

# Bath & North East Somerset Council

MEETING: **Planning Committee**

MEETING DATE: **10th February 2021**

AGENDA  
ITEM  
NUMBER

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RESPONSIBLE OFFICER: Simon de Beer – Head of Planning

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

**Item No:** 01  
**Application No:** 20/04296/VAR  
**Site Location:** Paglinch Farm Access Road To Paglinch Farm Shoscombe Bath Bath And North East Somerset



**Ward:** Bathavon South                      **Parish:** Shoscombe                      **LB Grade:** N/A  
**Ward Members:** Councillor Neil Butters      Councillor Matt McCabe  
**Application Type:** Application for Variation of Condition  
**Proposal:** Variation of condition 2 of application 06/03707/FUL (Alterations to garage to form 1 no garage and self-contained holiday let unit)

Condition Number(s): 2

Conditions(s) Removal:

To enable lawful use of the building as a self-contained residential unit of accommodation. Application is made to have the condition removed.

**Constraints:** White Ox Mead Air Strip 3km buffer, Agric Land Class 1,2,3a, Coal - Standing Advice Area, Policy CP9 Affordable Housing Zones, Policy HE2 Somersetshire Coal Canal & Wa, Policy NE1 Green Infrastructure Network, SSSI - Impact Risk Zones,

**Applicant:** Mr John Davey  
**Expiry Date:** 10th January 2021  
**Case Officer:** Hayden Foster

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

**REPORT**

### **Reasons for referral:**

The applicant has direct links with the Planning Service. According to the scheme of delegation the application should therefore be referred to the Development Management Committee.

### **Site Description and Proposal:**

The application relates to an existing holiday let associated with Sunday Cottage which is situated within Paglinch Farm. The application property and Paglinch Farm form part of a group of farm buildings within the original farmstead of Paglinch Farmhouse to the south, a Grade II listed building. The application property has its own designated private garden and parking space and has one bedroom.

The application seeks consent for the variation of Condition 2 of the approved application 06/03707/FUL (Alterations to garage to form 1 no garage and self-contained holiday let unit). The application is made to have the condition removed. This is to enable the lawful use of the building as a self-contained residential unit of accommodation.

### **Relevant Planning History:**

06/03707/FUL - PERMIT - Alterations to garage to form 1 no garage and self-contained holiday let unit.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

### **Consultation Responses:**

#### **Shoscombe Parish Council**

'Shoscombe Parish Council supports this application.'

#### **Highways**

No objection subject to conditions.

### **Representations Received:**

No comments received.

## **POLICIES/LEGISLATION**

On 13th July the Council adopted the B&NES Placemaking Plan. It now becomes part of the statutory Development Plan for the district, against which planning applications are determined. The statutory Development Plan for B&NES now comprises:

- o Core Strategy (July 2014)
- o Placemaking Plan (July 2017)
- o B&NES Local Plan (2007) - only saved Policy GDS.1 relating to 4 part implemented sites
- o Joint Waste Core Strategy
- o Made Neighbourhood Plans

## Core Strategy:

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

CP2: Sustainable Construction  
CP5: Flood Risk Management  
CP6: Environmental Quality  
CP7: Green Infrastructure  
CP10: Housing Mix  
RA2: Development in villages outside the Green Belt not meeting Policy RA1 criteria

## Placemaking Plan:

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

D1: General urban design principles  
D2: Local character and distinctiveness  
D3: Urban Fabric  
D4: Streets and Spaces  
D5: Building design  
D6: Amenity  
D8: Lighting  
HE1: Historic Environment  
H3: Residential uses in existing buildings  
H7: Housing Accessibility  
NE1: Development and Green Infrastructure  
NE3: Sites, Species and Habitats  
NE5: Ecological Networks  
NE6: Trees and Woodland Conservation  
LCR9: Local Food Growing  
RE6: Re-use of rural buildings  
RE7: Visitor accommodation  
SCR1: On-site Renewable Energy Requirement  
SCR5: Water Efficiency  
SD1: Presumption in favour of sustainable development  
ST1: Promoting Sustainable Travel  
ST7: Transport access and development management

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

There is a duty placed on the Council under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 'In considering whether to grant planning permission for

development which affects a listed building or its setting' to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'

## 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 property known as Sunday Cottage comprises two of the converted historic farm buildings which are heritage assets:

- o Sunday Cottage - a single storey rubble stone residence, formerly a milking parlour.
- o The Studio - the nearby two storey rubble stone residence, formerly a small barn.

The private access drive to Sunday Cottage and The Studio leads from the cycleway and serves Paglinch House, the former farmhouse.

The use of the application property as a holiday let was accepted in 2006 with the grant of planning permission Reference: 06/03707/FUL. The only matter for consideration is the acceptability of the use of the premises as a permanent residential occupation rather than a short-term holiday let. The reason given for Condition two relates solely to residential amenity. The full wording of the condition is as follows:

Condition 2: The development hereby approved shall not be occupied at any time other than for purposes of holiday accommodation ancillary to the residential use of the dwelling known as Barn (now Sunday Cottage), Paglinch Farm and shall not be occupied as a separate dwelling unit.

Reason: the accommodation hereby approved is not capable of independent occupation without adverse impact on the amenities of existing or future occupiers.

For completeness the issues relevant to the current proposal are: the principle of the permanent occupation of the property as an independent dwellinghouse; the residential amenities of future occupiers and neighbouring residents; car parking provision; and any heritage impacts.

## Principle of Development

The site is located beyond the housing development boundary of Shoscombe but is not located within the Bath/Bristol Green Belt. Given the location of the application site, Placemaking Plan Policy RA2 is not applicable.

Placemaking Plan Policy RE6 relates to the re-use of a building or buildings to a new use in the countryside outside the scope of Policies RA1, RA2 and GB2. Holiday lets fall within Use Class C3, as does independent permanent residential accommodation. However, Placemaking Plan Policy RE7 notes the use of a dwellinghouse for visitor accommodation is deemed to be a material change of use and it follows that the reverse should be treated the same.

The proposal should therefore be assessed against Placemaking Plan Policy RE6. The original character of the two barns which originally formed Paglinch Farm and part of the subject property was largely lost through conversion in the 1990s. However, the application property is constructed of rubble stone to match the main building (Paglinch Farm) and the appearance of the building is in keeping with its setting. The building is of permanent construction and no physical works to alter or extend the building are proposed. The use of the property as an independent dwelling rather than a holiday let would not result in the dispersal of activities which might prejudice village vitality or viability, nor would it result in replacement agricultural buildings or the outside storage of plant or machinery. The building forms part of an established group of buildings and is neither redundant nor disused. The proposed removal of the holiday let restriction would safeguard the integrity and significance of the historic farmstead. The proposal is therefore considered to comply with Policy RE6. In addition, the proposal would not result in the creation of an isolated home in the countryside given its siting within an established group of buildings and accords with Paragraph 79 of the National Planning Policy Framework (NPPF).

Placemaking Plan Policy RE7 relates to the provision of new purpose-built visitor accommodation and the change of use from a dwelling to visitor accommodation. This policy is silent on the loss of visitor accommodation through change of use to dwellings; however, the preamble does state that "applications for visitor accommodation should not be seen as a mechanism to gaining permanent residential use of the accommodation." The acceptability of the proposal will therefore come down to the final planning balance.

### **Heritage Impact**

The Planning (Listed Buildings and Conservation Areas) Regulations 1990 requires that the local planning authority shall have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

No physical works to alter or extend the building are proposed. It is not considered that the use of the property for permanent residential occupation would have a significant impact on the setting of the Grade II listed Paglinch Farmhouse when compared to the short-term holiday occupation originally permitted. Overall, it is considered that the proposal would preserve the setting of the neighbouring listed building and accords with Placemaking Plan Policy HE1.

### **Residential Amenity**

The reason for imposing Condition two was that the accommodation is not capable of independent occupation without adverse impact on the amenities of existing or future residential occupiers. Policy D6 of the Placemaking Plan states that development must

provide for reasonable levels of amenity having regard to securing appropriate levels of privacy, outlook and natural light to existing properties and not cause significant harm to the amenities of existing or proposed occupiers of, or visitors to, residential premises by reason of loss of light, increased noise, smell, overlooking, traffic or other disturbance. New properties should provide adequate usable private or communal amenity space.

The subject property benefits from its own private designated garden, separated from the garden of Sunday Cottage. The building is a two-storey property, with an internal floor area of (approximately) 84 sqm. The building contains two bedrooms, a kitchen, living room and bathroom/WC and has all the amenities required to operate as an independent dwelling from Sunday Cottage. The building has an area of garden located on the west side of the site, which is a private space, separated from the adjoining gardens of Sunday Cottage, Paglinch Farm and Paglinch House by long-established boundary fencing and planting. Overall, the garden area is about 265 sqm in size. The subject property benefits from its own independent access which leads to the east elevation (front) of the building.

Given the relationship between The Barn and Sunday Cottage, permanent residential occupation of the application property would not have a harmful impact on the residential amenities of the occupiers of Sunday Cottage compared to the existing holiday let use. Likewise, there would not be a significant impact on the residential amenities of the other dwellings in the vicinity compared to the existing situation.

In conclusion, it is considered that the removal of Condition two would provide an acceptable standard of amenity for future residential occupiers of the application property and the occupiers of neighbouring dwellings.

### **Highways Safety**

Parking for the application property is available on a large area of hard standing to the front of the barn. A site plan has been submitted showing the parking layout for the subject property and allocated parking for Sunday Cottage. The parking provision for the application property meets the minimum parking standards and is therefore acceptable.

The full-time occupation of the application property as a residential dwelling compared to its part-time occupation as a holiday let is likely to increase the number of vehicle trips at the site. However, the increase is negligible and would not have an adverse impact on the continued safe operation of the local highway network.

The removal of Condition two is therefore considered acceptable with regards to car parking provision and highway impacts in accordance with Placemaking Plan Policy ST7. A condition has been requested to provide bicycle parking. The applicant has provided further information to indicate that bicycle storage/parking is already available within the site. It can also be seen that the site presents enough outside space to allow for bicycle storage.

### **Conclusion**

The preamble to Placemaking Plan Policy RE7 discourages later applications to convert permitted visitor accommodation to permanent residential use. However, it is noted that the use of the application property as a permanent independent dwelling through the

removal of Condition two accords with Placemaking Plan Policy RE6 and Paragraph 79 of the NPPF. No significant adverse impacts have been identified that would result from the proposal. Taking all factors into account, it is considered that the removal of Condition two of planning permission 06/03707/FUL is acceptable when assessed against the Development Plan and the National Planning Policy Framework.

Precedent can be seen for an application to remove the same holiday let condition at Paglinch Farm immediately adjoining this application site (Reference: 19/04009/REM), was approved a year ago. Condition 2 of 06/03707/FUL was imposed in the interests of protecting the amenity of existing and future occupiers.

In removing Condition two, the Council is in effect issuing a new permission and so all previous conditions relating to this site still stand. It is noted that the approved development alterations have already commenced so Condition one attached to Reference: 06/03707/FUL is no longer relevant.

In order to assess the acceptability of the proposal it has been necessary to obtain a site plan detailing the site layout in relation to car parking and garden allocation. This plan shall therefore be included in the approved plans list. It is considered reasonable and necessary to attach conditions requiring the development to be carried out in accordance with the approved plans and requiring the parking spaces to be kept free of obstruction and available for car parking.

Given the assessment made above it is recommended that permission be granted subject to conditions.

## **RECOMMENDATION**

PERMIT

## **CONDITIONS**

### **1 Plans List (Compliance)**

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

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

### **2 Parking (Compliance)**

The areas allocated for parking and turning 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 ST7 of the Bath and North East Somerset Placemaking Plan.

## **PLANS LIST:**

1 This decision relates to the site plan and block plan received 18th November 2020.

## 2 Permit/Consent Decision Making Statement

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

## 3 Condition Categories

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

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

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

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

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

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

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

## 4 Community Infrastructure Levy

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. **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 development commences, failure to comply with the regulations can result in surcharges and additional payments. 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)

## 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.

## **6 Coal Mining - Low Risk Area (but within coalfield)**

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:  
[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

**Item No:** 02  
**Application No:** 20/03162/FUL  
**Site Location:** Camerton And Peasedown Croquet Club Whitebrook Lane Peasedown St. John Bath Bath And North East Somerset



**Ward:** Peasedown                      **Parish:** Peasedown St John                      **LB Grade:** N/A

**Ward Members:** Councillor Sarah Bevan      Councillor Karen Walker

**Application Type:** Full Application

**Proposal:** To relocate the old buildings and install a new prefabricated building. Install a bio-digester waste water treatment system and a rain collection system and secure permissions for low level advertising board on small sections of the perimeter fencing.

**Constraints:** White Ox Mead Air Strip 3km buffer, Agric Land Class 1,2,3a, Coal - Standing Advice Area, Contaminated Land, Policy CP9 Affordable Housing Zones, Policy LCR5 Safeguarded existg sport & R, Policy NE2A Landscapes and the green set, Policy NE3 SNCI, Policy NE5 Ecological Networks, SSSI - Impact Risk Zones,

**Applicant:** Mr Craig Shaw

**Expiry Date:** 26th February 2021

**Case Officer:** Hayden Foster

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

## REPORT

### Reasons for reporting application to committee

The application is being referred to the committee as local councillors have written in support to the application contrary to the case officer recommendation to refuse.

The application has been referred to the chair and vice chair of the development management planning committee in line with the planning scheme of delegation. The chair has determined that the application should be considered by the committee.

## **Site Description and Proposal:**

The application relates to the Camerton And Peasedown Croquet Club which is situated off Whitebrook Lane. The site is located within the parish of Peasedown St. John, but situated outside of a defined housing development boundary.

The application seeks consent to relocate old buildings and install a new prefabricated building. Install a bio-digester waste water treatment system and a rain collection system and secure permissions for low level advertising board on small sections of the perimeter fencing.

Noted that an application Reference: 20/03163/AR which sought advertisement consent for the display of 31 120cm x 60cm metal clad advertising boards has been withdrawn.

## **Relevant Planning History:**

o 20/03163/AR- WITHDRAWN- Display of 31 no. 120cm x 60cm metal clad advertising boards situated around the bottom perimeter of lawn 2 and lawn 3 and to the far side of Lawn 3 and Lawn 4.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

### **Consultation Responses:**

#### **Peasedown St. John Parish Council**

'No concerns or objections were raised and so it was resolved that this application be supported.'

#### **Contaminated Land**

No objection subject to conditions.

#### **Drainage and Flooding**

No objection.

#### **Highways**

No objection subject to conditions.

#### **Arboriculture**

No objection subject to conditions.

#### **Cllr Karen Walker**

'After carryout a site visit to the Camerton & Peasedown St John Croquet Club on Wednesday 14th October, to discuss the proposed planning application, to relocate the old buildings, and to install a bio-digester waste water treatment system, and low level

advertising boards. I have no objections, the proposed plan is sympathetic to the surrounding area, there will be no loss of light, the new building is not out of keeping of the surrounding buildings. The display advertising boards will be located at a low level, so it will not obscure the views.'

### **Cllr Sarah Bevan**

'I would like to support this application for the following reasons:

The club actively promotes healthy living and tackles inactivity, so enhanced facilities will be of even greater value to the local community and the wider area.

The club holds well attended events, so enhanced facilities are needed to accommodate visitors, participants and spectators.

Enhanced facilities will create a community hub for taster sessions, designed to increase membership and well being for an even wider local population.

The application will not cause any overdevelopment problems, such as overlooking, as it is below the level of neighbouring properties.'

### **Representations Received:**

Eight supporting comments have been received. In summary the following comments have been made:

- o The proposal will provide updated facilities to enable wider participation for sporting events.
- o The proposal will increase sports and recreational facilities at a time when social distancing still allows people to participate in sport.
- o The club is outgrowing its facilities and must provide better WC facilities & meeting space for its members.
- o The proposals considerably improve the club house facilities which are currently very basic and the irrigation system to be constructed will ensure the quality of the lawns can be maintained.

### **POLICIES/LEGISLATION**

On 13th July the Council adopted the B&NES Placemaking Plan. It now becomes part of the statutory Development Plan for the district, against which planning applications are determined. The statutory Development Plan for B&NES now comprises:

- o Core Strategy (July 2014)
- o Placemaking Plan (July 2017)
- o B&NES Local Plan (2007) - only saved Policy GDS.1 relating to 4 part implemented sites
- o Joint Waste Core Strategy
- o Made Neighbourhood Plans

Core Strategy:

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

CP2: Sustainable Construction  
CP5: Flood Risk Management  
CP6: Environmental Quality  
CP7: Green Infrastructure  
DW1: District-wide Spatial Strategy

Placemaking Plan:

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

D1: General Urban Design Principles  
D2: Local Character and Distinctiveness  
D3: Urban Fabric  
D5: Building Design  
D6: Amenity  
D8: Lighting  
LCR5: Safeguarding Existing Sport & Recreational Facilities  
LCR6: New and Replacement Sports and Recreational Facilities  
NE1: Development and Green Infrastructure  
NE2: Conserving and Enhancing the Landscape and Landscape Character  
NE2A: Landscape Setting of Settlements  
NE3: Sites, Species and Habitats  
NE5: Ecological Networks  
NE6: Trees and Woodland Conservation  
PCS5: Contamination  
ST1: Promoting Sustainable Travel  
ST7: Transport requirements for managing development

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

## 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 application relates to the Camerton & Peasedown Croquet Club which is situated off of Whitebrook Lane. The site is located within the parish of Peasedown St. John, outside

of a defined housing development boundary. The site is identified by Policy NE2A of the Bath and North East Somerset Placemaking Plan as falling within the landscape/green setting of a settlement.

