

BATH AND NORTH EAST SOMERSET COUNCIL

Development Management Committee

Date 26th September

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

ITEM

ITEMS FOR PLANNING PERMISSION

Item No.	Application No.	Address
01/02	18/02499/FUL	32 - 33 Victoria Buildings Bath

An updated Ecological Survey has been received in response to reason for refusal 6. This has been sent to the Council's Ecologist and a further update will be provided at the committee meeting.

Item No.	Application No.	Address
03	18/02831/FUL	The Old Bakery Jews Lane Twerton

As advised in the committee report, additional conditions are now proposed in relation to ecological matters.

Wildlife Protection and Enhancement (Pre-commencement)

No development shall take place until full details of the wildlife mitigation measures and recommendations of the approved ecological report have been submitted to and approved in writing by the local planning authority. These details shall include:

- (i) Method statement for pre-construction and construction phases to provide full details of all necessary protection and mitigation measures, including, where applicable, proposed pre-commencement checks and update surveys, and precautionary working methods, including control of construction lighting, for the avoidance of harm to bats, nesting birds, badgers and other wildlife, and proposed reporting of findings to the LPA prior to commencement of works;
- (ii) Detailed proposals for the retention of the vegetation to the south of the building and for any necessary scrub clearance, including measures for the protection of breeding birds;

- (iii) Detailed proposals for additional planting along the southern hedgerow to improve foraging opportunities for bats;
- (iv) Detailed proposals for inclusion of the seed mix Emorsgate EL1 – Flowering Lawn Mixture within gardens and soft landscaping;
- (v) Detailed proposals for the locations of the two bat access tiles to be installed on the residential student accommodation building and the locations of the two 1FE Schwegler access panels for bats to be shown on plans as applicable;

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

Reason: To prevent ecological harm and to provide biodiversity gain

Implementation of Wildlife Scheme (Pre-occupation)}

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

Reason: To demonstrate the completed implementation of Wildlife Protection and Enhancement Scheme, to prevent ecological harm and to provide biodiversity gain

External Lighting (Bespoke Trigger)}

No new external or internal lighting shall be installed without full details of proposed lighting design being first submitted to and approved in writing by the Local Planning Authority; details to include proposed lamp models and manufacturer’s specifications, positions, numbers and heights; details of predicted lux levels and light spill; and details of all necessary measures to limit use of lights when not required and to prevent upward light spill and light spill onto trees and boundary vegetation, particularly the southern boundary, and adjacent land; and to avoid harm to bat activity and other wildlife. The lighting shall be installed maintained and operated

Item No.	Application No.	Address
4	18/02261/FUL	27 ROCKLIFFE AVENUE BATHWICK

Clarification on materials

The property will be ashlar stone on the first floor and the ground floor will be rubble natural stone.

The flat roofed elements will have sedum roofs with a low parapet it is not proposed that these areas will be accessible other than for maintenance purposes.

A further condition is considered necessary in respect of the sedum roofs.

16 {b 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 section drawings of the roof, a planting schedule, a timetable for implementation and 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.

List of plans

100-1599 P-

100B,101B,102B,103B,110B,111B,112B,113B,114B,200B,201B,202C,203C, 300B,301B,001B, 002B,003B,010B, 011B, 012B,020B,021B,022B,023B,030B and 031B all dated March 18. Construction details/Sections through boundary walls.

Changes to the NPPF

Para 13 of the Inspectors decision notice he states

Paragraph 138 of the National Planning Policy Framework (the Framework) states that not all elements of a conservation area will contribute to its significance. Paragraph 138 of the Framework goes on to say that the loss of a building (or other element) which makes a positive contribution to the significance of the conservation area should be treated as either substantial harm or less than substantial harm, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area.

The NPPF was amended in 2018. The wording previously contained within Para 138 is now contained within Para 201 of the 2018 NPPF.

The judgement as to whether the loss of this building should be treated as substantial or less than substantial harm is dependent on the significance and its contribution to the significance of the Conservation Area and WHS as a whole.

The Planning Inspector when dealing with the appeal against the Councils refusal to permit a replacement dwelling on this site concluded that the proposal would preserve the character and appearance of the BCA. Consequently the proposal would meet the requirements of Core Strategy Policy CP6 and PP Policy HE1. Combined, these policies seek to ensure that development contributes positively to local character and preserves the elements which contribute to the special character or appearance of a conservation area. Accordingly it can be reiterated that the proposal is not considered to harm the character and or appearance of this part of the Conservation Area.

Additional plans

Additional plans have been submitted indicating a rubble stone wall to be constructed along the boundaries with both numbers 25 and 29. A condition requiring further details has been considered necessary and has been attached to the committee report. (Condition 15).

Clarification in respect of concerns that the development will set a precedent.

The report refers to precedent not supporting refusal of an application however, the Courts have held that permission may as a matter of law be refused on the grounds of the possible precedent effect of the decision, and the pressures that may follow for the unlocking of the whole area for development once permission is granted for one site within it. However mere fear or generalised concern of a precedent effect would not normally be enough; there would have to be some evidence for reliance on it. The courts have recognised, however, that in some cases the facts would speak for themselves, as in the common case of the rear extension of one of a row or terrace of dwellings, where it may be obvious that other owners in the row are likely to want extensions if one is permitted. As with all material considerations, precedent is ultimately fact specific and a matter for planning judgment.

In this instance the character of the properties in the locality is varied and as such each case for any replacement of a dwelling on a site would need to be judged on its merits.

Further clarification/comment in respect of comments raised by interested parties.

-Overdevelopment

Neighbours have commented that the available plot for constructing a dwelling is small and in terms of siting and spacing the proposal will result in overdevelopment of the site.

The footprint of the proposed dwelling is seen to be in keeping with the surrounding context. Due to the topography of the site the height of the new dwelling is in keeping with adjacent properties within the street as seen from Rockliffe Avenue. As seen from the river the building was considered to be an improvement by the inspector.

The proposed new dwelling will be marginally narrower than the existing dwelling and therefore does not fill the width of the site in the same way as the existing dwelling. Therefore the proposal does not represent overdevelopment of the site thereby complying with Policies HE1, D1, D2, D3, D6 and D7.

-Rainwater Harvesting

Additionally Policy SCR5 also explains that all dwellings will be expected to meet the national optional Building Regulations requirement for water efficiency being 110 litres per person per day.

Rainwater harvesting or other methods of capturing rainwater for use by residents e.g.) water butts will be required for all residential development.

Therefore the following conditions are considered necessary:

17 {Water Efficiency (Compliance)}

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

Reason: In the interests of water efficiency in accordance with Policy SCR5 of the Bath and North East Somerset Placemaking Plan.

18 {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.