

# Bath & North East Somerset Council

MEETING: **Development Management Committee**

MEETING DATE: **3rd May 2017**

AGENDA  
ITEM  
NUMBER

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RESPONSIBLE OFFICER: Mark Reynolds – Group Manager (Development Management) (Telephone: 01225 477079)

TITLE: **APPLICATIONS FOR PLANNING PERMISSION**

WARDS: ALL

BACKGROUND PAPERS:

**AN OPEN PUBLIC ITEM**

## BACKGROUND PAPERS

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

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

### **The following notes are for information only:-**

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

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

## INDEX

ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
001	16/05772/FUL 20 January 2017	Juniper Homes (South West) Limited 40 Bloomfield Park, Bloomfield, Bath, Bath And North East Somerset, BA2 2BX Erection of eight apartments with associated parking and landscaping following demolition of existing detached house and garage (Resubmission)	Lyncombe	Chris Griggs- Trevarthen	PERMIT

## REPORT OF THE GROUP MANAGER, DEVELOPMENT MANAGEMENT ON APPLICATIONS FOR DEVELOPMENT

**Item No:** 001  
**Application No:** 16/05772/FUL  
**Site Location:** 40 Bloomfield Park Bloomfield Bath Bath And North East Somerset BA2 2BX



<b>Ward:</b> Lyncombe	<b>Parish:</b> N/A	<b>LB Grade:</b> N/A
<b>Ward Members:</b>	Councillor Michael Norton Councillor Mark Shelford	
<b>Application Type:</b>	Full Application	
<b>Proposal:</b>	Erection of eight apartments with associated parking and landscaping following demolition of existing detached house and garage (Resubmission)	
<b>Constraints:</b>	Affordable Housing, Agric Land Class 1,2,3a, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, MOD Safeguarded Areas, SSSI - Impact Risk Zones, World Heritage Site,	
<b>Applicant:</b>	Juniper Homes (South West) Limited	
<b>Expiry Date:</b>	20th January 2017	
<b>Case Officer:</b>	Chris Griggs-Trevarthen	

## REPORT

### REASON FOR REPORTING TO COMMITTEE

Cllr. Mark Shelford has requested that the application be determined by committee if the officer is minded to approve. Cllr. Shelford's comments are summarised in the representations and consultations section below.

In accordance with the scheme of delegation, the application has been referred to the chair of the Development Management Committee who has decided that the application should be determined by committee.

The application was presented at the 5th April 2017 Development Management Committee where members decided to defer the application to undertake a site visit. The committee site visit was undertaken on the 24th April.

### DESCRIPTION

The application site lies in a mainly residential area and comprises a detached two storey house with stone elevations. The site frontage is relatively large and there is a belt of mature trees between the house and the road of Bloomfield Park from where access is obtained to a single detached garage. There are other mature trees around the site which lies in the Bath Conservation Area and World Heritage Site. The trees on site are not covered by a Tree Preservation Order but are protected by their location in the Conservation Area. The land slopes gradually away from the road down to the north.

The proposal is to demolish the existing house and erect a new building with four levels of accommodation containing 8 apartments and a 'lower ground floor' area of parking which would be partly located within the base of the building and partly under a raised terrace. The application is a resubmission of the previously refused application 15/04347/FUL.

The proposed development falls within schedule 2 of the EIA regulations and is identified as being within a sensitive area (World Heritage Site). The application has therefore been screened in accordance with the EIA regulations. It has been determined that the proposed development is not EIA development and that an Environment Statement is not required to accompany the application.

## **RELEVANT PLANNING HISTORY**

*Planning reference: 15/04347/FUL*

Erection of eight apartments with associated parking and landscaping following demolition of existing detached house and garage.

Application status - Refused - 25th May 2016

Appeal status - Dismissed - 22nd December 2016

Inspector's comments: *The siting and scale of the proposed building would have a direct affect and also be likely to have a subsequent indirect effect, on the retention of the existing trees on the site. These trees contribute to the attractive character and appearance of the Bloomfield Park part of the Conservation Area and their loss or substantial change would materially harm and would not preserve or enhance the character and appearance of this sensitive area. The statutory test is therefore not met and the proposal would not accord with saved policies BH6 or NE4.*

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

A summary of consultation responses to the application have been provided below.

**ARBORICULTURE:** No objection, subject to conditions.

The building footprint has been moved to the north and beyond the root protection area for T8 which has been shown as a uniform circle with a radius of 12.12m on the submitted Tree Protection Plan.

The proposed Tree Protection Plan indicates that ground protection would be necessary within a small area of the root protection area of T8 and that no dig construction methods would be necessary during construction of a footpath. These issues can be incorporated within a detailed arboricultural method statement which can be conditioned.