The application seeks consent to relocate old buildings and install a new prefabricated building, install a bio-digester waste water treatment system and a rain collection system and secure permissions for low level advertising board on small sections of the perimeter fencing.

Application reference: 20/03163/AR which sought advertisement consent for the display of 31 120cm x 60cm metal clad advertising boards has been withdrawn.

### **Principle of Development**

The proposal seeks the relocation of old buildings used by the croquet club and their replacement with a new prefabricated building. Given the nature of the proposal policy LCR5 and LCR6 of the Bath and North East Somerset Placemaking Plan are of relevance.

It is noted that the site is identified by Policy LCR5 for having land and buildings of value for sports and recreation. The proposal seeks to keep the site within the same use which is for sports and recreation.

With regards to Policy LCR6, the proposed development is for an outdoor sports facility with at least equal benefit to the development of sport and community access to sport to outweigh the loss of the existing or former recreational use. The vehicle access and proposed on-site vehicle parking is of an appropriate standard; B&NES Highways have no objection to the proposed works. Given the existing use of the site the proposal would not give rise to significant adverse environmental conditions including the impact of air, noise, water quality and light pollution and nor will it be detrimental to public safety or the amenities of nearby residents.

### **Character and Appearance**

The proposal seeks to relocate old buildings and install a new prefabricated building.

As noted above the proposal is identified by Policy NE2A of the Bath and North East Somerset Placemaking Plan as falling within a landscape and the green setting of a settlement. This policy sets out that any development should seek to conserve and enhance the landscape setting of settlements and their landscape character, views and features. Development that would result in adverse impact to the landscape setting of settlements that cannot be adequately mitigated will not be permitted.

Policy D2 of the Placemaking Plan is of relevance. This policy sets out amongst other things that development should positively respond to the site context, in particular the local character, including uses, landmarks, layout, streets and spaces, siting, spacing, set-back, building lines, roofscapes, materials, building forms and features. This policy also notes that proposals should present a design which enhances and responds to natural features, including landscape, green infrastructure, skylines, topography, landform and views.

Policy D5 is also of relevance. This policy sets out amongst other things that building facades, reveals and entrances must be well designed, all elevations must be well articulated, and an appropriate building line and/or boundary treatment should be maintained.

The existing buildings on site are limited in both size and scale and are clustered in the north-eastern end of the site near to the entrance. The existing buildings consist of a clubhouse, equipment store, compost toilet, timber shelter and garage store. Some of the buildings such as the clubhouse, compost toilet will be replaced by a new prefabricated building which has been donated as a new club house. Other buildings on site will be relocated or repurposed.

With regards to the new prefabricated clubhouse this building is set to measure 7.965 metres by 16.970 metres and (approximately) 3.2 metres in height from ground level. The building will also present timber decking with ramped access to the front elevation. Concerns have been raised regarding the character and appearance of the building set within this location. This is in addition to the temporary nature of the prefabricated building. Following conversations, revised elevations have been provided to present the building clad in timber to the front and rear elevations, and a false pitched roof presented to the front elevation.

While the revisions are noted the concerns regarding the 'temporary' nature of the building and its appearance within the landscape setting are still present. The buildings as existing are limited in both size, scale and are discreetly located within the site. The proposed building will be a notable 'temporary' building within this rural location. The site sits on lower ground to the cricket club situated to the south but is on a higher ground level to dwelling situated off New Buildings and Whitebrook Lane situated to the north. It is noted that the site is partly screen by natural vegetation consisting of trees and hedgerow but the site presents an opening in the natural vegetation with views of the side of the building possible. It is also noted that the site is bound by the Camerton Wood, an accessible natural green space.

Given the nature of the site and building proposed it is considered that the proposal will not positively respond to the site context, the local character, building lines, roofscape, materials, building form and features. The proposal due to its design will not enhance or respond to natural features, including landscape.

The proposal by reason of its design, massing, layout and materials is unacceptable and will not contribute or respond to the local context and will not maintain the character and appearance of the surrounding area. The proposal is contrary to Policy CP6 of the adopted Core Strategy (2014) and policies D2, D5 and NE2A of the Placemaking Plan for Bath and North East Somerset (2017) and part 12 of the National Planning Policy Framework (NPPF).

### **Residential Amenity**

Given the existing nature of the site and the proposed use of the buildings the proposed development 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**

Given the nature of the proposal the Bath and North East Somerset Highways Development Control Team (HDC) have been consulted. Within the response received it is noted that the application does not involve any change to the access to the highway or changes to the number of existing car parking spaces. There are two disabled parking bays proposed to be marked adjacent to the club house and this is welcomed.

The new building will result in a modest increase in floor area for the club house. Given that the proposed building is ancillary to the existing use of the site there will be no significant impact on trip generation.

Given the assessment made above HDC raise no objection to the application. The means of access and parking arrangements are acceptable and maintain highway safety standards. The proposal accords with policy ST7 of the Placemaking Plan for Bath and North East Somerset (2017) and part 9 of the NPPF.

## **Trees**

There are several trees and hedgerow bounding the site; a tree survey and arboriculture report have been provided. Given the proximity of the proposed works to this vegetation the Bath and North East Somerset Arboriculture Team have been consulted. Within the response received it is noted that an arboriculture report has been submitted to support the application and demonstrate consideration of policies NE1 and NE6 of the Placemaking Plan.

The report identifies that several trees in the vicinity require works irrespective of the current proposals.

The report provides suggested tree protection methods where activities are within the root protection areas and beneath the canopies of retained trees. The comments received note that there are no objections to the proposal subject to conditions.

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

## **Drainage and Flooding**

As noted, an element of the proposal seeks the installation of a bio-digester waste water treatment system and a rain collection system. Due to the nature of these elements the Bath and North East Somerset Drainage and Flooding Team have been consulted. Within the response received it is noted that the development is located outside of Flood Zone 2 and 3 and is not shown to be at risk of surface water flooding. The drainage and flooding team have no objection on flood risk grounds.

Surface water is to be managed in accordance with Building Regulations Approved Document Part H. Adherence to the drainage hierarchy is required. Onsite infiltration testing will be required to confirm the viability of soakaways and inform their design. This testing should be undertaken at an early stage of the development.

Given the comments raised above the proposal is compliant with Policy CP5 of the Bath and North East Somerset Core Strategy.

### **Contaminated Land**

The site is identified as having potentially contaminative historical use. As such the Bath and North East Somerset Contaminated Land Team have been consulted. Within the response received it is noted that the site is located above an old landfill which is understood to have been infilled between 1976 and 1986.

The nature and composition of the material used to fill the site is unknown. Due to the potential risks of contamination of soils, groundwater and potential gas generation posed by the historical use of the site, the contaminated land team advise that contaminated land model planning conditions are placed on the application if granted.

Given the assessment above, and subject to conditions the proposed development can comply with policy PCS5 of the Bath and North East Somerset Placemaking Plan, and part 11 and 15 of the NPPF.

### **Low Carbon and Sustainable Credentials**

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. Several 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 considered in the recommendation made.

### **Conclusion**

Based on the assessment above it is recommended that the application be refused. The proposal will not positively respond to the site context, local character, building lines, roofscape, materials, building form and features. The proposal due to its design will not enhance or respond to natural features, including landscape. The public benefits of the proposal are noted but these are not considered to outweigh the harm caused by the incongruous nature/visual appearance of the building and the adverse impact that will have on the wider character and appearance of the area.

### **RECOMMENDATION**

REFUSE

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

1 The proposal will not positively respond to the site context, in particular the local character, building lines, roofscape, materials, building form and features. The proposal due to its design will not enhance or respond to natural features, including landscape. The

proposal is contrary to policy CP6 of the adopted Core Strategy (2014) and policies D2, D5 and NE2A of the Placemaking Plan for Bath and North East Somerset (2017) and part 12 of the National Planning Policy Framework (NPPF).

## **PLANS LIST:**

1 This decision relates to the following plans received 29th September 2020:

Drawing Number: 34-P-03 - Site Block Plan as Proposed  
Drawing Number: 34-P-04 - Site Plan as Proposed  
Drawing Number: 34-P-06 - Equipment Store Plans and Elevations  
Drawing Number: 34-P-07 - Pump House Plans and Elevations  
Drawing Number: 34-P-08 - Timber Store Plans and Elevations

Plans received 8th December 2020:

Drawing Number: 34-P-05 Revision A - Proposed Plans and Elevations

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

## **3 Community Infrastructure Levy**

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

**Item No:** 03  
**Application No:** 20/03391/FUL  
**Site Location:** Little Pear Tree Cottage Tadwick Lane Tadwick Bath Bath And North East Somerset



**Ward:** Bathavon North      **Parish:** Swainswick      **LB Grade:** N/A

**Ward Members:** Councillor Kevin Guy      Councillor Sarah Warren

**Application Type:** Full Application

**Proposal:** Redevelopment of previously developed garage site for an office, gym and annexe to be used in connection with Pear Tree Cottage.

**Constraints:** Agric Land Class 3b,4,5, Policy CP8 Green Belt, Policy CP9 Affordable Housing Zones, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, Policy NE2 AONB, Policy NE5 Ecological Networks, Policy NE5 Strategic Nature Areas, All Public Rights of Way Records, SSSI - Impact Risk Zones,

**Applicant:** Mr and Mrs Kho

**Expiry Date:** 16th February 2021

**Case Officer:** Isabel Daone

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

## REPORT

Planning permission is sought for the redevelopment of a previously developed site which currently houses a garage, for an office, gym and annexe to be used in connection with Little Pear Tree Cottage.

The application site is a relatively regular shaped plot located immediately to the south west of Little Pear Tree Cottage. The site is located within the Green Belt and Area of Outstanding Natural Beauty. Tadwick House, located to the west of the site on the opposite side of the access lane is a Grade II Listed Building.

This planning application is taken before the Planning Committee in the interests of transparency. There is a historic pre-application enquiry on this site (2011). There are no scanned plans available with that enquiry. The applicant has provided information independently to support the position that the officer of the time had supported the case. That view is not disputed however in the absence of complete records the scheme is assessed afresh. It is of note in any event that an officer pre-application advice is given in good faith but is not binding on the local authority and members as the decision maker are able to come to their own view. The application does not receive officer support for the reasons given.

Relevant Planning History:

99/02314/FUL

PERMIT - 18 May 1999

First floor extension to existing single storey kitchen and rear extension to form first floor bathroom facility.

99/02916/FUL

PERMIT - 26 November 1999

Lean-to single storey extension to South elevation to form dining room facility

09/00814/CLPU

REFUSED: 30 June 2009

Conversion of existing garage for use ancillary to the domestic enjoyment of the main dwelling

**SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Consultation Responses :

SWAINSWICK PARISH COUNCIL:

Objection, summarised as follows -

- Significant impact on the aesthetics of a small hamlet
- Design is not in keeping
- Contrast with surrounding old and listed properties is stark
- Incongruous nature of the building is illustrated by the inclusion of aluminium framed windows and profile fibre cement roofing; alien materials in this location
- In the Green Belt and AONB, inappropriate development
- The proposed commercial use will generate additional traffic along this and, as important, the tiny access route to the site
- Chemical storage nearby considered a threat to the permanent proximity of residents and personnel alike

CLLR. KEVIN GUY:

I have had a chance as the local ward Councillor to look at the attached application and in the new world we live in I fully support the conversion of garage space into a home working space. The environmental impact from working from home is a massive consideration that should be taken onboard with this application.

I fully support any sensible officer restrictions to size and height etc. If you are minded to refuse then can I formally request this application gets sent to councillors to consider at the next appropriate planning committee.

#### ECOLOGY:

No objection subject to conditions (Wildlife Protection and Mitigation and External Lighting) -

- Bat survey and assessment report acceptable

#### TRANSPORTATION AND HIGHWAYS:

No objection subject to conditions (1no. parking space to be provided on-site)

- The site's location would mean most journeys would be undertaken by private car
- The creation of a new dwelling outside of a settlement boundary in an unsustainable location would be contrary to the development plan
- However, providing the annexe remains ancillary to the existing dwelling Highways are unlikely to be able to sustain an objection
- No impact to access on to the highway and adequate parking for the house and annexe is retained

#### ENVIRONMENTAL PROTECTION:

- Further assessments recommended to review the potential adverse amenity impact for the future users of the proposed development from the existing nearby farm
- Recommend that odour and noise assessments are conducted to assess if mitigation measures are required and achievable to prevent impact of odour and noise
- With regard to noise the assessment must demonstrate the following levels can be achieved: Maximum internal noise levels of 35dBLAeq,16hr and 30dBLAeq,8hr for living rooms and bedrooms during the daytime and night-time respectively. For bedrooms at night individual noise events (measured with F time-weighting) shall not (normally) exceed 45dBLAmax.

#### PUBLIC RIGHTS OF WAY:

- No objection subject to conditions
- Public footpath BA24/16 runs along the access route to the property. It appears that there is a legal right for the owner of the application site to use a motorised vehicle on this footpath
- Conditions requested to safeguard the footpath

#### CONSERVATION OFFICER:

No objection on heritage grounds

#### Representations Received :

3 objection comments have been received from local residents and are summarised as follows:

- Site is too overdeveloped for the area
- The design is inappropriate and out of character in an agricultural location
- Plans do not enhance the area and will be a blot on the landscape
- Materials not indigenous to B&NES
- Object to the location near our barns which store agrochemical, fertilizer, animal compound, hay with calves and young also housed
- Any structure adjacent to our buildings is deemed a fire hazard
- Pitched roof above the farm buildings is unacceptable
- The buildings are listed and the roof would be incongruous to rural views

- The annexe could be considered a dwelling not an annexe
- The garage is already too close to the farm buildings and this should be investigated
- Velux windows would overlook my farm yard and buildings from a very close proximity
- Should we wish to develop the farm buildings in the future this could be problematic
- Housing cattle and do not want noise/smell complaints as a result
- The development is 10ft from our property across the access road
- Two-storey, high apex will be visible from every dominant window in our house
- A new "house" will be an eyesore in amongst the 7 houses which form this part of the hamlet and AONB
- Ruin the aesthetics of the nearby Listed Buildings
- A commercial and guest development will exacerbate traffic issues

## **POLICIES/LEGISLATION**

Policies/ Legislation:

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

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

Core Strategy:

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

CP2: Sustainable Construction  
 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  
D3: Urban fabric  
D5: Building design  
D6: Amenity  
GB1: Visual amenities of the Green Belt  
GB3: Extensions and alterations to buildings in the Green Belt.  
HE1: Historic environment  
NE2: Conserving and Enhancing the landscape and landscape character  
NE2A: Landscape setting of settlements  
NE5: Ecological networks  
ST7: Transport requirements for managing development

National Policy:

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

Listed Buildings:

In addition, there is a duty placed on the Council under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 'In considering whether to grant planning permission for development which affects a listed building or its setting' to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'

## 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

The main issues to consider are:

- Principle of development in the Green Belt
- Design, character and Area of Outstanding Natural Beauty/Heritage Assets
- Residential amenity
- Highway safety and parking

#### PRINCIPLE DEVELOPMENT IN THE GREEN BELT:

The primary issue to consider is whether the proposal represents inappropriate development in the Green Belt.

The proposal is to demolish an existing single storey garage and to erect a two-storey replacement building which will form a home office, gym and annexe to be used in connection with Little Pear Tree Cottage.

The National Planning Policy Framework states in Paragraph 145 that Local Planning Authorities should regard the construction of new buildings in the Green Belt as inappropriate. Exceptions to this include;

- a) Buildings for agriculture and forestry
- b) The provision of appropriate facilities (in connection with the existing use of land or change of use) for outdoor sport, outdoor recreation, cemeteries, burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it
- c) The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building
- d) the replacement of a building provided the new building is in the same use and not materially larger than the one it replaces
- e) Limited infilling in villages
- f) Limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
  - o not have a greater impact on the openness of the Green Belt than the existing development; or
  - o not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

The proposal is not for agricultural or forestry purposes, nor is it in connection with the provision or appropriate facilities. The proposed annexe would not be considered an extension, as stipulated by criterion C as it is located some distance away from the main houses and is not read in conjunction with it. The proposal does also not fall under criteria e or f. The proposed development could fall under criterion d, which is for replacement buildings in the same use. The existing garage and site is considered to be within C3 use class and therefore this would apply. The proposed building would likely be considered to be materially larger than the existing garage although this assessment has not been made here.

