANCES

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

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

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

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

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

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

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

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

PLANNING BALANCE AND CONCLUSION

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

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

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

RECOMMENDATION

PERMIT

CONDITIONS

1 Standard Time Limit (Compliance)

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

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

2 Biodiversity Gain and Habitat Management Plans (Pre-commencement)

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

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

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

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

3 Ecological Compliance Report (Pre-occupation)

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

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

These details shall include:

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

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

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

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

1. Lamp models and manufacturer's specifications, positions, numbers and heights;
2. Measures to limit use of lights when not required, to prevent upward light spill and to prevent light spill onto nearby vegetation (particularly the southern boundary) and adjacent land.

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

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

5 Drainage (Pre-commencement)

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

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

6 Demolition of existing barn - Compliance

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

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

7 SCR6 Residential Properties (Pre-occupation)

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

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

Minor Residential Development:

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

Major (or larger) Residential Development:

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

All Residential Development:

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

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

8 Standard Time Limit (Compliance)

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

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

PLANS LIST:

1 Plans list:

- Existing drawings- 03
- Proposed plans- 04
- Proposed elevations A 05
- Proposed elevations B 06
- Proposed biodiversity 07
- Site location plan and block plan

2 Condition Categories

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

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

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

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

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

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

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

3 Community Infrastructure Levy - General Note for all Development

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

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

Community Infrastructure Levy - Exemptions and Reliefs Claims

The CIL regulations are non-discretionary in respect of exemption claims. If you are intending to claim a relief or exemption from CIL (such as a "self-build relief") it is important that you understand and follow the correct procedure **before** commencing **any** development on site. You must apply for any relief and have it approved in writing by the Council then notify the Council of the intended start date **before** you start work on site.

Once development has commenced you will be unable to claim any reliefs retrospectively and CIL will become payable in full along with any surcharges and mandatory interest charges. If you commence development after making an exemption or relief claim but before the claim is approved, the claim will be forfeited and cannot be reinstated.

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

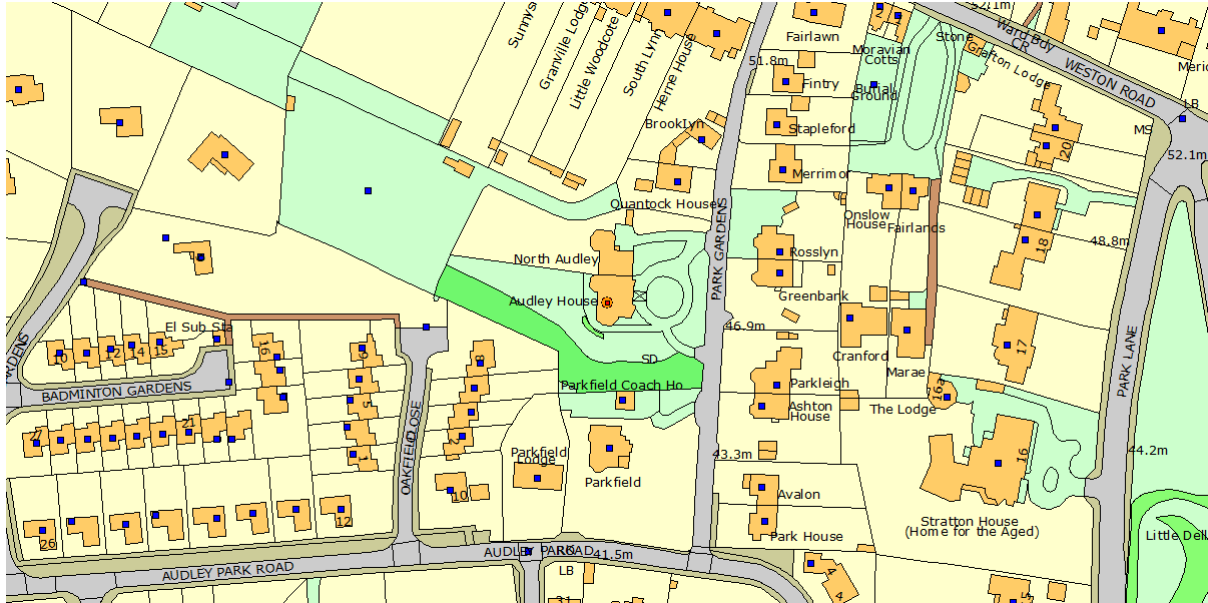
4 Responding to Climate Change (Informative):