**CONTAMINATED LAND:** No objection, subject to condition

**ECOLOGY:** No objection, subject to conditions

**DRAINAGE AND FLOOD RISK:** No objection, subject to condition

**ARCHAEOLOGY:** No objection.

**HIGHWAYS OFFICER:** No objection, subject to conditions

**COUNCILLOR MARK SHELFORD:** Continues to object to this application on the grounds of:

Overdevelopment in the area;

Adversely affecting the nearby properties;

Environmental-trees; and,

Overpopulation of cars potentially an extra 16

THIRD PARTIES/NEIGHBOURS: 60 letters of objection have been received. The main issues raised were:

Inadequate/inaccurate information

Adverse amenity impacts for future occupiers of the flats

Inadequate daylight provided for the proposed flats

Entrance gateway is 6m in width and is incongruous and will have an adverse visual affect

Inadequate provision for the storage and disposal of rubbish

Highways safety issues / poor vehicle tracking

Site is situated on a blind corner and a narrow road

Overbearing impact upon no. 39 and no. 41

Loss of daylight to no. 39 and no. 41

Overlooking into the garden no. 41 from the raised terrace

The level of the terrace is unclear and may be more harmful than appears

Overdevelopment

Design is not in keeping with the area

Does not respond to context of siting, spacing or the plot

It is higher than the surrounding buildings

Tree damage is a significant concern

There will still be pressure to remove trees in the future

Moving it 3m rearwards worsens the impact, particularly on the neighbours

There is a legal duty to have regard to the Conservation Area

Does not follow the existing building line

Noise generated by ramp to car park

Adverse effect on wildlife in the garden (badgers, squirrels, deer and foxes)

Loss of the Walnut tree

Adverse effect on peace and tranquillity

Noise from mechanical ventilation

Heavily parked road / congestion

Solar panels are ineffective due to the trees overshadowing

Design does not preserve or enhance the area

Inadequate provision of parking spaces

Manoeuvrability in car park is limited

Impact upon wildlife

Impact of security lighting of the proposed flats

Concern about flooding

Contravene the Humans Rights Act

Concerns about lack of adequate refuse storage

Position of refuse storage is inaccessible

Concern about pedestrian safety

Density of development is excessive

No demand for flats

Concern about surface water flooding impact upon basement parking

Insufficient parking

Does not meet building regulations

Proposed Solar panels would be in shade

Building is too high at the rear

Increased traffic generation

Loss of garden space

Concern about the ability to deliver the development

## **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 Council's Development Plan now comprises:

- o Core Strategy
- o Saved Policies in the B&NES Local Plan (2007)\*
- o Joint Waste Core Strategy

### **RELEVANT CORE STRATEGY POLICIES**

- DW1 District Wide Spatial Strategy
- B1 Bath Spatial Strategy
- B4 World Heritage Site
- CP2 Sustainable Construction
- CP6 Environmental Quality
- SD1 Presumption in favour of Sustainable Development

The B&NES Local Plan policies that are replaced by policies in the Core Strategy are outlined in Appendix 1 of the Core Strategy. Those B&NES Local Plan policies that are not replaced and remain saved are listed in Appendix 2 of the Core Strategy

### **RELEVANT LOCAL PLAN POLICIES**

- D.2 General Design and public realm considerations
- D.4 Townscape considerations
- BH.6 Development within or affecting Conservation Areas
- BH.7 Demolition in a Conservation Area
- BH.12 Important archaeological remains
- BH.22 External lighting
- NE.4 Trees and Woodland
- NE.9 Locally important wildlife sites
- NE.11 Nationally important species and habitats
- NE.12 Locally important species and habitats
- ES.5 Foul and surface water drainage
- ES.9 Pollution and nuisance
- ES.12 Noise and vibration
- ES.15 Contaminated Land
- T.24 General development control and access policy
- T.26 On-site parking and servicing provision

### **PLACEMAKING PLAN**

Following the Examination hearings the Inspector has now issued her Interim Statement and has advised the Council of her recommended Main Modifications required to make the plan sound. The Main Modifications and Minor Proposed Changes are now subject to public consultation prior to the Inspector issuing her Final Report. The following policies can now be given substantial weight:

- SU1 Sustainable Drainage
- SCR5 Water Efficiency
- D1 Urban Design Principles
- D2 Local Character & Distinctiveness

D3 Urban Fabric  
D4 Streets and spaces  
D5 Building Design  
D6 Amenity  
NE4 Ecosystem services  
NE5 Ecological networks  
NE6 Trees and woodland conservation  
PCS1 Pollution and nuisance  
PSC5 Contamination  
PCS7A Foul sewage infrastructure  
H7 Housing accessibility  
LCR7 Broadband  
ST1 Promoting sustainable travel

The following polices, as modified by the Inspector, have significant weight:

HE1 Historic Environment  
D8 Lighting  
PCS2 Noise and vibration  
NE3 Sites, species and habitats  
ST7 Transport requirements for managing development

National Planning Policy Framework (March 2012) and the National Planning Practice Guidance (March 2014) can be awarded significant weight.