It is considered that the proposal falls within criterion g; redevelopment of previously developed land. The site is considered to be part of the residential garden. The Court of Appeal decision of *Dartford Borough Council v Secretary of State for Communities and Local Government & Anort* [2017] EWCA Civ 141 found that the definition of previously developed land included residential gardens which are not located in a "built-up area" can be considered to be previously developed land. Tadwick is a small hamlet, which does not have a Housing Development Boundary. Officers consider that the location is therefore not a built-up area and that the application should be assessed under criterion G of paragraph 145.

The aim of the Green Belt is to maintain permanently open land. Accordingly, criterion G is caveated by a proposal not having a greater impact on openness than the previous development. An assessment of openness is based on both spatial and visual impacts.

It is acknowledged that the proposed building will border an existing farm building and will therefore be visually screened from some viewpoints, including from the bottom of the access track looking up towards Little Pear Tree Cottage. However, the proposal will be visible from the nearby properties and other public viewpoints, most notably from the Public Right of Way which runs up the access track adjacent to the property. The proposed building will be located closer to the Public Right of way, increase a sense of enclosure in this location. The existing building allows for views of the countryside beyond. The proposed building, which has an additional storey, will block these views which has a harmful impact on openness in this location. Furthermore, when looking back towards the cluster of buildings which characterise this part of Tadwick, the proposed building will be more visible than the existing building, given the increase in massing and height. Its increased massing and height will cause a visual intrusion which will have a greater impact on the openness of the Green Belt than the existing development, contrary to criterion G of paragraph 145 of the NPPF. This is also contrary to the main aim of the Green Belt which is to retain openness.

Spatially, it is also considered that the proposed building will have a greater impact on the openness of the Green Belt than the existing development. This is as a result of its increased scale, height and massing.

It is therefore considered that the proposed development would be more visually dominant and spatially prominent than the existing single-storey garage structure and would thus have a greater impact on the openness of the Green Belt. The development is therefore, by definition, inappropriate development. Very Special Circumstances are not considered demonstrated in this case and the development is contrary to both local and national Green Belt policy and the proposal should be refused on this basis.

#### CHARACTER, APPEARANCE, AONB AND HERITAGE:

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

Concerns have been raised regarding the design of the proposal in relation to the material palette, its contrast to the surrounding buildings and it not being in-keeping with its surroundings generally.

The proposed building will be two-storey with a pitched roof. A single storey element will project from the left hand side elevation as the building is viewed from the access track. This will feature a catslide style lean-to roof. The materials proposed include rubble stone walling, timber cladding, aluminium to the eaves and gutters and profiled fibre cement roofing.

The surrounding residential dwellings and farm buildings are largely constructed from stone and do not feature large amounts of timber cladding. However, the overall design concept of the proposed building does reflect the character of the farm buildings on the adjacent site. The use of fibre cement roofing reflects the agricultural character of the immediate locality. Should permission be granted, which is not the recommendation, a condition could secure a sample of the timber cladding. Timber cladding weathers naturally in most cases. Officers consider it is an appropriate material within an agricultural context. The gabled ends mirror the characteristics of nearby dwellings. The proposed building is larger than the existing garage and therefore it does appear more dominant within the immediate street scene. However, its design is considered to reflect the agricultural perspective and there is no objection from the case officer in this regard.

The proposed dwelling is located near to Tadwick House, a Grade II Listed Buildings and Manor Farmhouse, also Grade II Listed. Accordingly, the Council's Listed Buildings Officer was consulted on the application. It was not considered that the proposal would cause harm to the setting of these Listed Buildings and there is no objection on Heritage Grounds.

The application site is within an Area of Outstanding Natural Beauty. Policy NE2 states that development within an Area of Outstanding Natural Beauty should conserve or enhance the local landscape character, features and distinctiveness. The proposal is considered to conserve the existing landscape character, given its location on land which has previously been developed.

The proposal is considered to accord with policies D1, D2, D3, D4, D5, HE1 and NE2 of the Placemaking Plan (2017).

#### 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.

Concerns have been raised regarding loss of outlook as a result of the building and the location of the roof lights enabling views into the adjacent farm.

In regard to the roof lights, officers do not consider that they would cause a significant loss of privacy. The angle of roof lights, within the roof plan, make them difficult to look out of, unless they are open. The roof lights are positioned so that they do not directly

overlooking the farmyard. Given the location of the building adjacent to a farm building which is not used for residential purposes, it is not considered that it will cause additional overshadowing, overlooking and overbearing to these occupiers.

Another resident has commented that the proposal will be visible from their main property windows. Officers note that the existing garage has a lesser height than the proposed building. The proposal will therefore block some view from the properties set on the opposite side of the lane. However, there is no right to a view and the proposal is considered to be located a sufficient distance away so as to not negatively impact the outlook of these residents to an extent which would result in significant harm to 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 paragraph 17 and part 7 of the NPPF.

#### HIGHWAYS SAFETY AND PARKING:

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

Concerns have been raised regarding highway safety and parking. Residents have concerns that additional traffic will be generated by the development if it is used commercially. The proposal is for ancillary use, in connection with Pear Tree Cottage. Highways have stated that as long as the proposal remains ancillary to the main house, they would have no objection as the development will not impact the existing access and sufficient parking for the main house and annexe will be provided. One car parking space is proposed and if permission were being granted, which is not the case, then this could be secured through condition.

The means of access and parking arrangements are acceptable and maintain highway safety standards. The proposal accords with policy ST7 of the Placemaking Plan for Bath and North East Somerset (2017) and part 4 of the NPPF.

#### ANCILLARY USE:

Concerns have been raised regarding whether the use of the proposed building will be truly ancillary to the main property, or whether it would operate as a dwelling in its own right. The location of the ancillary accommodation is such that it could be accessed and use independently of the main dwellinghouse, Little Pear Tree Cottage. Officers are therefore not satisfied that the ancillary use could be solely controlled through condition. The proposed building will feature a home office and home gym for use by the occupiers of Little Pear Tree Cottage, as well as guest accommodation. Officers consider that an appropriate method of control in this case would be a legal agreement to tie the proposed annexe to the main house to ensure ancillary use. If permission were being recommended, which it is not, then officers consider a legal agreement should be sought to tie the use as ancillary.

## ECOLOGY:

A completed bat survey and assessment report has been submitted as part of the application and the findings have been deemed acceptable by the Council's Ecologist. Conditions should be attached should permission be granted, which is not the officer's recommendation, which ensure Wildlife Protection and Mitigate and a condition ensuring that any new external lighting shall not be installed without details first being submitted to the local authority.

## OTHER MATTERS:

A number of concerns have been raised regarding the storage of ammonium nitrate and the fire risk that this poses to any future users of the annexe. Environmental Protection were consulted on the application and did not raise any concerns regarding this matter. Officers consider that it is the responsibility of the landowner to ensure that ammonium nitrate and other chemicals are stored appropriately in accordance with The Health and Safety at Work Act.

Environmental Protection did raise concerns regarding potential noise and odour from the nearby farm building and recommended assessments to determine whether mitigation measures were required to protect any future occupiers. The case officer considers that these surveys would be onerous in this case. The proposed building would be ancillary accommodation, rather than independent occupation. The level of use is therefore unlikely to be similar to the level of use which an independent dwelling would have and as such, such as assessment is not considered necessary in this case.

## CONCLUSION:

The proposal is considered to be inappropriate development within the Green Belt and it is therefore recommended for refusal.

## RECOMMENDATION

REFUSE

## REASON(S) FOR REFUSAL

1 The proposal represents inappropriate development which is by definition harmful to the Green Belt and would be harmful to the openness of this part of the Green Belt. The proposal is therefore contrary to policy CP8 of the adopted Core Strategy (2013) and policy GB1 of the Placemaking Plan for Bath and North East Somerset (2017) and part 13 of the NPPF.

## PLANS LIST:

1 This decision relates to the following plans:

415.P.010. P1. SITE PLAN as Proposed

415.P.100. P1. GROUND FLOOR PLAN as Proposed

415.P.101. P1. FIRST FLOOR PLAN as Proposed

415.P.102. P1. ROOF PLAN as Proposed  
415.P.200. P1. SECTION as Proposed  
415.P.300. P1. ELEVATION as Proposed  
415.P.301. P1. ELEVATION as Proposed  
415.P.302. P1. ELEVATION as Proposed  
415.P.303. P1. ELEVATION as Proposed

All received 19th September 2020

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

### **3 Community Infrastructure Levy**

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

**Item No:** 04  
**Application No:** 20/04365/PIP  
**Site Location:** 113 Wellsway Keynsham Bristol Bath And North East Somerset BS31 1HZ



**Ward:** Keynsham East                      **Parish:** Keynsham Town Council                      **LB Grade:** N/A

**Ward Members:** Councillor Hal McFie                      Councillor Andy Wait

**Application Type:** Permission in Principle

**Proposal:** Permission in Principle Planning Application for the erection of one dwelling.

**Constraints:** Bristol Airport Safeguarding, Saltford Airfield 3km buffer, Agric Land Class 3b,4,5, Policy CP9 Affordable Housing Zones, Housing Development Boundary, MOD Safeguarded Areas, Neighbourhood Plan, SSSI - Impact Risk Zones, Policy ST8 Safeguarded Airport & Aerodrome,

**Applicant:** Mr John Tavener

**Expiry Date:** 16th February 2021

**Case Officer:** Isabel Daone

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

## REPORT

This planning application is for permission in principle for 1no. dwelling at 113 Wellsway. The existing site is a long plot, which houses a single dwelling and annexe to the rear. The property has pedestrian access from Wellsway and its vehicular access is from Manor Road to the rear. The site is within the Keynsham Housing Development Boundary.

Reasons for going to committee:

Keynsham Town Council objected to the planning application and the case officer is minded to permit the application. Accordingly, the application was referred to the Chair and Vice Chair of the Planning Committee.

The Vice Chair stated that "I have looked carefully at this application & note the limited areas to be considered which have been clearly assessed & linked to the relevance of consultee comments including KTC objections.

I think the land use in particular would benefit from debate in the public arena, therefore I recommend the application be determined by the planning committee."

The chair stated in his decision that "I have looked at the application, and the issues raised by the PC. I feel that matters should be further discussed at Committee."

#### Relevant Planning History:

99/02919/FUL

PERMIT - 26 November 1999

Dormer extension (to Manor Road frontage)

00/02343/FUL

PERMIT - 17 January 2001

Single storey rear extension and detached double garage amended by plan received 4.01.2001 and 21.02.2001

DC - 19/05371/FUL

PERMIT - 5 February 2020

Conversion of garage to ancillary living accommodation.

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

Consultation Responses :

#### KEYNSHAM TOWN COUNCIL:

Objection, summarised as follows-

- Contrary to condition 2 of application 19/05371/FUL (annexe to remain ancillary)
- The access/egress proposed for the development is positioned at a point on the Wellsway that is not safe for vehicles to be merging into the main busy flow of traffic on a bend at this part of the Wellsway and is would be close to the junction with Chewton Road. Visibility is questioned.
- Contrary to policies D4 and ST7

#### DC HIGHWAYS:

No objection, summarised as follows:

- The site is in an accessible area with a choice of transport modes
- No access proposal is presented at this stage
- However, Highways are of the view that the location could conceivably be served by a suitable access for pedestrians, cyclists and vehicles
- Matters of access, parking, drainage and waste management will be considered at TDC stage
- Based on the location, land-use and amount of development, Highways would raise no objection to this proposal

## Representations Received :

5 objections have been received. The main points have been categorised for clarity and are summarised as follows:

### Character and appearance:

- Incongruous overdevelopment
- Out of keeping with the existing pattern of development along the Wellsway
- The terrace and garden frontages of nos. 109-113 contribute to the open and quite rural street scape on this part of Wellsway which can be seen from the Chew Valley
- Any new dwelling built at no.113 within the front garden would interfere with the long-established building line and would impact on the aesthetics of the existing terrace and street scape
- The proposal would erode the open, undeveloped character of the frontage of the terrace of nos. 109-113
- Represents a cramped form of overdevelopment at odds with the surrounding area
- The uncharacteristically close relationship between the rows of development would make the new build appear visually discordant
- It is also relevant to note that 113 is also quite densely occupied with planning permission having been granted for the conversion of the existing garage into ancillary living accommodation
- Hedging and trees may be lost to accommodate the dwelling
- Contrary to policies CP6, D1 and D2
- The location is not an acceptable one for the form of development being proposed

### Residential amenity:

- The siting of a dwelling would mean a very large area of the application site being taken up with a building, access, parking spaces and turning space resulting in limited amenity space for both the occupier of no.113 and any new dwelling
- Loss of privacy and increased noise

### Highway safety and parking:

- Concerned about access onto a busy and narrow part of Wellsway
- Junction from Chewton Keynsham will cause further problems
- Planning statement fails to outline that issues relevant to the "in principle" matters should also be considered at this stage; access onto the Wellsway is a fundamental issue which in my opinion should be addressed at this stage
- Without an access a dwelling cannot be constructed on this plot
- The applicant has not provided any evidence of road speed, despite indicating access from Wellsway
- A visibility splay of 43m by 2.4m is required for a 30mph road. The level of achievable visibility is likely to fall significantly short of this meaning safe access cannot be achieved, contrary to ST7
- The NPPF states that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety. The provision of an access onto the Wellsway would be contrary to the requirements of the NPPF as it has not been demonstrated that a safe access can be provided.

- Government guidance states that when granting PIP's the Local Authority can set out what they would expect at Technical Details Consent Stage. The decision notice should fully set out the access requirements to satisfy policy ST7
- Site is close to blind bend
- No practicable access from Manor Road
- 30MPH limit often exceeded and accidents have occurred near the site
- If there are any fundamental barriers which indicate a development of one dwelling on this site would not be acceptable, the application may be reasonably refused - contrary to the planning statement, this could include matters of highway safety
- The issue of highway safety may be relevant in determining a PIP in cases where the means of access may not be acceptable as a matter of principle
- To achieve the require splays, control of third-party land and the removal of impediments to the splays would be needed - outside the gift of the applicant

Other:

- Will set an undesirable precedent for the development of the front or rear gardens on Wellsway

## **POLICIES/LEGISLATION**

National Policy:

The Town and Country Planning (Permission in Principle) (Amendment) Order 2017

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

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

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

Core Strategy:

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

CP6: Environmental Quality  
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  
D3: Urban fabric  
D5: Building design  
D6: Amenity  
ST7: Transport requirements for managing development

#### 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**

##### ASSESSMENT SCOPE:

The permission in principle consent route is an alternative way of obtaining planning permission for housing-led development. It separates the consideration of matters of principle for the proposal from the technical detail of the development. There are therefore 2 stages to this permission route. The first stage is through obtaining permission in principle, which established whether a site is suitable for the proposed development in principle. The second stage (Technical Details Consent) is when the detailed development proposals are assessed.

The scope of a permission in principle application is limited to location, land use and the amount of development. Other matters should be considered at the Technical Details Consent stage.

This application is the first stage of the process and seeks to establish whether the site is suitable for the erection of 1 no. dwelling in principle.

##### SITE DESCRIPTION:

The application site relates to 113 Wellsway. The site location plan shows the area of land which is subject to this application (outlined in red). The applicant owns the entire plot and this land is shown in blue. The application site is located forward to no.113 Wellsway, fronting onto Wellsway Road.

## OFFICER ASSESSMENT:

National Planning Policy Guidance (NPPG) sets out what can be considered when assessing a permission in principle application. At the first stage of the process, local authorities should only consider the location of development, land use and the amount of development.

The primary issue to therefore consider is the whether the proposed location is suitable for residential development for, in this case, one dwelling. All other matters such as site layout, design and appearance, residential amenity, highway safety/access/parking, ecology etc. should be considered at the Technical Details Consent stage.

The application site is located within the Keynsham Housing Development Boundary. Policy KE1 of the Core Strategy allows for residential development within the established Housing Development Boundary. It has been raised by residents that the location would result in a cramped form of overdevelopment and the proposal will be at odds with the surrounding character. Character can be assessed at this stage of this type of planning application if it relates to a principle matter. The applicant is under no obligation to supply a site layout plan and in this place no indication has been provided as to where the dwelling would be located within the site. The site is in a sustainable location, within an established Housing Development Boundary and borders other residential sites. Whilst nos.109-113 are set back from the highway with long front gardens, there are dwellings located adjacent to the site which are forward of this building line. The grain and character of development at this point in the street scene is mixed to some degree. As such, in principle, it is considered that the site could house a dwelling in this location. At Technical Details stage the relationship with surrounding built form would be assessed, when a site layout plan is submitted. The applicant would need to successfully demonstrate that the proposed dwelling responded to the local context and character, in order to comply with local planning policy. If this could not be successfully demonstrated, technical details consent could be refused.

It is therefore acceptable in principle in regard to location. In addition, highways have suggested that access to the site could conceivably be made which also supports the location in principle. At the Technical Details Consent stage, the design, site layout and response to the local context would be considered in line with the Council's design policies.