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

5 Permit/Consent Decision Making Statement

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

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



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

REPORT

REASON FOR REPORTING NOTIFICATION TO COMMITTEE:

The notification is associated with a Councillor.

DESCRIPTION:

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

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

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

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

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

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

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

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

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

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

SUMMARY OF CONSULTATIONS/REPRESENTATIONS:

No public comments have been received.

POLICIES/LEGISLATION

POLICIES/LEGISLATION:

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

LOW CARBON AND SUSTAINABLE CREDENTIALS

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

OFFICER ASSESSMENT

OFFICER ASSESSMENT:

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

CONCLUSION:

The removal of the tree is appropriate.

RECOMMENDATION:

No objection

Advisory notes to be included in the response:

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

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

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

RECOMMENDATION

NO OBJECTION

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Bath & North East Somerset Council	
MEETING:	Planning Committee
MEETING DATE:	13th December 2023
RESPONSIBLE OFFICER:	Gary Collins – Head of Planning
TITLE:	NEW PLANNING APPEALS, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES
WARD:	ALL
BACKGROUND PAPERS:	None
AN OPEN PUBLIC ITEM	

AGENDA ITEM NUMBER

APPEALS LODGED

App. Ref: 23/00893/FUL
Location: Field On Corner With Ferndale Road Deadmill Lane Lower Swainswick Bath Bath And North East Somerset
Proposal: Erection of 2no. detached dwellings (Resubmission).
Decision: REFUSE
Decision Date: 18 May 2023
Decision Level: Delegated
Appeal Lodged: 2 November 2023

App. Ref: 22/05048/LBA
Location: Theatre Royal Sawclose City Centre Bath Bath And North East Somerset
Proposal: External alterations for the Installation of digital external advertisement display modules.
Decision: REFUSE
Decision Date: 20 June 2023
Decision Level: Delegated
Appeal Lodged: 6 November 2023

App. Ref: 22/05049/AR
Location: Theatre Royal Sawclose City Centre Bath Bath And North East Somerset
Proposal: Display of 5 no. digital display modules: 2 either side of the entrance to "The Egg," 2 either side of the main entrance to the Theatre Royal and 1 on the side elevation (onto St Johns Place) in a landscape format.
Decision: REFUSE
Decision Date: 16 June 2023
Decision Level: Delegated
Appeal Lodged: 6 November 2023

APPEALS DECIDED

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
Appeal Decision: Appeal Allowed
Appeal Decided Date: 14 November 2023

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
Appeal Decision: Appeal Allowed
Appeal Decided Date: 14 November 2023

App. Ref: 22/03744/FUL
Location: Bath Road Hand Car Wash Bath New Road Radstock Bath And North East Somerset BA3 3AF
Proposal: Proposed wall and roof enclosure of carwash area.
Decision: REFUSE
Decision Date: 14 April 2023
Decision Level: Delegated
Appeal Lodged: 6 September 2023
Appeal Decision: Appeal Dismissed
Appeal Decided Date: 17 November 2023

App. Ref: 22/04893/FUL
Location: 120 Wells Road Lyncombe Bath Bath And North East Somerset
BA2 3AH
Proposal: Erection of a side extension to existing house to form new dwelling
(Resubmission).
Decision: REFUSE
Decision Date: 3 March 2023
Decision Level: Delegated
Appeal Lodged: 23 August 2023
Appeal Decision: Appeal Dismissed
Appeal Decided Date: 27 November 2023