There is also a duty placed on the Council under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act to pay special attention to the preservation or enhancement of the character of the surrounding conservation area.

### **OFFICER ASSESSMENT**

The main issues to consider are:

1. Background
2. Principle of development
3. Character and appearance
4. Residential amenity
5. Trees and woodland
6. Ecology
7. Highways safety and parking
8. Archaeology
9. Drainage and flood risk
10. Community Infrastructure Levy and New Homes Bonus
11. Other matters
12. Conclusions

### **1. BACKGROUND**

This application is a revised resubmission of application 15/04347/FUL which was refused in May 2016 and then dismissed at appeal in December 2016. The Inspector's decision letter (ref: 3153519) is a material consideration which has a significant bearing on the consideration of this current application.

The previous application was refused because the proposed building would adversely affect the health and longevity of the mature tree belt to the front of the property and, as a result, would be detrimental to the character and appearance of the Conservation Area.

The Inspector upheld this reason for refusal in dismissing the appeal.

The revised proposal positions the proposed building 3 metre further towards the rear of the site, outside of the root protection zone of the Beech Tree (T8), in an effort to address this reason for refusal. The effect of this change will be discussed in the sections below.

The Inspector's decision letter also provides commentary on a range of other relevant issues relating to the proposal which will be examined out in the sections below.

## 2. PRINCIPLE OF DEVELOPMENT

The site lies within the built up area of Bath where the principle of new residential development is acceptable in accordance with policy B1 of the Core Strategy.

The proposal involves the demolition of the existing dwelling on the site. Policy BH.7 of the Local Plan states that the demolition of buildings which make a positive contribution towards the special character and appearance of the Conservation area will only be permitted subject to a number of criteria.

The existing building, although not unattractive, is constructed from reconstituted bath stone and its form and design is not in keeping with the predominant character of Victoria/Georgian villas in the area. The building is not prominent in the street scene and is largely screened by the mature trees along the front boundary of the site. It is therefore considered to only make neutral contribution towards the special character of the Conservation Area.

The previous appeal Inspector drew a similar conclusion:

*In my view despite the stone elevations of the existing house it is clearly of a more contemporary design than the original properties along Broomfield Park and the building does not contribute to the character of the Conservation Area in a positive way. Rather, it has a neutral effect and therefore there is not an objection in principle to its demolition provided that the details of any scheme for replacement development meet the statutory test set out in section 72 of the Act. (Paragraph 14)*

The demolition of the existing building, provided its replacement is of sufficient quality, is therefore acceptable in accordance with policy BH.7 of the Local Plan.

## 2. CHARACTER AND APPEARANCE

The existing site is occupied by a detached two storey 20th century house, set within a relatively large garden. There is a significant belt of mature trees and hedge to the front of the plot. These substantially screen the front of the house and make a positive

contribution to the character of the street. Mature trees also contribute to the character of the rear garden.

The surrounding neighbourhood has a residential character of larger two/three storey villas set within larger plots with large rear gardens and garden space to the sides. There are also later inter-war semidetached houses and some garden infill bungalows. The west (lower) side of the road is more informal in built form and building lines.

The application site is significantly wider than many of the other plots within the street and is one of the largest single plots within the street. Even after taking into account the revised position of the current proposal, the proposed building is considered to be located centrally within the plot and covers a significant footprint. Despite being pushed further back into the site, the building retains a good degree of spacing around it and sits comfortably within the plot.

The scale of the building is 4 storeys, with undercroft parking at the rear. This comprises 3 normal storeys with roof accommodation. The ground floor is set into the sloping site so that the overall ridge height of the proposed building is broadly similar to the adjacent property, 41 Bloomfield Park. The proposed building also includes a two storey side extension and a three storey element to the rear, comprising two normal storeys with roof accommodation. These additional elements add greater bulk to the proposed building, but do so in a manner which ensures that the overall massing is broken up and that there is sufficient articulation. It is therefore considered that the proposed development, although large and at the limits of what the site can accommodate, is not overdeveloped and will not appear cramped when viewed within the street scene.