In terms of land use, the site is already within a C3 residential use in that it forms the garden area of an existing residential property. The provision of residential development is considered acceptable in principle as this land use is already established.

The proposal seeks to erect 1no. dwelling on this site. Although the plot size is not as large as some of those surrounding it, its width is similar to the adjacent plot. Having regard to the footprint of surrounding dwellings, distance from neighbouring properties and the plot size, the erection of 1no. dwelling is considered to be an appropriate amount of development and this is therefore acceptable in principle. At Technical Details Consent stage a suitable site layout would need to be put forward.

## OTHER MATTERS:

A number of residents and Keynsham Town Council have raised a number of concerns regarding the access to the development, which is likely to be off of Wellsway. It has been raised that this should be considered an "in principle issue". The Highways Team have been consulted and have raised no objection to the proposal. The site is in a location which could be access by various transport modes. It is considered that the site could facilitate an access and so, in principle there is no objection. The applicant's attention is drawn to the comments and concerns of residents in relation to highway safety. Sufficient detail will need to be submitted at Technical Details Consent stage to demonstrate that a safe and suitable access can be achieved for all highway users.

Keynsham Town Council have raised that this application is contrary to Condition 2 of application 19/05371/FUL. This application was for the conversion of a garage to ancillary living accommodation at 113 Wellsway. The application was permitted with conditions which prevented the separation of the ancillary accommodation into its own planning unit. The current PIP application does not relate to the ancillary accommodation, which is located to the rear of 113 Wellsway and fronts Manor Road. The current application site is located to the front of 113 Wellsway. The granting of this PIP would not allow the ancillary accommodation to be used separately from the main dwellinghouse.

Officers acknowledge the concerns of residents pertaining to design, character and appearance, residential amenity and highways. However, these are details which will be assessed at Technical Details Consent stage.

#### **CONCLUSION:**

It is therefore considered that the proposal complies with the relevant planning policies as outlined above and the proposal is recommended for approval. No conditions are recommended because conditions cannot be attached to Permission in Principle Decisions as per the guidance set out in the National Framework. An informative will be added to any permission reminding the applicant that a Technical Details Consent application must be made within 3 years of the date of any permission.

#### **RECOMMENDATION**

PERMIT

#### **CONDITIONS**

#### **PLANS LIST:**

1 This decision relates to the following plans:

Site Location Plan. Received 19th November 2020

2 An application for Technical Details Consent must be made prior to commencement of development and no later than the expiration of three years from the date on this decision notice, after this period this Planning Permission in Principle shall lapse.

**Item No:** 05  
**Application No:** 20/03714/LBA  
**Site Location:** 1 Cambridge Place Widcombe Hill Widcombe Bath Bath And North East Somerset



**Ward:** Widcombe And Lyncombe      **Parish:** N/A      **LB Grade:** II

**Ward Members:** Councillor Alison Born      Councillor Winston Duguid

**Application Type:** Listed Building Consent (Alts/exts)

**Proposal:** External alterations to install secondary glazing to existing windows, 2no. on front elevation, 2no. to side elevation, and 2no. to rear elevation.

**Constraints:** Article 4 Bath Demolition Wall, Article 4 Reg 7: Estate Agent, Article 4 HMO, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, British Waterways Major and EIA, British Waterways Minor and Householders, Conservation Area, Policy CP9 Affordable Housing Zones, Listed Building, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, Policy NE5 Ecological Networks, SSSI - Impact Risk Zones,

**Applicant:** Chris Born

**Expiry Date:** 12th January 2021

**Case Officer:** Laura Batham

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

## REPORT

This application is called to Committee as the applicant is a Local Ward Member.

### Site Description:

The proposal property is a Grade II listed building. The site is within the designated conservation area and the wider World Heritage Site of Bath. It occupies an elevated position located towards the bottom of Widcombe Hill in the area just to the south of the

city of Bath. It consists of two semi-detached villas dating from the early 19th century (circa 1820) which are attributed to John Pinch.

**Proposal:**

External alterations to install secondary glazing to existing windows, 2no. on front elevation, 2no. to side elevation, and 2no. to rear elevation.

**History:**

AP - 12/00101/LBRF - ALLOW - 23 April 2013 - Internal and external alterations for the installation of solar panels and roof access hatches on numbers 1 and 2 Cambridge Place.

DC - 12/00969/LBA - RF - 5 July 2012 - Internal and external alterations for the installation of solar panels and roof access hatches on numbers 1 and 2 Cambridge Place.

**SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Bath Preservation Trust:

1 Cambridge Place forms one of a pair of Grade II late Georgian semi-detached dwellings situated in the Bath conservation area and World Heritage Site. The building as a whole features six-over-six single glazed bordered sash windows. Although it is unclear as to whether these windows are original to the building, the existing fenestration style matches the blind windows running down the centre of the building's street-facing elevation.

In principle, the Trust is supportive of the installation of secondary glazing to improve the thermal performance of the building without compromising its historic features. The use of magnetic secondary glazing is a less invasive, reversible measure. We feel this measure would be a positive, easily reversible addition to improve the energy efficiency and residential comfort of a historic building and ensure its long-term, sustainable use with a negligible visual impact.

However, we query why certain windows appear to have been excluded from the scheme, such as those on the second floor. The Trust emphasises the benefits of a whole house approach to energy efficient retrofits, and highlight that any less than substantial visual effects of installation would be further mitigated by ensuring the continued, uniform appearance of the building's principle elevation across all floors.

No further comments received.

**POLICIES/LEGISLATION**

The Council has a statutory requirement under Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in considering whether to grant listed building consent for any works to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

With respect to any buildings or other land in a conservation area the Council has a statutory requirement under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of that conservation area.

The Revised National Planning Policy Framework (NPPF) 2019 is national policy in the conservation and enhancement of the historic environment which must be taken into account by the Council together with the related guidance given in the Planning Practice Guidance (PPG).

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

The statutory Development Plan for B&NES comprises:

- Core Strategy (July 2014)
- Placemaking Plan (July 2017)
- B&NES Local Plan (2007) - only saved Policy GDS.1 relating to 4 part implemented sites
- Joint Waste Core Strategy
- Made Neighbourhood Plans

Core Strategy:

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

- CP6 - Environmental quality
- B4 - The World Heritage Site (where applicable)
- CP1 Retrofitting Existing Buildings
- CP2 Sustainable Construction

Placemaking Plan:

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

- HE1 Historic Environment

Energy Efficiency & Renewable Energy Guidance For Listed Buildings and Undesignated Historic Buildings

## 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 application seeks consent to install secondary glazing within windows on the ground and first floor of the property. The current windows are single glazed and serve main living accommodation bedrooms and the stairs. The secondary glazing proposed is a system which uses an acrylic glazing product affixed using magnetic tapes. This type of system has been used in other properties in Bath and is considered to be a sensitive addition to the building. The method of affixing the glass is reversible and will not harm the character

of the listed building. The windows in the property are very large and the alterations will improve the thermal efficiency of the building.

Comments from the Bath preservation Trust has raised concerns as to why the secondary glazing is not proposed for all of the windows in the building. It is the applicant's choice to apply the secondary glazing and it is not considered that omitting some windows will harm the appearance of the building.

Low Carbon and sustainable credential:

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. This application involves a listed building and has been assessed against the relevant policies and guidance as identified, and these have been fully considered in the recommendation made. In this case the alterations will improve efficiency of the property and ensure that alterations are in keeping with the listed building.

Conclusion:

There is a duty under Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, when considering whether to grant listed building consent for any works, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Here it is considered that the proposals are consistent with the aims and requirements of the primary legislation and planning policy and guidance. The proposals would be an acceptable alteration to the listed building that preserves its significance as a designated heritage asset. The proposal accords with policy HE.1 of the Bath and North East Somerset Placemaking Plan and part 16 of the NPPF.

## **RECOMMENDATION**

CONSENT

## **CONDITIONS**

### **1 Time Limit - Listed Building Consent (Compliance)**

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

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

### **2 Plans List (Compliance)**

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

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

## **PLANS LIST:**

1 Integrated sliding sash cosy glazing drawings received on 12th October 2020

Block Plan received on 13th November 2020  
Location plan received on 13th November 2020  
Floor plan received on 17th November 2020

## **2 Condition Categories**

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

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

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

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

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

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

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

## **3 Community Infrastructure Levy**

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. **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 development commences, failure to comply with the regulations can result in surcharges and additional payments. 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 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:** 06  
**Application No:** 20/03255/FUL  
**Site Location:** Larkhall Sports Club Charlcombe Lane Charlcombe Bath Bath And North East Somerset



**Ward:** Bathavon North                      **Parish:** Charlcombe                      **LB Grade:** N/A

**Ward Members:** Councillor Kevin Guy                      Councillor Sarah Warren

**Application Type:** Full Application

**Proposal:** Erection of a 20m high monopole supporting 3no. antennas and 2no. 0.3mm dishes above the top of the pole, the installation of 1no. equipment cabinet on new base and the installation of ancillary equipment.

**Constraints:** Article 4 The Swainswick Valley, Agric Land Class 1,2,3a, Policy B4 WHS - Indicative Extent, Policy CP8 Green Belt, Policy CP9 Affordable Housing Zones, Policy LCR5 Safeguarded existg sport & R, MOD Safeguarded Areas, Policy NE2 AONB, Policy NE2A Landscapes and the green set, Policy NE5 Ecological Networks, SSSI - Impact Risk Zones,

**Applicant:** Vodafone Ltd

**Expiry Date:** 11th February 2021

**Case Officer:** Chris Griggs-Trevarthen

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

## REPORT

### REASON FOR REPORTING TO COMMITTEE

Cllr. Sarah Warren has requested that the application is determined by committee if officers are minded to recommend approval. Swainswick Parish Council and Charlcombe Parish Council have also objected to the proposal. In accordance with the scheme of delegation the application was referred to the chair and vice chair of the planning committee.

The chair of the planning committee made the following comments:

"Having regard to my declaration of interest to the December meeting of the planning committee and the level of public interest in this planning application, this decision should be made by the Vice-Chair."

The vice chair made the following comments:

"I have studied the application and association information, some of which is very detailed, all points raised have been considered as the application has been assessed against relevant planning policies. It is clearly controversial, as was a similar one which was determined by the planning committee, and the Ward Cllr has requested this one be determined by the planning committee if recommended for approval. To remain consistent with similar applications in the area and our decision-making process, I recommend the application be determined by the planning committee."

The application is therefore referred to the committee in accordance with the decision of the vice-chair of the planning committee.

## DESCRIPTION

The application site comprises a small parcel of land (0.1 hectares) in the north west corner of Larkhall Sports Club adjacent to Woolley Lane. The site is currently grassland which does not form any part of any playing pitches.

There is a broad boundary tree belt to the north of the proposed development and a boundary hedge to its west.

The site is situated within the Bristol and Bath Green Belt, the Cotswolds Area of Outstanding Natural Beauty (AONB) and, although not within its boundary, falls within the setting of the City of Bath World Heritage Site. There is a site of nature conservation interest (SNCI) located to the southwest of the site on the opposite side of Charlcombe Lane. There is a grade II listed building (Twinfield Farm) approximately 150m to the north of the site.

This application seeks the erection of a 20m high monopole supporting 3no. antennas and 2no. 0.3mm dishes above the top of the pole, the installation of 1no. equipment cabinet on new base and the installation of ancillary equipment. The total height of the proposals with the antennas on top of the proposed mast is 23.4m.

The applicants have submitted a supporting statement with the proposal and have also provided a Certificate complying with the International Commission on Non-Ionising Radiation Protection (ICNIRP) guidelines on the limitation of exposure of the general public to electromagnetic fields.

## PLANNING HISTORY AND OTHER RELEVANT APPLICATIONS

Application reference: 20/01315/TEL

Applicant: Sinclair Dalby Ltd

Description: The erection of a 20m high monopole supporting 3no. antennas and 2no. 0.3m dishes above the top of the pole, the installation of 1no. equipment cabinet on new base and the installation of ancillary equipment.

Status: WITHDRAWN - 29th May 2020

There is an existing telecommunication mast located in the same field approximately 60m to the south of the current proposals. The planning history for this mast is listed below:

Application reference: 04/01170/FUL

Applicant: Hutchison 3G UK Ltd

Description: Erection of telecommunications base station comprising 15m high monopole and equipment cabinet measuring 1.5m x 1.96m x 0.7m

Status: PERMITTED - 16th June 2004

Application reference: 19/05534/FUL

Applicant: Waldon Telcoms Ltd

Description: Erection of 20 metre-high telecommunications monopole accommodating 6no antenna apertures, 4no transmission dishes and 8no ground-based equipment cabinets.

Status: REFUSED - 17th December 2020

## **ENVIRONMENT IMPACT ASSESSMENT**

This application proposal has been screened under the Town and County Planning (Environmental Impact Assessment) Regulations 2017 and it has been determined that the application does not represent EIA development and that an Environmental Statement is not required.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

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

LANDSCAPE: No objection, subject to conditions

CONSERVATION: Scope for revision

Based on the available evidence, the mast will have a very minor, almost negligible, harmful impact on the setting of the listed building.

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Under the NPPF where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The courts have held that even a very low level/negligible level still amounts to less than substantial harm and must be given appropriate weight in the planning balance.

In this case, it is recognised that the wider public benefits of mobile technology would be material to the planning balance.

ECOLOGY: No objection, subject to conditions

HIGHWAYS: No objection, subject to condition

SWAINSWICK PARISH COUNCIL: Objection

This Council objects to this application on these grounds:

1. The proposed masts proximity to residential properties, schooling and leisure activity areas.
2. The structure's intrusion into an AONB.
3. At 20 metres high the visual impact on local residents and also when entering this World Heritage City from the Swainswick/Woolley valley along the lanes or from the A46, is unacceptable.
4. 5g technology is not proven regarding its safety/potential impact on people and this location maximises any risk to, in particular, the younger generations that frequent this area.

CHARLCOMBE PARISH COUNCIL: Objection

Charlcombe Parish Council remains strongly opposed to this application, as it was with the previous and almost identical application 20/01315/TEL, withdrawn 29th May 2020. A consent to this application would mean there being two towers at this site in close proximity to each other. The council also feels that that the numerous objections to the original application, as above, and those for the upgrading of the existing tower, 19/05534/FUL, should be taken into consideration for this application as well.

The sports ground lies within the Cotswold National Landscape and is an AONB, as well as being very close to the Charlcombe Conservation area. The site is a well-used sports ground used for many purposes by the local community and by local schools. Also, the lane that runs alongside the site is well used by runners, cyclists, walkers and horse riders.

The application remains counter to the policies as stated in our objection to 20/01315/TEL: -

Greenbelt (Policy CP8): The openness of the Greenbelt will be protected from inappropriate development

Area of Outstanding Natural Beauty (Policy NE2A): New development will be expected to reinforce the local landscape character and make a positive contribution to the views.

Protected Landscape Setting (Policy NE2A): Any developments should seek to conserve and enhance the landscape setting of settlements and their landscape character, views and features.

In conclusion, as it did with the application 20/01315/TEL, the council feels that the visual impact of this, a second tower, and the assorted antennae, dishes and cabinets would be harmful to the vista and enjoyment of this important leisure area. It asks that the application be refused.

#### COUNCILLOR SARAH WARREN: Comment

This location is in the AONB and Green Belt, 100m from the World Heritage Site and directly across a narrow lane from a site of Nature Conservation Interest. The 20m pole will be the second such pole in the same field. Even one of these huge 20m poles will detract from visual amenity in the AONB and Green Belt, and the public benefit of erecting a second in the same field in the World Heritage Site Setting should be seriously called into question. If 5G poles are considered permissible at this location, then the functionality should be combined onto a single installation. There remain questions, however, about the impact of the technology on both wildlife and human health - an environmental impact assessment on the nearby site of Nature conservation interest should be carried out, and the amenity of local residents, some of whom may consider their health impacted by the technology, must be considered.

#### BATH PRESERVATION TRUST: Comment

There appears to be a misnomer within this planning application; whilst the monopole itself would be 20m, the total height of the structure including the proposed antennas would be 23.4m. It is this latter height that should be consequently referred to throughout the application when considering visual impact.

The Trust maintain concerns regarding the apparent, continued absence of a demonstrated scheme or operations plan regarding ongoing upgrades within and around Bath. The Trust continue to note that we have reached a period in which a widescale replacement of existing, outdated masts is imminent, and therefore it is critical at this moment to establish a fixed framework for appropriate mast designs and positions in the landscape, as well as Bath's townscape (see application 20/02388/TEL). No mention is made regarding rollout proposal discussions with the Cotswolds Conservation Board that may have informed the location and design of this proposal, despite the Joint Accord signed by Vodafone in 2013. The Trust continue to feel that this application could propose an intensification of mast usage in this hillside area of the AONB, in conjunction with the existing mast at the junction of Charlcombe Lane and Woolley Lane, which has not been demonstratively considered in the weighing of harm against public benefit.

Whilst no tree works are being proposed as part of this application, the Trust feel the proposal could exacerbate future pressure on trees to the north and east boundaries of the playing field site. The lanes are characterised by the strong presence of hedging and grouped mature planting, resulting in an enclosed, verdant appearance, particularly along Charlcombe Lane. Consequently, the removal or drastic crowning of mature trees in this area would be at the direct detriment to the rural character of the Green Belt and AONB, and, should the monopole structure be permitted, it would be dependent on the this tree cover to mitigate potential visual harm within short-range and long-range views through the AONB, Green Belt, and wider landscape setting of the World Heritage Site. Therefore, the Trust emphasise the need for careful consideration of the mast's proposed placement and height in relation to boundary tree cover to best prevent future, ongoing detriment to the appearance and character of the area.

However, should this proposal be deemed acceptable, we feel that the current, more slender monopole design is preferable to a more visually bulky lattice tower. The Trust are supportive of the applicant's cooperation with B&NES officers to negotiate a more appropriate paint colour and finish, should the monopole be approved. The Trust feels that a darker colour paint finish would better blend the monopole with its surrounding tree cover, particularly as viewed from the north (see Photomontage 4) and across the playing field (see Photomontage 2).

**THIRD PARTIES/NEIGHBOURS:** 131 letters of OBJECTION have been received the main issues raised were:

A large number of the comments were concerned about the visual impact of the proposed replacement mast. The proposed mast was considered too tall and too wide and would result in harm to the landscape, the skyline and the important views. It was considered harmful to the Cotswold AONB, the Bath World Heritage Site, the Conservation Area and the openness of the Green Belt. It is also considered to be inappropriate development in the Green Belt. This harm was considered to be emphasised by the design of the mast and its utilitarian appearance.

Some comments suggest that the description is misleading by saying that the mast will be 20m high, when the overall height including the antenna is 23.4m.

Several comments also refer to the cumulative impact of this proposal alongside the nearby proposals for a replacement telecommunications mast in the same field (19/05534/FUL). There was also concern about a lack of coordination for the strategic rollout of new masts.

There were concerns that the proposals would result in the removal of trees which would lead to landscape harm, destruction of wildlife habitat and increase flooding in the area. There was concern that tree-work had taken place to lower the height of trees and that some of the visual impact assessments may therefore be out of date.

A significant number of the comments also raised concerns about the safety of 5G technologies, citing the following issues - lack of evidence of safety, evidence of harm to humans, animals, insects and plants, concern about impact upon children and other vulnerable people. The perception and fear of harm arising from the proposed mast was also raised as an issue. Some were also concerned about an invasion of privacy and data security risks which it was suggested might arise with 5G technology.

A few comments were concerned that the proposals were contrary to the Council's declaration of a Climate and Nature Emergency.

Several comments felt that the proposed mast was unnecessary or that there were alternative locations it could be sited.

Several suggestions were made that the application was missing details and technical information about the replacement mast and that there was a lack of consultation undertaken.

Several comments considered that the proposals were contrary to many of the policies within the development plan and the NPPF.

3 letters of SUPPORT have been received. The main issues raised were:

The comments suggest that the currently level of internet services in Bath is poor with huge capacity issues. It is suggested that the proposals will improve this situation. They consider this particularly important at the moment.

One letter raises concerns about what is described as the level of baseless hysteria over the rollout of 5G technology. They indicate that there is no credible peer reviewed scientific evidence that 5G is in anyway harmful.

## **POLICIES/LEGISLATION**

The Development Plan for Bath and North East Somerset comprises:

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

## **RELEVANT CORE STRATEGY POLICIES**

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

- SD1 Presumption in favour of sustainable development
- DW1 District Wide Spatial Strategy
- B4 Bath World Heritage Site
- CP6 Environmental Quality
- CP8 Green Belt

## **RELEVANT PLACEMAKING PLAN POLICIES**

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

- D2 Local Character and Distinctiveness
- D5 Building Design
- D6 Amenity
- D8 Lighting
- GB1 Visual Amenities of the Green Belt
- NE1 Development and Green Infrastructure
- NE2 Conserving and Enhancing the Landscape and Landscape Character

NE2A Landscape Setting of Settlements  
NE3 Sites, Species and Habitats  
NE6 Trees and Woodland Conservation  
PCS1 Pollution and Nuisance  
PCS2 Noise and vibration  
ST7 Transport Requirements for Managing Development  
LCR7A Telecommunications Development

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

## **LEGISLATION**

There is a duty placed on the Council under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 'In considering whether to grant planning permission for development which affects a listed building or its setting' to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'

There is also a duty placed on the Council under s85 Countryside and Rights of Way Act 2000: "In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty."

## **LOW CARBON AND SUSTAINABLE CREDENTIALS**

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

## **OFFICER ASSESSMENT**

The main issues to consider are:

1. Principle of development
2. Green Belt
3. Landscape, visual impact and heritage
4. Trees and woodland
5. Ecology
6. Highways and access
7. Health
8. Very special circumstances
9. Other matters
10. Conclusion

### **1. PRINCIPLE OF DEVELOPMENT**

Policy LCR7A of the Placemaking Plan supports the principle of telecommunications development and states that they will be permitted if they meet the listed criteria.

Criterion 1 requires that the siting and appearance of the apparatus minimises the impact upon visual amenity, character or appearance of the surrounding area. Criterion 4 requires the development not to have an unacceptable effect on areas of ecology, landscapes or heritage assets such as the World Heritage Site. Both criteria are considered further in the landscape, visual impact and heritage section below.

Criterion 2 applies only to apparatus proposed on a building and does not apply in this instance.

Criterion 3 requires that, in the case of new masts, it is demonstrated that the possibility of erecting apparatus on existing masts or structures has been fully explored. There is an existing mast located approximately 60m to the south of this site, but it is a relatively small 15m high monopole which is not capable of accommodating all of the equipment and apparatus of the proposed network provider. It is also proposed that the new mast will be used by two providers instead of just a single provider. This will reduce the need for additional masts to be in the area whilst ensuring sufficient coverage.

Subject to the consideration of criteria 1 and 4, the principle of a replacement mast in this location is acceptable and consistent with policy LCR7A of the Placemaking Plan.

## 2. GREEN BELT

In accordance with paragraph 145 of the NPPF, new buildings (or structures) in the green belt are to be regarded as inappropriate development unless they meet one of a few limited exceptions. Paragraphs 145 and 146 set out a limited number of exceptions of development types which are not considered to be inappropriate in the Green Belt. However, none of these exceptions cover the erection of a telecommunications mast. The proposed telecommunication mast is therefore considered to be inappropriate development in the green belt.

The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The case for very special circumstances is considered in the relevant section below.

## 3. LANDSCAPE, VISUAL IMPACT AND HERITAGE

The site lies within the Green Belt; The Cotswolds Area of Outstanding Natural Beauty; the indicative landscape setting of the settlement of Bath; and the indicative setting of the Bath World Heritage Site. These multiple designations underscore the quality and importance of the surrounding landscape character, features and views and suggest that it may be sensitive to development which is visually prominent.

The submitted photomontages show that while views of the upper part of the mast and the antennae are likely to be possible from the portion of Woolley Lane which borders the

site's western boundary they also demonstrate that the surrounding mature boundary vegetation is likely to screen most other views of the mast.

Though the three antennae at its top are likely to be visible because they are above this tree line, it is considered that the submitted photomontages demonstrate that they would not be a visually prominent feature and would tend to blend into the backdrop of wooded hillsides and nucleated settlements in middle distant views from Public Rights of Way on higher ground to the north west (PROW BA5/3 and BA5/4); and distant views from the higher ground to the west and east (Lansdown, Little Solsbury Hill).

In light of this, it is considered that the landscape and visual impact of the proposed mast is unlikely to be significant.

Furthermore, the Larkhall Sports Club already contains a number of manmade vertical features including a significant number of floodlighting columns and an existing 15m high telecommunications mast in the western corner of the field. In longer views, the sports club stands out due to the prevalence of these vertical manmade features and the presence of dense conifer tree lines along its eastern boundary. Whilst there will be some additional visual impact as a result of the cumulation of manmade features, the introduction of an additional 20m telecommunications mast in this context will not significantly change the character of the Larkhall Sports Club when viewed within the wider landscape.

It is also considered that there is scope for mitigation of the visual impact of the proposals upon the landscape through the retention of the bordering tree line and through the design including an appropriate colour and finish for the mast and its equipment. Such matters could be secured through planning conditions and further reduce the likelihood of any significant impacts.

The landscape officer has no objection to the proposals.

The proposals are therefore considered to conserve the natural beauty of the Area of Outstanding Natural Beauty, the visual amenity of the Green Belt, the landscape setting of the settlement of Bath and the setting of the World Heritage Site.

There is some limited intervisibility between Twinfield Farm (Grade II) and the proposed mast. The rural setting of Twinfield is buffered by intervening tree cover. Nevertheless submitted imagery of a before and after view looking from Twinfield Farm back towards the application site does show a portion of the mast projecting above the trees. This feature will appear incongruous in the rural landscape. Based on the available evidence, the Conservation Officer considers that the mast will have a very minor, almost negligible, harmful impact on the setting of the listed building.

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Under paragraph 196 of the NPPF, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be

weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Even a very low level/negligible level of harm still amounts to less than substantial harm and must be given appropriate weight in the planning balance.

This is considered further in the planning balance section below.

#### 4. TREES AND WOODLAND

There is a broad boundary tree belt to the north of the proposed development and a boundary hedge to its west.

The proposed site plan (GalifordTry, Drawing Number 200 Rev C) shows the concrete base on which the monopole would be positioned as coming close to the tree canopy of the boundary tree belt and the proposed 2.1m high boundary fence as overlapping it. However, it is assumed the tree canopies shown on this drawing are diagrammatic.

The submitted Arboricultural Report (ACS Consulting dated August 2020) states that no tree will be 'lost' 'affected' or 'pruned' as a result of the development proposals and the \* 'Arboricultural Layout' drawing ref ARB/4202/100 shows that the concrete base would not encroach upon the Root Protection Area (RPA) of any of the trees within the tree belt. The protective tree fencing would need to be adjusted to allow for the construction of the site security fence the line of which would encroach within the RPA of two of the surrounding trees. The Council's Arboriculturalist therefore has no objection to the proposed development provided the submitted Arboricultural method statement is followed during construction works. This can be secured by condition.

#### 5. ECOLOGY

The site itself is not subject to any ecological designations, although it is fairly near to the Charlcombe Lane SNCI. The proposals for a new mast do not raise any significant ecological issues. In particular, the Council is satisfied that the proposals are not likely to have a significant effect upon any European sites, or have any effects for which a European protected species licence would be required.

The Council's ecologist has recommended that, if a landscaping scheme is required, this should incorporate measures to benefit wildlife. However, in light of the conclusions in respect of the visual impacts of the proposals it is considered that there is no need for a landscaping scheme to be secured by condition.

Furthermore, the plans do not indicate that any lighting will be installed on the proposed mast. Planning conditions controlling the installation of any new lighting can be utilised to prevent any future impacts upon bats or light sensitive species.

#### 6. HIGHWAYS AND ACCESS

No changes to the site access from the highway or car parking are proposed.

The site plan indicates that the site will be reached from the Highway via the sports club's existing access on Valley View Road and then on a proposed temporary access track from the field access gate. The location plan indicates the sports ground being accessed from the south via Charlcombe Lane and turning tightly right into Valley View Road. This route would not be suitable for access due to the layout of the road. This can be controlled through a Construction Management Plan.

Due the narrow width, layout and nature of Valley View Road and the challenge that bringing construction equipment and materials to this site would bring, a Construction Management Plan should be produced to manage the impact on highway safety and residential amenity.

The Highways Officer has no objection to this application subject to a Construction Management Plan being secured by planning condition.

## 7. HEALTH CONCERNS

Numerous comments have raised health concerns about the use of 5G technology. However, the NPPF guidance on this issue is clear and set out in paragraph 116:

*"Local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure."*

The applicant has submitted a certificate of compliance with the ICNIRP public exposure guidelines. This certifies that, when operational, the proposed mast and apparatus used will meet the ICNIRP guidelines and will not pose a threat to safety. The ICNIRP guidelines have been prepared following a wide-ranging review of scientific data on the effects of exposure to human health. This has included major reviews from international organisations and original scientific papers.

Various findings from other studies have been submitted in response to the consultation on this application. None of these provide evidence which is more compelling than that presented by the recent ICNIRP guidelines. In light of the compliance with the ICNIRP guidelines, it is considered that the proposals will not have any significant impacts upon human health and comply with national and local policy in respect of this matter.

## 8. PLANNING BALANCE

As discussed in the Landscape, Visual Impact and Heritage section above, the proposals are considered to result in less than substantial harm to the setting of Twinfield Farm. In accordance with policy HE1 and paragraph 196 of the NPPF this harm should be weighed against the public benefits of the proposal.

Paragraphs 193 and 194 of the NPPF state that great weight should be given to the conservation of a heritage asset and that any harm should require a clear and convincing

justification. Furthermore, there is a duty placed on the Council under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 'In considering whether to grant planning permission for development which affects a listed building or its setting' to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'

The Conservation Officer concludes that the proposed mast will have a very minor, almost negligible, harmful impact on the setting of the listed building.

The public benefits of the proposal include the provision of 2G, 3G, 4G network capacity and the ability to cater for future network demands including 5G. The wider public benefits of providing mobile technology and increased connectivity, particularly during the current covid-19 pandemic, are clearly material and are afforded significant weight.

These public benefits are considered to represent a clear and convincing justification for the proposals which outweigh the great weight given to the harm to the setting of Twinfield Park. The proposals are therefore considered to comply with policy HE1 of the Placemaking Plan and the NPPF.

#### *Green Belt - Very special circumstances*

As indicated above, the proposals are inappropriate development in the Green Belt which should only be permitted if very special circumstances exist. Paragraph 144 of the NPPF indicates that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

It should also be noted that the NPPF advises that inappropriate development is, by definition, harmful to the Green Belt and that any harm to the Green Belt should be given substantial weight.

There are several matters which weigh in favour of the application which must be considered in this balance.

Firstly, a base station is required in this locality to maintain the existing 2G, 3G and 4G network capacity, following the removal of the former telecommunications installation which has now been removed from Colliers Lane to the west. This proposed installation will also cater for any future network demands of Vodafone including 5G provision.

The rollout of 5G technology will enable higher capacity, increased bandwidth and lower latency than compared to 4G. This will enable significant advancements in terms of connectivity, technology and business. It is difficult to quantify the benefits arising from these advancements, but it is certainly the case that the currently ongoing public health crisis (covid-19) has highlighted the importance of digital connectivity within modern society. These benefits are therefore afforded significant weight in the planning balance.

There is strong support from national government for the 5G network roll out expressed through the policies of the NPPF. Paragraph 112 states that planning policies and decisions should support the expansion of electronic communications networks, including

next generation mobile technology (such as 5G). Furthermore, paragraph 116 of the NPPF states that Local Planning Authorities must not seek to prevent competition between different operators or question the need for an electronic communications system.

Secondly, there is a temporary mast currently providing coverage to the area, also located to the west on Colliers Lane. This proposal for a permanent mast would enable the temporary mast to be removed. Whilst it is not possible to secure the removal of this temporary mast through this application, the granting of permission for a permanent mast provides an incentive for the removal of the temporary mast and there is no reason to believe that this would not be the case. Therefore, this matter can be given some limited weight.

Thirdly, the application includes details of alternative sites which were considered and gives reasons why each of these options were discounted. Officers have reviewed the alternative sites considered, all of which are also within the Green Belt, and agree with the reasons given for not progressing these alternative sites. These included consideration of sharing the existing mast located approximately 60m to the south of the application site. Given the type of mast structure currently on this site it would not be possible to accommodate all the equipment of the various network providers on the existing (15m monopole) or recently refused mast (20m monopole). For this site to be capable of accommodating the amount of equipment required by these multiple providers, a more substantial lattice mast would be required which would likely be 5-8m taller than the proposed mast. Such a structure would likely have a much greater visual impact than the currently proposed mast.

If this application were to be refused, then the applicant would have to seek permission for one of these alternative locations to site the required equipment. Given that these locations are also in the Green Belt, they are also likely to be considered inappropriate development. As discussed in the visual impact section of this report, Larkhall Sports Club already stands out in long views due to the prevalence of these vertical manmade features (floodlights, existing masts, etc.) and the presence of dense conifer tree lines along its eastern and southern boundaries. This is therefore considered the most appropriate location within the locality for the siting of a new mast.

In summary, the accepted need to maintain continuity of existing 2G, 3G and 4G network capacity, the (albeit not guaranteed) removal of the temporary mast from Colliers Lane, the benefits of and government support for the next generation of mobile technology (5G) combined with the consideration and discounting of reasonable alternatives are considered to clearly outweigh the harm to the green belt and the negligible harm to the setting of Twinfield Farm. No other harm has been identified and it is therefore considered that very special circumstances exist which justify the proposed development in the green belt.

## 9. OTHER MATTERS

### *Cumulative impact and application 19/05534/FUL*

Planning application 19/05534/FUL for a replacement of an existing mast nearby was refused by the planning committee in December 2020 for the reason of being

inappropriate development in the Green Belt and having a harmful impact upon the AONB and local landscape character and local distinctiveness.