The previous appeal Inspector also considered this aspect of the design and made the following conclusions:

*In terms of the height of the building proposed, even with four levels of accommodation, the overall height of the building would be proportional to the adjacent original neighbouring buildings, as shown on the submitted street scene elevation, notwithstanding the more recent single storey 'infill' at No.39. I do not consider that the mass of building proposed would be over-bearing for the site, which appears wider than most others in the neighbourhood, nor would it appear 'squat' in the street scene as alleged by the Association. (Paragraph 15)*

Concerns have been raised about the density of development. The proposal to replace a single dwelling with a block of 8 apartments will undoubtedly increase the density of development. However, the density of development is not so significantly greater than the surrounding area than to warrant an objection to the proposal on design grounds. Matters in relation to the highways, parking and other impacts of the proposed density are considered later in this report.

The previous appeal Inspector agreed with these conclusions stating that:

*the development density proposed need not result in a form of inappropriate development when compared to the rest of the Conservation Area. (Paragraph 14)*

The proposed replacement building attempts to adopt a character similar to the Victorian villas which dominate this part of Bloomfield Park. The front elevation incorporates a narrow, projecting gable and full height bay windows. The proposal incorporates a mixture of natural bath rubble stone and natural bath stone ashlar and timber windows which are considered appropriate and can achieve a high quality finish. The roof materials are specified as double roman tiles which are not considered to be appropriate for this area. It is considered that slate would be a more appropriate roof covering for the proposed building and this has been agreed by the applicant. It is considered that appropriate materials and samples could be secured by condition.

The proposed building contains a large element of flat roof which is not a particularly strong characteristic of the immediately surrounding buildings in the area. However, it can be seen from aerial photography that there are a number of large detached buildings within the wider area, including some along Bloomfield Park and a number along Bloomfield Road, which do contain areas of flat roof. The height of the building is such that the flat roof area will not be particularly visible in the street scene and in longer views from the south will not appear out of place with other flat roof elements in the area.

The proposed building lacks a main entrance on the front elevation and this does detract from the legibility of the overall design. However, due to the screening provided by the mature vegetation and trees along the front boundary of the site, this omission from the design will not be prominent within the street scene and will not detract from the overall design.

Comments have raised concern about the appearance of the east side elevation which does not contain any windows and therefore has a high solid-to-void ratio. However, although a large elevation, it is articulated into several parts and incorporates a number of blind windows to add interest to the elevation. This elevation will be visible in views approaching from the east, but will not be viewed front on and will be viewed in the context of the front elevation which contains a greater degree of interest. It is therefore considered that the east elevation does not detract from the overall design.

The proposal also includes an access ramp to the underground parking which runs along the eastern boundary of the site. The previous appeal Inspector expressed some concerns about the proposed access and entranceway stating the following:

*I do have some concerns about the width and scale of the access and entranceway and its appearance in the street scene and a loss of enclosure...(Paragraph 16)*

However, the Inspector went on to state:

*I am satisfied that this element of the design is not fundamental and the impact of the work could reasonably be overcome by amendments and a different arrangement of materials and enclosure, and this change could be required by conditions. (Paragraph 16)*

Following negotiations, the applicant has agreed to make a number of changes to the site access and entranceway. These include reducing the width of the access to 5m (as per the recommendation of the Highways Officer), specifying pavements as the surfacing material for initial part of the access and introducing stone piers to match the character and appearance of similar stone piers in Bloomfield Park.

These changes are considered to have addressed the Inspector's comments about the width and scale of the proposed access and have helped give it a softer, more suburban feel, in keeping with the surrounding area.

During the previous application, it was considered that the proposed building would preserve the character and appearance of the conservation area. The previous appeal Inspector went further than this and considered that:

*Having regard to the design, height and massing of the proposed building, I am satisfied that the proposal would enhance the character and appearance of the area and would not be 'out of keeping' (Paragraph 14)*

Given that the currently proposed design the same as that previously proposed, with the exception of the additional 3m set back from the street, it is considered that the Inspector's conclusion in respect of the design remain relevant and that the proposed building will enhance the character and appearance of the area.

#### 4. RESIDENTIAL AMENITY

The application site has two immediately adjoining neighbours. To the east is 41 Bloomfield Park, which is a split level 4 storey dwelling. Immediately to the west of the site is 39 Bloomfield Park, which is a linear bungalow situated alongside the boundary behind the established building line.

This latest application has shifted the bulk of the building approximately 3m further rearward in the site, such that the main bulk of the building projects beyond the rear elevation of 41 Bloomfield Park by approximately 6.5m. However, at its closest point the main 4 storey element of the building (which includes the accommodation within the roof) is just less than 6m from the side boundary with 41 Bloomfield Park. The 3 storey rear element of the building is, at its closest point, approximately 6.5m from the side boundary with 41 Bloomfield Park. Although the proposed building is higher and has a greater mass than the existing dwelling, it is considered that this degree of separation prevents the proposed building from having any significant overbearing impact or any significant loss of light.