The current application is materially different to this nearby recently refused application. The current application is for a new mast and not a replacement mast but it is also materially different in terms of its design. The currently proposed mast is narrower than the previously refused mast and contains a much smaller mast head. This gives the currently proposed mast a much less bulky appearance than the recently refused mast.

The applicant for 19/05634/FUL has until June 2021 to appeal against the decision. It remains therefore technically possible that application 19/05534/FUL could be allowed at appeal and therefore also be erected within 60m of the current application site. However, the outcome of such an appeal cannot be known and it will be the responsibility of the Inspector to consider the cumulative impacts of the proposals should the current application have been approved by the time an appeal is heard.

### *[Public Sector Equality Duty*

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

Those with disabilities which limit their independence or elderly people who are home bound can often be reliant upon digital and wireless technology to stay connected to their family and friends and to access public and private services and goods. The proposed improvements to connectivity associated with the roll out of the next generation of mobile networks could potentially benefit these groups.

### *Privacy and security*

Several comments have been received questioning the security of the latest 5G technology and expressing concerns that their privacy may be invaded. No evidence has been submitted to substantiate these concerns and there is no reason to consider that the next generation of mobile technology will be any less secure than the current generation. Furthermore, these matters do not concern themselves with the use of the land.

### *Climate Emergency*

Several comments received suggest that the proposals are counter to the Council's declaration of a climate and ecological emergency. As is discussed in the report above, the proposals are not considered to have any adverse impacts upon ecology and biodiversity. Whilst the construction of a mast and the associated equipment will entail some carbon emissions (as most construction projects do), the operational phase of the development is unlikely to generate a large amount of carbon emissions. Furthermore, new technological contributions to meeting the climate crisis are likely to benefit from the increased connectivity provided by the next generation of mobile technology.

### *Application errors and consultation*

Many comments point to supposed errors or inconsistencies in the application documents or that it lacked enough detail to be properly considered. The application has been reviewed by the Local Planning Authority and was considered to meet all the requirements of a valid application when it was registered. Planning applications need only provide a reasonable and proportionate level of detail sufficient to understand what is being proposed. Officers are satisfied that there is enough information to determine the application.

Other comments have questioned whether adequate consultation has been undertaken on this planning application. Officers can confirm that all consultation requirements for this application type, as set out in the Town and Country Planning (Development Management Procedure) (England) Order 2015 and the Council's 'My Neighbourhood' planning protocol document, have been met. This includes the erection of a site notice displayed on the site for a period of no less than 21 days.

## 10. CONCLUSION

The proposed telecommunications mast would conserve the natural beauty of the Area of Outstanding Natural Beauty, the visual amenity of the Green Belt and the landscape setting of the settlement of Bath. However, it would constitute inappropriate development in the Green Belt by definition and result in very minor harm to the setting of Twinfield Farm.

However, the accepted need to maintain continuity of existing 2G, 3G and 4G network capacity, the benefits of, and government support for, the next generation of mobile technology (5G) combined with the consideration and discounting of reasonable alternatives are considered to represent very special circumstances to justify the proposed development. Furthermore, and affording great weight to the conservation of designated heritage assets, the public benefits of the proposal are considered to outweigh the identified harm to the setting of Twinfield Farm.

The potential removal of the temporary mast from Colliers Lane may be an added benefit but is not secured by this permission and is given only limited weight in this assessment.

The proposals comply with nationally prescribed health safeguards and, subject to suitable conditions, do not result in any significant harm to trees, ecology and highways.

It is therefore considered that the proposals accord with the above listed relevant policies of the Bath and North East Somerset Core Strategy and the Bath and North East Somerset Placemaking Plan and, in accordance with paragraph 17 of the National Planning Policy Framework, should be approved without delay.

**Item No:** 07  
**Application No:** 20/00023/FUL  
**Site Location:** Plumb Center Locksbrook Road Newbridge Bath Bath And North East Somerset



**Ward:** Newbridge      **Parish:** N/A      **LB Grade:** N/A  
**Ward Members:** Councillor Michelle O'Doherty      Councillor Mark Roper  
**Application Type:** Full Application

**Proposal:** The demolition of the former Plumb Centre and Genesis Lifestyle Centre and the erection of a 3 storey (plus mezzanine) mixed use building for 1180m<sup>2</sup> of B1c Light Industrial, 290m<sup>2</sup> of D2 Assembly and Leisure, and 72 student ensuite rooms in cluster flat. (Resubmission)

**Constraints:** Article 4 Bath Demolition Wall, Article 4 Reg 7: Estate Agent, Article 4 HMO, Agric Land Class 3b,4,5, Policy B1 Bath Enterprise Zone, Policy B3 Twerton and Newbridge Riversid, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, British Waterways Major and EIA, Conservation Area, Contaminated Land, Policy CP9 Affordable Housing Zones, Policy ED2A Strategic & Other Primary In, Flood Zone 2, HMO Stage 1 Test Area (Stage 2 Test Req), LLFA - Flood Risk Management, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, Policy NE5 Ecological Networks, River Avon and Kennet & Avon Canal, SSSI - Impact Risk Zones,

**Applicant:** S Black  
**Expiry Date:** 26th February 2021  
**Case Officer:** Chris Griggs-Trevarthen

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

**REPORT**

## REASON FOR REPORTING COMMITTEE

Cllr. Michelle O'Doherty has requested that the application be determined by committee if officers are minded to recommend approval. In accordance with the scheme of delegation the application was referred to the chair of the planning committee who has made the following comments:

"In the interests of continuity of consideration of this site, the clear intentions of the Local Plan and Core Strategy, and the over-ruling conclusions of the planning inspector, the application should be considered in the public domain"

## DESCRIPTION

The application site measures approximately 0.2ha and comprises an industrial building containing a trade counter and a gym with associated parking. It is situated near the corner of Locksbrook Road and Station road within the Locksbrook Road industrial estate.

To the west of the site is a veterinary surgery and a trader counter business. Immediately to the east is a MOT garage. The northern boundary of the site contains a mature tree belt which forms part of a wider linear green infrastructure corridor which follows the route of the former railway. On the other side of Locksbrook Road to the south of the site is the former Herman Miller building which is now occupied by Bath Spa University School of Art and Design.

The application proposes the demolition of the buildings on the site and the erection of a 3 storey (plus mezzanine level) mixed use building for 1,354m<sup>2</sup> of B1c Light Industrial, 364m<sup>2</sup> of D2 Assembly and Leisure, 52 student studios and 28 student en-suite rooms in cluster flat.

The application is a resubmission of the previous application 18/05047/FUL which was refused by the Council on 14th August 2019, but subsequently allowed at appeal in December 2020. The Council refused the previous application for the following 7 reasons:

1. The proposed residential use (student accommodation) above the proposed B1c light industrial space will limit the use and types of the occupier of the site, as well as the wider strategic industrial estate's potential to expand and deliver on its allocated purpose in the future.
2. The proposed off-campus student accommodation within the Enterprise Zone would adversely affect the realisation of other aspects of the vision and spatial strategy for the city in relation to delivering economic development contrary to policy B5
3. Provision of purpose-built student accommodation on site will contribute to increasing the already high concentration of purpose-built student accommodation in the locality, thus undermining the objective of creating mixed and balanced communities.
4. It has not been satisfactorily demonstrated that there are no sequentially preferable sites which are reasonably available for the proposed development in areas with a lower probability of flooding.

5. Due to its footprint and proximity to the boundaries of the site the proposed development will result in increased pressure for off-site tree pruning and tree removal.

6. The proposed development would fail to mitigate the impacts of the proposed development on wildlife and would not achieve the required ecological enhancement. Furthermore, it has not been demonstrated that appropriately low levels of lightspill can be achieved to avoid harm to bats.

7. The proposed student accommodation would fail to achieve appropriate levels of privacy, outlook and natural light for future occupiers

The main differences between the previously allowed appeal and the current application are as follows:

1. Reduction in the overall number of student bedrooms from 80 to 72;
2. All student bedrooms now provided within cluster flats rather than as a mix of studios and cluster flats;
3. Reduction in the area of B1c employment space from 1354sqm to 1180sqm;
4. Reduction in the area of D2 assembly and leisure space from 364sqm to 290sqm;
5. Building footprint set back from the northern and southern boundaries of the site with enhanced landscaping proposals in these areas;
6. An increase in parking spaces from 16 to 19 spaces

## **PLANNING HISTORY**

Application: 18/05047/FUL

Description: The demolition of the former Plumb Centre and Genesis Lifestyle Centre and the erection of a 3 storey (plus mezzanine) mixed use building for 1354sqm of B1c Light Industrial, 364sqm of D2 Assembly and Leisure, 52 student studios and 28 student en-suite rooms in cluster flats.

Status: REFUSED, APPEAL ALLOWED

Application: 97/00407/FUL

Description: Change of use from office (Use Class B1) to Lifestyle Centre for fitness and diet advice and personal training (Use Class D2)

Status: APPROVED

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

ARCHAEOLOGY: No objection

DRAINAGE AND FLOODING: No objection, subject to conditions

CONTAMINATED LAND: No objection, subject to conditions

ARBORICULTURE: No objection, subject to conditions

ECOLOGY: No objection, subject to conditions

HIGHWAYS: No objection, subject to clarifications/conditions

LANDSCAPE: Scope for revision

The development does not pay enough regard to enriching the character and quality of the local public realm along the Locksbrook Road.

CONSERVATION: Scope for revision

In terms of design, scale and footprint the 2020 application is the same as the previous application and therefore the same comments apply. The scheme shows a reduction in height from the original proposal by 5.5 metres to 11.9 metres, still leaving it taller than Herman Miller. Removing the rear portion will achieve a small mitigation, primarily in terms of the impact in more distant views. With regard to the street level experience, this will largely derive from the forward wings which remain the same, although the overall effect will be less overbearing. Given the overall reduction in massing the impact on the setting of HM now sits on the cusp of being harmful and it would be difficult to sustain a reason for refusal. The design and use of materials are striking but not out of place in the context of an industrial estate.

Officer note: The Conservation comments were received prior to the receipt of the latest set of revised plans.

ECONOMIC DEVELOPMENT: Objection

In considering the application in economic development terms it is recommended for refusal, due to the inclusion of PBSA, which is at odds with policies ED2a, B3 & B5.

PLANNING POLICY: Objection

It is considered that the proposed development is, in principle, contrary to Policies DW1, B1, B3, B5, CP5, ED2A and CP10.

AVON AND SOMERSET POLICE: No objection or comments

CANAL AND RIVER TRUST: No comments

BATH PRESERVATION TRUST: Objection

Whilst they appreciate the architecturally innovative approach presented in this scheme, the Trust cannot support the proposal in its current form due to the principle of purpose-built student accommodation and the overbearing height of the building that will have a detrimental impact on the Locksbrook portion of the Bath conservation area, and the setting of a Grade II listed building.

The proposed height and scale of the building, incorporated with proposed materials and colour, would neither preserve nor enhance the appearance and associated character of the Bath conservation area and would directly harm the setting and significance of the Herman Miller factory. This application is therefore contrary to the Planning (Listed Buildings and Conservation Areas Act) 1990, Section 16 of the NPPF, and Policies B1,

BD1, CP6, D1, D2, D3, D5, and HE1 of the Core Strategy and Placemaking Plan, and should be refused or withdrawn and reconsidered.

#### BATH HERITAGE WATCHDOG: Objection

Despite the revisions the design, height, scale, mass and materials of this proposal are entirely out of keeping and context for this location. We also believe that this location was part of the designated Enterprise Zone and should thus be for industrial use. It also appears to be in contradiction of Policy CP 10. For the reasons stated above this proposal is contrary to Policies B1, B4 and CP6 of the BANES Core Strategy CP6, D2, D5, HE1, B4 BD1 of the Placemaking Plan and should therefore be refused.

#### COUNCILLOR MICHELLE O'DOHERTY: Objection

Cllr O'Doherty notes that there was an application here in 2018 (ref 18/05047/FUL), and this is a re-submission. Cllr Roper and her both feel that the current application fails to address the reasons why the previous application was refused in 2019. She would, in particular, like to draw attention to reason for refusal 3 on the decision notice for application 18/05047/FUL:

3. Provision of purpose built student accommodation on site will contribute to increasing the already high concentration of purpose built student accommodation in the locality, thus undermining the objective of creating mixed and balanced communities. The proposal is therefore contrary to policy CP10 of the Bath and North East Somerset Council Core Strategy and Placemaking Plan (July 2017)

She considers that this still applies to the current application, so would objects on these grounds.

She has requested that the application be called to committee regardless of the officer recommendation as it is a large development which will have a big impact on the neighbourhood.

#### WOSELEY UK (Current occupier of the site): Objection

An objection was received from Woseley UK, a building merchant business which currently occupies the building on the application site. They indicate that they are a longstanding tenant of 27 years and are part of the existing local business community. They indicate that they currently employ 4 people directly and operate between 07:30 and 17:00 weekdays and 08:00 and 12:00 noon on Saturdays although deliveries to the site can be outside of these hours. They currently deliver to an area of approximately 25miles. They state that the business is successful, and that they wish to continue to operate from this property.

The letter from Woseley UK describes the current makeup of Locksdbrook Road as predominately employment based. They are concerned that the inclusion of student accommodation within the estate would result in a fragmentation which would be detrimental to the wider industrial estate and create a precedent which would compound this effect.

The letter states that longstanding employment uses are synonymous with levels of general disturbance including direct and indirect noise from activities, often over residentially unsocial hours, and often with other adverse impacts arising from smell, vibration and light. Also, regard must be taken of the legitimate expectation that reasonable future changes to working practices as business adapt to changing demands, shift patterns etc. should not be prejudiced. The letter therefore considers the proposal to include student accommodation, in the centre of such an area that is vital to supporting Bath's economy, as ill-conceived both in principle and on general amenity grounds.

The letter also points to conflicts with development plan policies B3 and ED2A and conflicts with the NPPF.

**THIRD PARTIES/NEIGHBOURS:** 75 objection comments have been received. The main points raised were:

Many comments were critical of the design of the proposals. It was commonly described as too big, over scaled and out of keeping with the surrounding area. Some comments called it monolithic or likened it to a water tower/silo. It was considered to pay little heed to the surrounding context in terms of its size, design and its materials which were described as inappropriate. Many of these comments were concerned that the proposals would impact upon the Conservation Area, the World Heritage Site and other heritage assets (both designated and undesignated) including the Grade II listed Herman Miller building.

Many comments also objected to the principle of student accommodation, with some questioning the need for such development. It was suggested that the area was already overpopulated with students and that these proposals would upset the 'social balance' of the area given the already high number of HMOs. It was also suggested that the proposals were too high density and that they would put a strain on the locality and existing services. It was suggested that there is a need for affordable family housing as opposed to more student accommodation.

A lot of the concerns raised related to the impact of the proposals upon parking in the surrounding streets. On-street parking in the area was described as already a problem and there was concern that the proposals lack of adequate parking provision, particularly for the student accommodation, would worsen this situation. It was considered that additional on-street parking would result in block of access for emergency and other large vehicles, would make finding a parking space for residents even more difficult and would be detrimental to highways safety. Several considered that the suggested restrictions on student parking were unenforceable.

Some felt that the site was in a residential area which is not suitable for student accommodation (as opposed to family homes). Others felt that the site was part of the industrial estate and therefore wasn't suitable for student accommodation.

Several comments considered that the current application had failed to overcome the previous reasons for refusal on application 18/05047/FUL.

There was concern that the proposals to introduce student accommodation to the site would impact upon the viability of the industrial estate. It was suggested that there would

be conflicts between the student accommodation the noise, smells, vibration and deliveries associated with the industrial estate. It was also suggested that the design of the proposed B1c industrial units within the scheme are poor quality lacking the large openings/doors, proper loading/unloading spaces and ventilation or external auxiliary equipment that would usually be associated with such uses.

Several comments were concerned that the student accommodation would have several adverse environmental impacts including noise pollution, light pollution, air pollution and littering. Noise from the student accommodation was considered likely to disturb existing residents. Air pollution arising from student's car use was considered to adversely affect air quality near the existing air quality management area (AQMA). Light pollution from the building was considered to adversely affect residents and light-sensitive wildlife. Littering and rubbish generated by the student accommodation was considered to attract urban gulls which will cause a nuisance.

Several comments criticised the lack of green space and the sustainability credentials of the development.

One comment considered that the development should be delayed until the Local Plan had been progressed and the Council's policy on student accommodation updated.

One comment indicated that the proposed student accommodation was not easily convertible to other uses in the future.

Some comments were concerned about the possible disruption, nuisance and safety issues associated with the construction of the development. It was noted that the area already had a problem with HGV accessing the area.

There was a query about the validity of the submitted Statement of Community Involvement.

One comment was concerned about the loss of a dance studio from the site. It was claimed there are no other such facilities in Bath.

One comment referred the sites location within Flood Zone 2.