Concern has been raised about the impact upon the outlook from the rear garden of 41 Bloomfield Park. Although the proposed building will be visible, particularly the 3 storey rear element which projects further beyond the rear building line, the separation between proposed building and the boundary means that the effect upon the outlook from this garden will not significantly harm residential amenity.

The side element of the proposed building (which comprises a two storey and single storey element) is situated, at its closest point, approximately 5m from the boundary with 39 Bloomfield Park. 39 Bloomfield Park is unusual due to its linear form and position directly on the boundary of the application site. Windows in its west elevation look out over its own driveway and parking area. Windows in the east elevation generally look out directly onto the heavily vegetated boundary of the application site thereby limiting its outlook on this side.

However, there is a single kitchen window which currently looks out directly over the garden of the application site. Whilst the current submission projects approximately 3m further into the garden than the previously dismissed scheme, the main bulk of the proposed building is approximately 12m away from this window at its closest point.

The proposals also include a raised terrace at the rear of the proposed building. Due to the sloping nature of the site, the overall height of the terrace will increase as it moves further towards the rear of the site. The height of the terrace therefore varies between approximately 0.3m to 1.1m. The edge of this terrace will be approximately 3m from the window of 39 Bloomfield Park, but is relatively low compared to the height of the window, so will not appear overbearing.

Access to the northern, eastern and western edges of the proposed terrace is proposed to be restricted to prevent direct or harmful overlooking from the terrace into the adjoining window of 39 Bloomfield Park or the garden of 41 Bloomfield Park. This can be secured through the approval of the hard and soft landscaping works condition.

The nearest useable part of the terrace is 7.5m from the boundary with 41 Bloomfield Park, but at this point the terrace is relatively narrow and not particularly suited to sitting out or lingering. Views from the terrace will primarily be drawn towards the rear of the site and the longer views out to the north. Furthermore, the retained trees and replacement planting proposed along the eastern boundary will help to screen views of the neighbouring garden. The nearest useable part of the terrace from the side window of 39 Bloomfield Park is approximately 8m. Again, views from this area will primarily be towards the north and contribution of existing and replacement planting will provide a degree of screening for this window.

Concern has been raised about the potential noise impacts arising from vehicles using the access ramp to the underground parking. The narrow width of the access ramp will necessitate low speed manoeuvring by vehicles thereby lessen the noise impacts. Furthermore, ignition and start-up of vehicles will take place within the underground car park where noise impacts are more likely to be contained. The widened part of the access where cars can pass and may have to wait is on a more level part of the site and therefore won't necessitate significant revving in low gears.

Noise concerns about potential mechanical ventilation of the underground car park have also been raised. No details of the mechanical ventilation of the car park have been submitted. However, it is considered that this is a matter which could be reserved by condition to ensure that the specification of any mechanical ventilation is such that it does not affect the amenities of adjoining occupiers.

This is also a matter which the previous appeal Inspector considered and stated:

*I am also satisfied that the lower level car park would not appear as an alien feature or that it has been shown that its use would give rise to material problems of noise. (Paragraph 15)*

In light of the above, it is considered that the proposed dwelling will not significantly affect the amenities of any of the adjoining occupiers.

## 5. TREES AND WOODLAND

The previous application was refused and then dismissed at appeal due to the potential impact upon the tree belt at the front of the site.

The main change from the previous application is that the building footprint has been moved to the north and beyond the root protection area for T8 which has been shown as a uniform circle with a radius of 12.12m on the submitted Tree Protection Plan.

The proposed Tree Protection Plan indicates that ground protection would be necessary within a small area of the root protection area of T8 and that no dig construction methods would be necessary during construction of a footpath.

Furthermore, the proposals have resulted in a number of improvements in respect of the retained trees:

1. No excavations to construct the building are proposed within the root protection area as a result of moving the building;
2. The use of specific foundation construction methods to avoid excavation is no longer critical to the proposal;
3. The relocation of the building has increased the protected area around the frontage trees, securing a larger area of the shared rooting environment of the retained trees.
4. The increase in distance between the frontage trees and building will reduce pressure for tree pruning and tree removal which was an additional arboricultural concern in relation to the previous application.

The arboricultural officer has advised that the proposed changes overcome the previous arboricultural objection, subject to securing a detailed arboricultural method statement and tree protection plan as a planning condition.

In respect of the other trees on the site, the proposed development will necessitate the removal of 11 No. trees. 10 No. of these trees are classified a 'C' Category, 1 No. is classified as 'B' Category. Of the 'C' Category trees T15, T16 and T17 are visible from Bloomfield Park, but are generally poor specimens and their removal will not impact on the wider visual amenity of the street scene.