15 support comments were received. The main points raised were:

There was wide ranging support for the replacement gym premises. The existing gym is considered to be an asset to the community and a successful independent business. It was suggested that there is demand for the services it provides and that the proposals will provide job security for the gym's employees.

It was considered that the proposals will improve the building's quality and would act to rejuvenate and modernise the area.

The comments were split on the issue of student accommodation. Some felt that it was sensible to co-locate the student accommodation next to the nearby university premise as this would reduce the need for car trips. Others supported the scheme but were

disappointed about the inclusion of yet more student accommodation. They felt that family housing or accommodation for essential workers was more important.

The comments indicated that car parking is always likely to be an issue in this area and that it could be overcome through the introduction of residents only parking permits.

5 general comments were received. The main points raised were:

A couple of the comments raised the issue of parking and suggested that this needs to be taken seriously as there is not enough parking for students and residents. There was a query as to whether parking permits will now be introduced.

It was suggested this was an area where students and residents could thrive together, but only if the basics are got right.

There were concerns about construction vehicles parking on the road and blocking in residents during the construction.

One comment queried the evidence behind the claim that the development of purpose-built student accommodation will get students to move out of HMOs. Anecdotally, they suggest that students prefer sharing an HMO with their friends as part of the student experience. It was also suggested this development is too dense for the area.

There was concern about air pollution arising from the development. It was also suggested that, given the current climate conditions, the development should be zero carbon.

One comment suggested that the dance studios should be kept as they are valuable to the community local.

## **POLICIES/LEGISLATION**

The Development Plan for Bath and North East Somerset comprises:

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

## **RELEVANT CORE STRATEGY POLICIES**

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

DW1 District Wide Spatial Strategy

SD1 Presumption in favour of Sustainable Development  
B1 Bath Spatial Strategy  
B3 Newbridge Riverside  
B4 Bath World Heritage Site  
B5 Strategic Policy for Bath Universities  
CP2 Sustainable Construction  
CP3 Renewable Energy  
CP4 District Heating  
CP5 Flood Risk Management  
CP6 Environmental Quality  
CP7 Green Infrastructure  
CP13 Infrastructure Provision

#### RELEVANT PLACEMAKING PLAN POLICIES

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

SCR1 On-site Renewable Energy Requirement  
SCR2 Roof mounted/Building-integrated Scale Solar PV  
SCR5 Water Efficiency  
SU1 Sustainable Drainage  
D1 General Urban Design Principles  
D2 Local Character and Distinctiveness  
D3 Urban Fabric  
D4 Streets and Spaces  
D5 Building Design  
D6 Amenity  
D8 Lighting  
D10 Public Realm  
HE1 Historic Environment  
NE1 Development and Green Infrastructure  
NE2 Conserving and enhancing the landscape and landscape character  
NE2A Landscape Setting of Settlements  
NE3 Sites, species and habitats  
NE5 Ecological Networks  
NE6 Trees and woodland conservation  
PCS1 Pollution and Nuisance  
PCS2 Noise and Vibration  
PSC3 Air Quality  
PCS5 Contamination  
PCS7A Foul Sewage Infrastructure  
H7 Housing accessibility  
LCR6 New and Replacement Sports and Recreational Facilities  
ED2A Strategic and Other Primary Industrial Estates  
ST1 Promoting sustainable travel  
ST2 Sustainable Transport Routes  
ST7 Transport requirements for managing development

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

### **SUPPLEMENTARY PLANNING DOCUMENTS AND ADDITIONAL GUIDANCE**

Strategic Flood Risk Assessment (SFRA) of Bath and North East Somerset (2009)

Bath Building Heights Strategy (2010)

City of Bath World Heritage Site Setting SPD (2013)

Green Infrastructure Strategy (2013)

Planning Obligations SPD (2015)

West of England Sustainable Drainage Developer Guide (2015)

Waterspace Design Guidance (2018)

### **LEGISLATION**

There is a duty placed on the Council under Section 66 of the Planning (Listed Buildings and

Conservation Areas) Act 'In considering whether to grant planning permission for development which affects a listed building or its setting' to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'

There 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.

### **LOW CARBON AND SUSTAINABLE CREDENTIALS**

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

### **OFFICER ASSESSMENT**

The main issues to consider are:

1. Principle of development
2. Housing mix
3. Flood risk
4. Design, character and appearance
5. Trees and woodland
6. Ecology
7. Highways and parking
8. Residential amenity
9. Parks and Green Spaces
10. Sustainable construction
11. Contaminated Land
12. Archaeology
13. Surface Water Drainage

## 14. Conclusion

### 1. PRINCIPLE OF DEVELOPMENT

Policy ED2A is the detailed development management policy applicable to proposals within the strategic industrial estate. It states that proposals for B1c, B2 and B8 uses and builders' merchants will be acceptable in principle within the industrial estate and that there is a presumption in favour of retaining these uses. It also states that there are strong economic reasons why other uses would be inappropriate because of the economic significance of these areas. It goes on to state that applicants will also need to demonstrate that non-industrial uses would not have an adverse impact on the sustainability of the provision of services from industrial premises that remained around the site, or would not act against the development of undeveloped areas for industrial uses.

The recent appeal decision on the previously refused application concludes the following on this matter:

"15. The existing gymnasium (285 m<sup>2</sup>) has been in operation since 1997 without any apparent adverse impact on nearby industrial uses. Its replacement within larger premises (364 m<sup>2</sup>) would not be likely to materially alter this situation. The proposed PBSA would complement the university use of the converted Herman Miller building on the opposite side of Locksbrook Road. To the east, beyond a proposed covered cycle storage area, the PBSA would face towards the rear of a transport depot building. Activity and any related noise and disturbance would be more likely to arise at the front of this depot building and near to its access onto the road. This access would be separated from the PBSA by the large depot building. Given this relationship, the proximity of student accommodation would not be likely to impair the sustainability of the existing depot use.

16. Similar considerations apply to the specialist manufacturing business operated by Horstman from a large industrial building located to the east of the transport depot building and on the opposite side of the road. Vehicular access from Locksbrook Road to this property is at the western end of the Horstman site, but at a sufficient distance from the proposed PBSA so that any noise from activities such as loading/unloading would not be likely to result in any significant conflict between the uses. The proposed PBSA would add to pedestrian/cycle movements along and across Locksbrook Road, but the Highway Authority raises no issues regarding highway safety. The proposal would not materially exacerbate any existing conflict between industrial activity and residential development due to HGV movements in Newbridge Riverside. The proposed PBSA would not unduly constrain the use or redevelopment of the existing uses to the west of the appeal site any more so than currently exists due to the proximity of residential dwellings in Station Road."

Furthermore, the Inspector found that the proposals would result in an increase in business floorspace of 260sqm and would provide modern flexible premises suitable for high tech or advanced manufacturing with the potential to provide for significantly more jobs than the existing use. The Inspector therefore found no conflict with policies B3 or ED2A.

The current application proposes 1180sqm of employment space which is slightly less than the 1354sqm of employment space in the appeal scheme. However, it is a relatively minor difference and the proposals still represent a net increase in employment floorspace of 76sqm. It is therefore considered that, in light of the Inspector's recent conclusions on this matter and the material fall-back position established by the recently allowed appeal, there is no objection to the principle of development on this site.

## 2. HOUSING MIX

The previous application was partly refused due to the provision of purpose-built student accommodation on site contributing to increasing the already high concentration of purpose-built student accommodation in the locality and thus undermining the objective of creating mixed and balanced communities contrary to policy CP10.

However, the Inspector for the recent appeal decision on the previously refused application did not agree with the Council's concerns on this matter. Furthermore, the current application contains 8 less student bedrooms than the previous appeal proposals. In light of these conclusions and the fall-back position of the allowed appeal scheme, there is no longer any objection that can be supported on these grounds.

## 3. FLOOD RISK

### *Sequential test*

The site is within Flood Risk Zone 2 and the proposed student accommodation is classified as a 'More Vulnerable' type of development. It is therefore necessary for the development to pass the sequential test.

The sequential test was considered as part of the recently allowed appeal and was considered to be met by the Inspector. In light of these conclusions and the fall-back position of the allowed appeal scheme, it is considered that the sequential test is met.

### *Flood Risk Assessment*

A flood risk assessment has been submitted which demonstrates that the development will be safe for its lifetime without increasing flood risk elsewhere. There is no objection from the Drainage and flood risk team and the raised no comments or concerns. Conditions would be required to secure the implementation of the flood resilience measures in the FRA.

## 4. DESIGN, CHARACTER AND APPEARANCE

The proposal site is located within the City of Bath World Heritage Site and the Bath Conservation Area, Grade II listed Herman Miller building sits immediately on the opposite side of Locksbrook Road.

The previous application (18/05047/FUL) was considered acceptable in design, character and appearance terms. It was considered to preserve the character and appearance of the conservation area and result in only very minor harm to the setting of the Herman Miller building. This identified harm was considered to be outweighed by the public benefits of the proposal.

The current proposal is very similar to the previously acceptable design, but the building has been set away from the northern and southern boundaries by reducing its overall depth. Additional landscaping proposals have been incorporated into these spaces along both boundaries.

With regard to the street level experience, the proposed building is considerably larger than the one it is to replace, and the close-range visual impacts would largely derive from the overhangs above the street level. Having said that, it is not considered that the massing and scale would be completely out of place given the industrial estate context of the proposal. The design and use of materials are striking, but again - not out of place in the context of an industrial estate.

Whilst the proposed building will occupy a large part of the site, the set back from the northern and southern boundaries will allow for some ground level landscaping and courtyard space for use by the potential occupiers. The landscaping proposals along both boundaries are considered to be a marked improvement over the allow appeal proposal which did not contain any significant landscaping along its southern boundary.

There is a duty placed on the Council under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act to pay special attention to the preservation or enhancement of the character of the surrounding conservation area. It is considered that the character and appearance of the Conservation Area would be overall preserved.

There is a duty placed on the Council under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 'In considering whether to grant planning permission for development which affects a listed building or its setting' to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'

The additional scale of the building compared to the existing means that the proposals will slightly impinge upon and detract from the setting of the adjacent listed building (Herman Miller building), albeit this is considered to be at the lowest end of the level of harm. Regardless, this harm must be given great weight and balanced against the public benefits delivered by the proposals.

Para 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Therefore, a balanced judgement is required having regard to the scale of any harm or loss and the significance of the heritage asset.

In this instance, it is considered that the scale of harm would be quite low. Herman Miller building is a purpose-built former factory premises set within an industrial estate context; therefore its setting would be less sensitive to this slightly taller building across the road.

The existing Plumb Center building is identified as a poor quality building in the Bath Conservation Area and its redevelopment is therefore welcomed. The proposed building would also deliver employment premises on the ground floor that would also possess much higher sustainability credentials and more attractive appearance than existing. It is also relevant that the current application is considered to be a slight improvement on than the appeal scheme, which the previous Inspector also found to be acceptable.

It is therefore considered that on balance, the limited harm to the setting of the listed building, although given great weight, would be outweighed by public benefits delivered by the scheme.

## 5. TREES AND WOODLAND

There is a line of mature trees and vegetation along the northern boundary of the site. These trees form part of an important green infrastructure corridor which runs east-west along the route of the former railway line. The scheme as originally submitted was too close to this line of trees and this formed one of the reasons for refusal on the previous application on this site.

However, revised plans have been received which set back the position of the proposed building from the northern boundary so that the distance between the building and the trees on the northern boundary would be increased and the increased space between the building and the northern boundary would allow for additional tree planting.

This additional set back means that the proposals now avoid some of the adverse impacts upon the trees on northern boundary of the site that were previously found. The increased set back also means that there will be less pressure for future work or felling which may erode the effectiveness of this tree belt. Furthermore, there is now more space for additional tree planting along this boundary.

Subject to Arboricultural method statement and tree protection plan conditions, there is no objection to the proposals on Arboricultural grounds.

## 6. ECOLOGY

Concerns were previously raised about the proposals impacts upon ecology arising from the proximity to the northern tree line, increased pressure for tree removals, light spill and inadequate space to accommodate the necessary ecological mitigation. However, following revisions to the plans the proposed building has been set back from the northern boundary and these concerns have been addressed.

Appropriate sensitive lighting design for external lighting will still be necessary to avoid light spill onto the tree line. With regard to consideration to the Habitats Regulations, provided lighting design and light spill limits do not exceed those detailed in the lighting report and proposals for planning application 18/05047/FUL, where the building is closer to the treeline and for which a shadow Appropriate Assessment was produced by the applicant and its conclusions regarding light spill accepted, then the Council's Ecologist considers the same conclusion can be reached for this site in that with regard to the

potential effects of light spill onto the treeline arising from this proposal, the scheme will not give rise to a significant adverse effect on the Bath & Bradford on Avon Bats Special Area of Conservation (SAC).

Subject to conditions, there is no ecological objection to the proposals.

## 7. HIGHWAYS AND PARKING

The previous planning application (18/05047/FUL) was supported by a Transport Statement which considered the potential impact of the industrial and commercial uses as compared with the existing site use. The results indicate that there should not be a significant impact, and this remains the case with the current proposal.

The relocation of existing access would result in the loss of some on-street parking. However, this is likely to be mitigated by the gain in spaces where the Plumb Center access is to be removed. Appropriate contribution towards the funding of a Traffic Regulation Order to achieve this could be secured via a Section 106 agreement.

The scheme includes car parking for the industrial and leisure uses only, with no parking (except for disabled spaces) for the proposed student accommodation. This is consistent with the current parking standards which does not require any parking provision of purpose-built student accommodation.

Notwithstanding this, there is a need to ensure that there are effective measures in place to control inappropriate parking activities in local streets. On-street, car parking in the vicinity of the application site is generally uncontrolled, with the exception of existing restrictions aimed at allowing the free flow of traffic, therefore local residential streets could be vulnerable to overspill parking generated by the proposed student accommodation.

Should planning permission be granted, there is a need to ensure that effective measures are in place to control such overspill parking activities. It is noted that this was promoted at other similar sites, such as The Old Bakery (reference 18/02831/FUL), where the restriction of car ownership/parking became a Condition of the permission.

The Highways officer has noted the opportunity to secure funding towards the implementation of a Residents Parking Zone (RPZ) should additional restrictions be deemed necessary at a later date. However, this obligation was considered as part of the decision on the recent appeal scheme and the Inspector concluded that this obligation was not necessary to make the planning application acceptable. This obligation has therefore not been requested.

Subject to the above, there is no highways objection to the proposals.

## 8. RESIDENTIAL AMENITY

The separation distances with the nearest residential properties at Ashley Avenue and Station Road are considered to be sufficient enough to avoid any harmful overlooking or overbearing effects.

The comments from Environmental Health Officer confirm that whilst the existing background noise can be mitigated for, if industrial or commercial use within the immediate vicinity intensifies, the effect of the proposed noise mitigation measures may well be diminished. Paragraphs 009 and 010 of the NPPG (July 2019) sets out that decision makers must take into account not only current activities of existing businesses, but also those that are permitted, even if they are not occurring at the time of the application being made. In this respect, Policy ED2A for Strategic industrial Estates allows in principle proposals for light industrial, heavy industrial, warehousing (classes B1c, B2, B8), builders merchants, car showrooms etc

Some concerns were raised about the levels of daylight and outlook that would be experienced by the student occupiers in on the north and east sides of the buildings, especially at the first floor level. It was considered that the proximity to the trees to the north would adversely impact upon the amenity of many of the student bedrooms. However, the revised plans have set the building away from the northern tree line allowing these rooms to achieve a better outlook and level of light. This issue has therefore been overcome.

Furthermore, the Inspector for the recent appeal decision found that the concerns about residential amenity can be addressed through appropriate planning conditions.

## 9. PARKS AND GREEN SPACES

The residential development proposed would be occupied by 80 persons. Whilst some open green space is proposed on the roof, the proposals would also be reliant on off-site provision for the recreational needs of the residents. The Waterspace River Park project is located 120m to the south of the proposal site. The green space demands generated from the proposal could potentially be met through a S106 payment (£134,842) to this project to make the development acceptable in planning terms in accordance with Placemaking Plan Policy LCR6.

## 10. SUSTAINABLE CONSTRUCTION

Policy CP2 requires that sustainable design and construction should be integral to new development, with 19% CO<sub>2</sub> overall emissions reduction. Policy SCR1 requires major development to provide sufficient renewable energy generation to reduce carbon emissions from anticipated (regulated) energy use in the building by at least 10%. Overall, the proposed development is assessed to achieve 11.45% of CO<sub>2</sub> reduction from Renewables (At least 10% to comply with SCR1) and a 19.8% reduction from all measures (At least 19% to comply with CP2). The application therefore demonstrates compliance with these policies.

PMP Policy LCR9 (Local Food Growing) - this policy requires all new residential developments (including student accommodation) to incorporate opportunities for informal

food growing, wherever possible (e.g. window boxes, balcony gardens, external courtyards). Whilst there is only a small area on the roof terrace available which could be used for this purpose, the site does offer the opportunity for this. This can be secured via condition.