Trees T19, T20, G21 are specimens of elderly apple trees of little merit and cannot be seen from the street. Similarly, T22 (Silver Birch) and T23 (Beech), whilst contributing to the internal amenity of the site are not easily seen from the street.

T18 is a mature Walnut which currently makes a limited contribution to the wider visual amenity of the street, but has considerable merit within the rear garden of the property and can be seen easily from neighbouring properties. Its proximity, however, to the existing dwelling is less than 6m so diminishes justification for making a Tree Preservation Order.

The retention of this tree cannot be achieved with the current proposed access to the under-croft parking.

The Council's Arboriculturalist has raised no objection to the loss of this tree provided that an extra heavy standard replacement specimen Walnut tree is incorporated into any proposed landscaping scheme. There is sufficient space on the site to achieve this and it is considered that replacement trees can be secured by a landscaping scheme condition.

In light of the above, it is considered that there is no arboricultural objection to the proposed development which complies with policy NE.4 of the Local Plan and policy NE6 of the emerging Placemaking Plan.

## 6. ECOLOGY

An ecological and protected species survey and assessment has been submitted and reviewed by the Council's Ecologist. No significant constraints are found, but recommendations are made covering a range of issues, which the Council's Ecologist recommends should be implemented. These can be secured by condition. Subject to the above, it is considered that the proposals will not harm biodiversity or ecology.

## 7. HIGHWAYS AND PARKING

The application proposal has been reviewed by the Highways Officer. The application is broadly similar to the previous application to which there was no highways objection. However, the proposed Lower Ground Floor containing the parking is smaller than previously proposed.

The Highways officer has visited the site and observed the local traffic conditions and considers that the proposed visibility splays are sufficient to provide safe access and egress from the site.

There are 8 parking spaces provided for the 8 proposed apartments equating to one parking space per 2 bedroom dwelling. This does not exceed the maximum parking standards set out in policy T.26 of the Local Plan and is considered appropriate by the Highways Officer.

The emerging Placemaking Plan policy ST7 suggest a minimum parking standard of 2 parking spaces per 2 bedroom dwelling and 0.2 of a parking space per dwelling for visitor spaces. This results in a total requirement of 17 parking spaces for the proposed development. Whilst the emerging policy ST7 has significant weight, it is not yet part of the adopted development plan, with which the development does comply, and, furthermore, the site has relatively good access to local bus routes and adequate cycle storage has been provided which further reduces the need for additional on-site parking.

The Highways officer has no objection to the proposals, subject to conditions, and it is considered that the proposals will not have a "severe" impact under the terms of paragraph 32 of the NPPF.

## 8. ARCHAEOLOGY

There are no known archaeological sites or monuments in the immediate vicinity that are likely to be affected by the proposed development. The Council's Archaeologist is therefore content that no further archaeological investigation or conditions are required.

## 9. FLOOD RISK AND SURFACE WATER DRAINAGE

The site falls within flood zone 1 which is considered to be at the lowest risk of flooding. The application indicates that the surface water will be dealt with through soakaways, although the detail of this has not yet been provided. This can be secured by condition. The Drainage and Flood Risk team have reviewed the application and raised no objection to the proposals.

## 10. COMMUNITY INFRASTRUCTURE LEVY AND NEW HOMES BONUS

The proposed residential development will be charged at a CIL rate of £100 per square metre. This equates to a CIL liability of £82,300 based upon a net floor area of 823 square metres.

The proposed dwellings would be subject of the New Homes Bonus which would generate additional council tax receipts for the Local Authority.

## 11. OTHER MATTERS

A number of comments have been received about the failure of the proposed design to meet appropriate Building Regulations. However, these matters are controlled and considered under separate legislation (i.e. Building Regulations legislation).

A number of concerns have been raised about the accuracy of some of the drawings submitted. There are no obvious errors within the drawings submitted and the proposed drawings relate back to the topographical survey which has been submitted. The responsibility to construct the development in accordance with the approved drawings rests with the developer. Any deviation from the approved drawings would require a further consent or variation application which can be subject to the same levels of scrutiny as the current proposal.

A number of comments have raised the issue of human rights and the effect that the proposal will have upon the peaceful enjoyment of the adjoining properties. However, as discuss above, it is considered that the proposal will not have any significant impacts upon the amenities of adjoining occupiers and therefore will not have any detrimental impact upon the human rights of neighbours.

Policy SCR5 of the emerging Placemaking Plan requires that all dwellings meet the national optional Building Regulations requirement for water efficiency of 110 litres per

person per day. The applicant has agreed to meet these standards and this can be secured by condition.

Policy SCR5 also requires all residential development to include a scheme for rainwater harvesting or other method of capturing rainwater for use by residents (e.g. water butts). The applicant has also agreed to incorporate these measures into the proposed scheme although no details have yet been provided. These matters can be secured by a relevant planning condition.

Policy H7 of the emerging Placemaking Plan requires that new developments meet certain accessibility standards for new homes. For market housing, this means dwellings should have enhanced accessibility standards and should meet the optional technical standard 4(2) in the Building Regulations Approved Document M. This policy will be given increasing weight and will be fully implemented once the Placemaking Plan has been formally adopted, but in this case, where the scheme has been within the planning system and developed over a long period of time, it is not considered reasonable to require total compliance with policy H7.

## 12. CONCLUSION

The proposed development has overcome the previous reasons for refusal outlined by the appeal Inspector. The changes to the proposed scheme will not have any significant impact upon the design of the proposed building or the residential amenities of adjoining occupiers.

The proposals accord with the rest of the above listed relevant policies of the Bath and North East Somerset Core Strategy, the Bath and North East Somerset Local Plan and the emerging Bath and North East Somerset Placemaking Plan and, in accordance with paragraph 17 of the National Planning Policy Framework, should be approved without delay.

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

No development shall take place until a Detailed Arboricultural Method Statement consistent with the approved Tree Protection Plan (drawing 161122-40BP-TPP-LI dated November 2016) and following the recommendations contained within BS 5837:2012 has been submitted to and approved in writing by the Local Planning Authority and details within the approved document implemented as appropriate. The final method statement

shall incorporate a provisional programme of works; supervision and monitoring details by an Arboricultural Consultant and provision of site visit records and certificates of completion to the local planning authority. The statement should also include the control of potentially harmful operations such as the storage, handling and mixing of materials on site, burning, location of site office, service run locations including soakaway locations and movement of people and machinery. No development or other operations shall thereafter take place except in complete accordance with the approved details.

Reason: To ensure that trees to be retained are not adversely affected by the development proposals in accordance with policy NE.4 of the Bath and North East Somerset Local Plan, CP7 of the Core Strategy and NE6 of the Placemaking Plan. This is a condition precedent because the works comprising the development have the potential to harm retained trees. Therefore these details need to be agreed before work commences.

### **3 Materials - Submission of Schedule and Sample Panel (Bespoke Trigger)**

No construction of the external walls or roof of the development shall commence until a schedule of materials and finishes has been submitted to and approved in writing by the Local Planning Authority, and a sample panel of all external walling and roofing materials to be used has been erected on site, approved in writing by the Local Planning Authority, and kept on site for reference until the development is completed. The 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 Policies D.2, D.4 and BH.6 of the Bath and North East Somerset Local Plan, Policy CP6 of the Bath and North East Somerset Core Strategy and policies HE1, D2 and D5 of the Placemaking Plan.

### **4 Mechanical Ventilation (Bespoke Condition)**

No mechanical ventilation of the lower ground floor car park shall be installed unless details of the mechanical ventilation to be used, including an acoustic assessment undertaken by a competent person to establish the effect of any noise generated upon the amenities of adjoining occupiers and recommendations for any required noise mitigation or attenuation, have been submitted to and approved in writing by the Local Planning Authority. The mechanical ventilation, and any noise mitigation or attenuation required, shall thereafter be installed in accordance with the approved details.

Reason: To prevent excessive noise and protect the residential amenity of adjoining occupiers in accordance with policy ES.12 of the Bath and North East Somerset Local Plan and policy PCS2 of the Placemaking Plan.

### **5 Refuse and bin storage (Pre-occupation)**

Notwithstanding the submitted drawings, no occupation of the approved dwellings shall commence until details of the proposed refuse and bin storage have been submitted to and approved in writing by the Local Planning Authority. The approved refuse and bin storage shall be provided in accordance with the approved details prior to the occupation of the approved dwellings.

Reason: To ensure the provision of adequate and safe refuse/bin storage which does not prejudice highways safety and preserves the character and appearance of the

Conservation Area in accordance with policies BH.6 and T.24 of the Bath and North East Somerset Local Plan and policy HE1 and ST7 of the Placemaking Plan.

#### **6 Arboriculture - Compliance with Arb Method Statement (Pre-occupation)**

The approved development shall be carried out in accordance with the approved Arboricultural Method Statement and Tree Protection Plan. No occupation of the approved development shall commence until a signed certificate of compliance by the appointed Arboriculturalist has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that trees to be retained are not adversely affected by the development proposals in accordance with Policy NE.4 of the Bath and North East Somerset Local Plan. To ensure that the approved method statement is complied with for the duration of the development.

#### **7 Hard and Soft Landscaping (Pre-occupation)**

No occupation of the approved dwellings shall commence until a hard and soft landscape scheme has been submitted to and approved in writing by the Local Planning Authority showing details of all trees, hedgerows and other planting to be retained; a planting specification to include numbers, size, species and positions of all new trees and shrubs, details of existing and proposed walls, fences, other boundary treatment and surface treatment of the open parts of the site, and a programme of implementation.