## 11. CONTAMINATED LAND

A phase 1 and 2 desk study and geo-environmental report has been submitted with the application. This has been reviewed by the Contaminated Land Officer who has recommended a suite of contaminated land conditions are required to make the proposals acceptable.

## 12. ARCHAEOLOGY

The Council's Archaeological experts have been consulted on this application. They have indicated that there are limited or no archaeological implications to these proposals. Therefore, there are no objections on archaeological grounds.

## 13. SURFACE WATER DRAINAGE

A drainage strategy for the proposed development has been provided and reviewed by the Drainage and Flood Risk Team. The submitted strategy is acceptable and, subject to conditions, there are no objections on drainage grounds.

## 14. CONCLUSION

The recently allowed appeal decision for the previous application accepted the principle of development on this site. Furthermore, it concluded that the sequential test had been met. In light of these conclusions and the material fall-back position created by the recent appeal, there is no objection to the principle of the proposed development.

This resubmission has also overcome some of the site-specific concerns previously raised by the Council relating to application 18/05047/FUL. Primarily it has addressed Arboricultural and ecological concerns about the impact upon the northern tree by setting the building away from that boundary. This has also helped to alleviate the residential amenity impacts upon the student bedrooms. These proposals therefore represent an improvement on the previously allowed appeal scheme.

The previous reasons for refusal are therefore considered to have been overcome and the proposals are considered acceptable.

## **RECOMMENDATION**

Delegate to PERMIT

## **CONDITIONS**

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1.) Authorise the Monitoring Officer to enter into a Section 106 Agreement to secure:

- a) A greenspace contribution of £134,842 index linked towards the Waterspace River Park / River Line project;
- b) A highways contribution of £3,500 index linked toward for the purposes of implementing and enforcing a Traffic Regulation Order in the vicinity of the land;
- c) A Targeted Recruitment and Training Obligation requiring the following
  - i. contribution of £5,005 index linked
  - ii. 16 Work Placements
  - iii. 1 Apprenticeship Start
  - iv. 1 Job start advertised though local DWP

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

### **1 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 Construction Management Plan (Pre-commencement)**

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

- 1. Deliveries (including storage arrangements and timings);
- 2. Contractor parking;
- 3. Traffic management;
- 4. Working hours;
- 5. Site opening times;
- 6. Wheel wash facilities;
- 7. Site compound arrangements;
- 8. Measures for the control of dust;

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

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

### **3 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 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.

#### **4 Contaminated Land - Investigation and Risk Assessment (Pre-commencement)**

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

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

(ii) an assessment of the potential risks to:

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

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

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with policy PCS5 of the Bath and North East Somerset Placemaking Plan and chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition because the initial works comprising the development have the potential to uncover harmful contamination.

#### **5 Contaminated Land - Remediation Scheme (Pre-commencement)**

No development shall commence, except for ground investigations and demolition required to undertake such investigations, until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment, has been submitted to and approved in writing by the Local Planning Authority, unless the findings of the approved investigation and risk assessment has confirmed that a remediation scheme is not required. The scheme shall include:

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

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

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

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with policy PCS5 of the Bath and North East Somerset Placemaking Plan and chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition because the initial works comprising the development have the potential to uncover harmful contamination.

## **6 Contaminated Land - Verification Report (Pre-occupation)**

No occupation shall commence until a verification report that demonstrates the effectiveness of the remediation carried out has been submitted to and approved in writing by the Local Planning Authority, unless the findings of the approved investigation and risk assessment has confirmed that a remediation scheme is not required.

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with policy PCS5 of the Bath and North East Somerset Placemaking Plan and chapter 15 of the National Planning Policy Framework.

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

In the event that contamination which was not previously identified is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. Thereafter an investigation and risk assessment shall be undertaken, and where remediation is necessary, a remediation scheme shall be

submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report (that demonstrates the effectiveness of the remediation carried out) must be submitted to and approved in writing by the Local Planning Authority prior to occupation of the development.

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with policy PCS5 of the Bath and North East Somerset Placemaking Plan and chapter 15 of the National Planning Policy Framework.

### **8 Flood Management Measures (Pre-commencement)**

No development shall commence, except ground investigations, until details of the proposed flood management measures (as outlined in the FRA) are submitted to and approved in writing by the local planning authority. The approved flood management measures shall be implemented before the first occupation of the development hereby permitted and shall thereafter be retained.

Reason: To limit the risk of flooding by ensuring the provision of satisfactory means of flood management and incident response on the site in accordance with paragraph 17 and section 10 of the National Planning Policy Framework.

### **9 Arboricultural Method Statement (Pre-commencement)**

No development shall commence until a detailed Method Statement and Tree Protection Plan following the recommendations contained within BS5837:2012 have been submitted to and approved in writing by the Local Planning Authority. The Arboricultural 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 include the control of potentially harmful operations such as site preparation (including demolition, clearance and level changes); the storage, handling and mixing of materials on site, burning, location of the 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 NE6 of the Bath and North East Somerset Local Plan. This is a condition precedent because the works comprising the development have the potential to harm retained trees. Therefore these details need to be agreed before work commences.

### **10 Compliance with Arboricultural Method Statement (Compliance)**

The approved development shall be carried out in accordance with the approved Arboricultural Method Statement and Tree Protection Plan. A signed compliance statement from the appointed Arboriculturalist shall be submitted and approved in writing by the Local Planning Authority on completion of the works.

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

### **11 Detailed Landscape Scheme (Pre-occupation)**

No occupation of the development shall commence until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority showing details of the following:

1. All trees, hedgerows and other planting to be retained;
2. A planting specification to include numbers, size, species and positions of all new trees and shrubs;
3. Details of existing and proposed walls, fences, other boundary treatment and surface treatments of the open parts of the site;
4. Details of the green roof;
5. A programme of implementation for the landscaping scheme.

All hard and soft landscape works shall be carried out in accordance with the approved details and programme of implementation.

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 the provision of an appropriate landscape setting to the development in accordance with policies D1, D2, D4 and NE2 of the Bath and North East Somerset Placemaking Plan.

### **12 Sensitive Lighting Design (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, proposed lamp positions, numbers and heights with details also to be shown on a plan; details of predicted lux levels and light spill, which shall not exceed the maximum light spill levels as predicted in the approved Lighting Impact assessment dated June 2020 by Hydrock Ltd (document ref 12055-HYD-XX-XX-RP-Y-5000); and details of all measures to limit use of lights when not required and to prevent upward light spill and light spill onto trees and boundary vegetation and adjacent land; and to avoid harm to bat activity and other wildlife.

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

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

### **13 Ecology Follow-up Report (Pre-occupation)**

No occupation of the development hereby approved shall commence until a report produced by a suitably experienced ecologist confirming and demonstrating, using photographs, completion and implementation of the Wildlife Protection and Enhancement Scheme 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 the Wildlife Protection and Enhancement Scheme, 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.

### **14 Highway - Bound/Compacted Vehicle Access (Pre-occupation)**

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

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

### **15 Student Management Plan (Pre-occupation)**

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

1. The arrangements for student drop off / pick up at the start and end of each University semester;
2. Details of refuse storage, management and collection;
3. Details of site security and access arrangements;
4. Contact information for site management including information for third parties wishing to make complaints;
5. Details of student parking restrictions and enforcement measures;
6. Details of a scheme for monitoring the effectiveness of the parking restrictions and enforcement measures under point 5 including any necessary remedial measures;
7. Details of the management of the first floor outdoor amenity areas (as shown on drawing number AP(0)13 L), including hours of use and arrangements to prevent access outside of these hours.

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

Reason: In the interests of highways safety and parking, residential amenity, to reduce potential noise and disturbance and to ensure the good management of the building in accordance with policies D6, ST7 and PCS2 of the Bath and North East Somerset Placemaking Plan.

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

No occupation of the development shall commence until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be operated in accordance with the approved Travel Plan.

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

### **17 Parking (Compliance)**

The areas allocated for parking and turning on the Proposed Site Plan (drawing number AP (0) 10J) shall include the provision of two disabled parking spaces and 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 ST7 of the Bath and North East Somerset Placemaking Plan

### **18 Closure of Access (Bespoke Trigger)**

The new accesses hereby approved shall not be brought into use until the existing vehicular access has been permanently closed and a footway crossing constructed, including the raising of dropped kerbs, in accordance with details which have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the development is served by a safe access in the interests of highway safety in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

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

No development shall commence, except ground investigations and remediation, until a detailed drainage strategy has been submitted to and accepted in writing by the Local Planning Authority. The strategy should include plans, calculations (demonstrating performance at the critical 1:1, 1:30 & 1:100+40% events), confirmation that the discharge is acceptable to Wessex water (rate and location) together with an operation and maintenance document detailing how the system will be maintained for the life of the development. The development shall thereafter be completed and operated in accordance with the approved drainage strategy.

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.

### **20 Sound Insulation**

No development shall commence until a scheme of sound insulation measures (the Sound Insulation Plan) between the purpose-built student accommodation (PBSA) and the light industrial B1(c) use has been submitted to and approved in writing by the Local Planning Authority. The Sound Insulation Plan shall include the following:

1. A desktop design assessment demonstrating, by calculation, the airborne sound insulation performance of the "as built" separating floor between the employment use,

hereby permitted, and habitable rooms of the PBSA at 1st floor level, can achieve a sound insulation performance of at least 75 dB DnT,w \_\$3 circa 95 dB Rw, using an appropriate calculation methodology, which shall include BS EN ISO 12354-1:2017 Building acoustics — Estimation of acoustic performance of buildings from the performance of elements — Part 1: Airborne sound insulation between rooms.

2. A technical demonstration that the resultant noise levels within those habitable rooms within the PBSA as a result of the adjacent commercial tenant in isolation shall conform to a Noise Rating curve of NR15 and NR20 (Based on the associated Leq and LMax, Fast spectral characteristics).

3. The Sound Insulation Plan shall include details of ongoing monitoring and review processes to ensure that the agreed internal ambient noise level performance, as provided in (2) above is not breached by any future occupation of the employment use hereby permitted. In the event of any breach remediation measures shall be immediately taken with the guidance of a suitably qualified acoustician to ensure compliance with the performance criteria in (2) above.

The development shall thereafter be undertaken in accordance with the approved Sound Insulation Plan.

Reason: To ensure that the future occupiers of the development are protected from excessive noise and in the interest of protecting their amenity in accordance with policies D6 and PCS2 of the Bath and North East Somerset Placemaking Plan.

### **21 Noise Verification (Bespoke Trigger)**

Prior to the first occupation of the development hereby permitted, a summary review from a competent person of the "as built" drawings and specifications to confirm that the recommendations produced by Hydrock, within Supplementary Noise Planning Report (dated 16 December 2019) have been adhered to, inclusive of design measures in Section 10 (BS8233:2014) and Section 12 (BS4142:2014+A1:2019), shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the future occupiers of the development are protected from excessive noise and in the interest of protecting their amenity in accordance with policies D6 and PCS2 of the Bath and North East Somerset Placemaking Plan.

### **22 Sustainable Construction (Pre-occupation)**

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

1. Table 2.1 Energy Strategy (including detail of renewables)
2. Table 2.2 Proposals with more than one building type (if relevant)
3. Table 2.3 (Calculations);
4. Building Regulations Part L post-completion documents for renewables;
5. Building Regulations Part L post-completion documents for energy efficiency;

6. Microgeneration Certification Scheme (MCS) Certificate/s (if renewables have been used)

Reason: To ensure that the approved development complies with Policy SCR1 of the Placemaking Plan (renewable energy) and Policy CP2 of the Core Strategy (sustainable construction).

### **23 Cycle Parking (Pre-occupation)**

No occupation of the development shall commence until secure, covered cycle storage for 76 bikes has been provided in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. The cycle storage shall be retained permanently thereafter.

Reason: To secure adequate off-street parking provision for bicycles and to promote sustainable transport use in accordance with policy ST7 of the Bath and North East Somerset Placemaking Plan.

### **24 Opening Hours - Gym (Compliance)**

The gym use hereby approved shall not be carried on and no customer shall be served or remain on the premises outside the hours of 0700 - 2100 hours Monday to Fridays; 0800 - 1600 hours Saturdays and 0900 - 1300 hours Sunday.

Reason: To safeguard the amenities of occupiers of the student accommodation and nearby residential occupiers.

### **25 Working Hours - Industrial Use (Compliance)**

No machinery shall be operated, no process shall be carried out and no deliveries shall arrive, be received or despatched from the site outside the hours 0700 - 2130 hours Monday to Fridays; 0900 - 1700 hours Saturdays and 1000 - 1400 hours Sunday.

Reason: To safeguard the amenities of occupiers of the student accommodation and nearby residential occupiers.

### **26 Industrial Use (Compliance)**

Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order revoking and re-enacting those Orders with or without modification), the employment spaces shown on the Proposed Ground Floor (1727 AP(0)11 S) and Proposed Mezzanine Floor (1727 AP(0)12 L) shall be used for light industrial use only.

Reason: To maintain the strategic objectives of the industrial estate and to prevent a change of use to a use which is more incompatible with it in accordance with policies B1 and B3 of the Core Strategy and policy ED2A of the Placemaking Plan. Also to protect the amenities of the occupiers of the student accommodation in accordance with policy D6 of the Placemaking Plan.

### **27 Gym Use (Compliance)**

Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or the Town and Country Planning (Use Classes) Order 1987 (as

amended) (or any order revoking and re-enacting those Orders with or without modification), the gymnasium use hereby approved shall only be used as a gymnasium.

Reason: To maintain the strategic objectives of the industrial estate and to prevent a change of use to a use which is more incompatible with it in accordance with policies B1 and B3 of the Core Strategy and policy ED2A of the Placemaking Plan. Also to protect the amenities of the occupiers of the student accommodation in accordance with policy D6 of the Placemaking Plan.

### **28 Wildlife Protection and Mitigation (Pre-commencement)**

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

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

(ii) Detailed proposals for implementation of the wildlife mitigation measures and recommendations of the approved ecological report, including wildlife-friendly planting / landscape details; provision of bat and bird boxes, with proposed specifications and proposed numbers and positions to be shown on plans as applicable; specifications for fencing to include provision of gaps in boundary fences to allow continued movement of wildlife;

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 in accordance with policy NE3 of the Bath and North East Somerset Placemaking Plan. The above condition is required to be pre-commencement as it involves approval of measures to ensure protection of wildlife that would be otherwise harmed during site preparation and construction phases.

### **29 Existing and Proposed Levels (Pre-commencement)**

No development shall commence until details of the existing and proposed ground levels have been submitted to and approved in writing by the Local Planning Authority. These details shall include:

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

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

Reason: For the avoidance of doubt and to clarify the finished ground levels of the development to accord with policies D1, D2 and NE2 of the Bath and North East Somerset

Placemaking Plan. This is a pre-commencement condition because the ground levels have the potential to affect the overall impact of the development and could be altered by the initial site work.

### **30 Solar Panels (Bespoke Trigger)**

Prior to the installation of the solar panels (PV array shown on drawing number AL(0)16 I) details of the proposed solar panels shall be submitted to and approved in writing by the Local Planning Authority. The solar panels shall be installed in accordance with the approved details prior to the occupation of the building.

Reason: To ensure that full details of the solar panels are secured so that they do not have any adverse impact upon the character or appearance of the building or surrounding area. Furthermore, the condition is required to secure the implementation of the proposed solar panels in accordance with policy SCR1 of the Placemaking Plan.

### **31 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 AGM-LOC-LS2-001 REV C LANDSCAPE STRATEGY GENERAL ARRANGEMENT  
GROUND FLOOR  
AGM-LOC-LS2-002 REV C LANDSCAPE STRATEGY GENERAL ARRANGEMENT  
ROOF GARDENS  
AGM-LOC-LS2-003 REV C LANDSCAPE STRATEGY ROOF GDNS AND  
INDICATIVE PLANTING SPECIES  
AL(0)10 J PROPOSED SITE PLAN  
AL(0)11 S PROPOSED GROUND FLOOR USES PLAN  
AL(0)12 L PROPOSED MEZZANINE FLOOR USES PLAN  
AP(0)13 L PROPOSED FIRST FLOOR USES PLAN  
AL(0)14 J PROPOSED SECOND FLOOR USES PLAN  
AL(0)16 I ROOF PLAN  
AL(0)20 J PROPOSED ELEVATION SOUTH EAST  
AL(0)21 J PROPOSED ELEVATION NORTH WEST  
AL(0)22 E PROPOSED ELEVATION TERRACES  
AL(0)23 E PROPOSED ELEVATION SOUTH INNER  
AL(0)30 E PROPOSED SECTION AA  
AL(0)51 F PROPOSED GROUND FLOOR PLAN  
AL(0)52 F PROPOSED MEZZANINE FLOOR PLAN  
AL(0)53 E PROPOSED FIRST FLOOR PLAN  
AL(0)54 E PROPOSED SECOND FLOOR PLAN

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

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

### 3 Condition Categories

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

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

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

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

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

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

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

### 4 Community Infrastructure Levy

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. **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 development commences, failure to comply with the regulations can result in surcharges and additional payments. 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)

### 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.

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