Reason: To ensure the provision of an appropriate landscape setting to the development in accordance with Policies D.2 and D.4 of the Bath and North East Somerset Local Plan, Policy CP6 of the Bath and North East Somerset Core Strategy and policies HDE1 and HDE2 of the Chew Valley Neighbourhood Plan.

#### **8 Water Efficiency - Rainwater Harvesting (Pre-occupation)**

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

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

#### **9 Hard and Soft Landscaping (Compliance)**

All hard and/or soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme (phasing) agreed in writing with the Local Planning Authority. 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 next planting season with other trees or plants of a species and size to be first approved in writing by the Local Planning Authority. All hard landscape works shall be permanently retained in accordance with the approved details.

Reason: To ensure that the landscape scheme is implemented and maintained in accordance with Policies D.2 and D.4 of the Bath and North East Somerset Local Plan, ,

Policy CP6 of the Bath and North East Somerset Core Strategy and policies HDE1 and HDE2 of the Chew Valley Neighbourhood Plan.

#### **10 Ecological recommendations (Compliance)**

The development hereby permitted shall be carried out only in accordance with the recommendations as detailed in Section 4 of the approved report entitled "Ecological Appraisal and Bat Survey" by Crossman Associates dated December 2015 together with additional recommendations as applicable following any necessary future updates to this report.

Reason: To safeguard local species and their habitats in accordance with policy NE.9 and NE.10 of the Bath and North East Somerset Local Plan and policy NE3 of the Placemaking Plan.

#### **11 Parking and Turning areas (Compliance)**

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

Reason: To ensure sufficient parking and turning areas are retained at all times in the interests of amenity and highways safety in accordance with Policy T.24 of the Bath and North East Somerset Local Plan.

#### **12 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.

#### **13 Contaminated Land - Unexpected Contamination (Compliance)**

In the event that contamination which was not previously identified is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. Thereafter an investigation and risk assessment shall be undertaken, and where remediation is necessary, a remediation scheme shall be submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report (that demonstrates the effectiveness of the remediation carried out) must be submitted to and approved in writing by the Local Planning Authority prior to occupation of the development.

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with section 11 of the National Planning Policy Framework.

#### **14 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:**

1 020 Existing Site Location Plan  
021 Existing SE and SW Elevation Sheet 1  
022 Existing NE and NW Elevations Sheet 2  
023 Existing Streetscene  
030A Proposed Site Plan  
031A Proposed Floor Plans  
032 Proposed SE and SW Elevations  
033A Proposed NE and NW Sheet 2  
034A Proposed Streetscene

## **DECISION MAKING STATEMENT**

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. For the reasons given, and expanded upon in a related case officer's report, a positive view of the submitted proposals was taken and consent was granted.

### **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 a conditions application and pay the relevant fee, details of the fee can be found on the "what happens after permission" pages of the Council's Website. You can submit your conditions application via the Planning Portal at [www.planningportal.co.uk](http://www.planningportal.co.uk) or send it direct to [planning\\_registration@bathnes.gov.uk](mailto:planning_registration@bathnes.gov.uk). Alternatively this can be sent by post to The Planning Registration Team, Planning Services, Lewis House, Manvers Street, Bath, BA1 1JG.

3 You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. Full details about the CIL Charge including, amount and process for payment will be sent out in a CIL Liability Notice which you will receive shortly. Further details are available here: [www.bathnes.gov.uk/cil](http://www.bathnes.gov.uk/cil)

#### 4 INFORMATIVES

1. The applicant should be advised to contact the Highway Maintenance Team on 01225 94337 with regard to securing a licence under Section 184 of the Highways Act 1980 for the construction of a vehicular crossing. The access shall not be brought into use until the details of the access have been approved and constructed in accordance with the current Specification.

2. Where development is proposed, the developer is responsible for ensuring that the development is safe and suitable for use for the purpose for which it is intended. The developer is therefore responsible for determining whether land is suitable for a particular development.

3. It is advised that a Desk Study and Site Reconnaissance (Phase 1 Investigation) survey shall be undertaken to develop a conceptual site model and preliminary risk assessment. A Phase I investigation should provide a preliminary qualitative assessment of risk by interpreting information on a site's history considering the likelihood of pollutant linkages being present. The Phase I investigation typically consists of a desk study, site walkover, development of a conceptual model and preliminary risk assessment. The site walkover survey should be conducted to identify if there are any obvious signs of contamination at the surface, within the property or along the boundary of neighbouring properties. It is also advised that Building Control are consulted regarding the development.