

# Bath & North East Somerset Council

MEETING:	Planning Committee	AGENDA ITEM NUMBER	
MEETING DATE:	9th March 2022		
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.

## INDEX

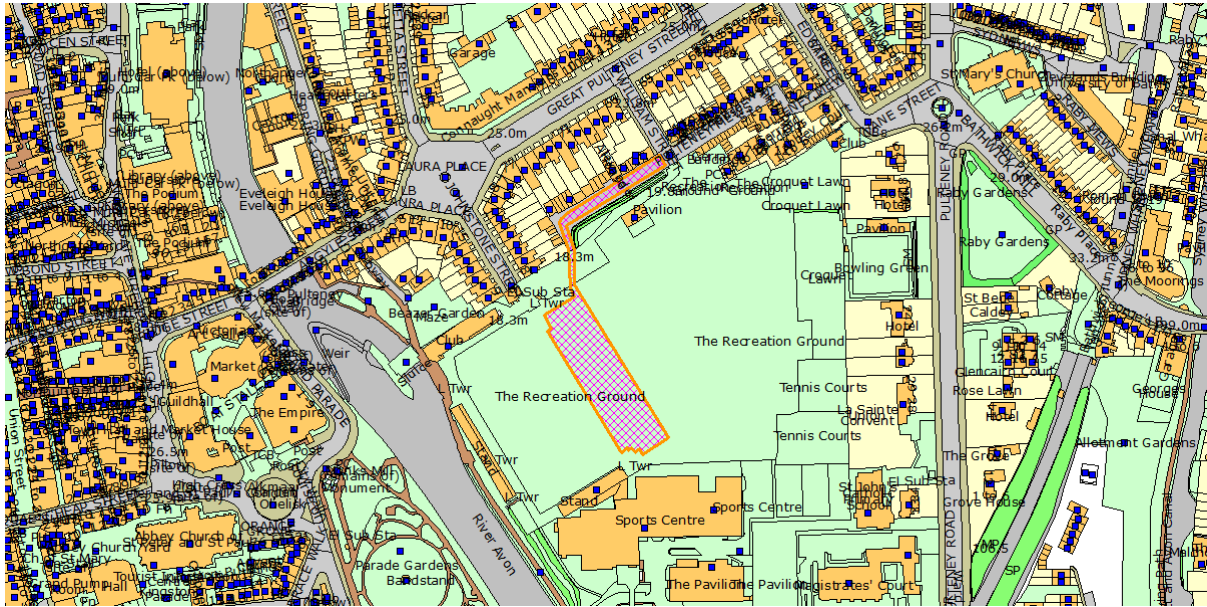
ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
01	21/05528/VAR 8 February 2022	Mr Alex Cohen (Bath Rugby) Bath Rugby Club, Bath Recreation Ground, Pulteney Mews, Bathwick, Bath Variation of condition 1 of application 20/00135/VAR (Variation of conditions 1 and 2 of application 17/01637/FUL to allow the stands and related development to remain in situ for a further 2 years (until 30th May 2022) and the retention of the east stand during summer 2020 (Erection of temporary spectator stand along the eastern side of the playing field including associated works and ancillary facilities comprising floodlighting, toilets, food and bar facilities within structure. (Amended location 3 metres to the east of stand granted planning permission 12th February 2016 (LPA ref. 15/05237/FUL). Structure and capacity to remain as approved.))).	Bathwick	Chris Griggs-Trevarthen	PERMIT

02	21/05529/VAR 8 February 2022	Mr Alex Cohen (Bath Rugby) Bath Rugby Club, Bath Recreation Ground, Pulteney Mews, Bathwick, Bath Variation of condition 1 of application 20/00136/VAR (Variation of condition 1 of application 15/05235/FUL to allow the stands and related development to remain in situ for a further 2 years (until 30th May 2022) (Part demolition of existing permanent West Stand (retaining rear wall and concrete slab) together with terraces in north west corner of the site and removal of existing temporary stands and seating; erection of temporary covered West Stand and seating, including camera gantry, uncovered seating and associated works and ancillary facilities including retention of existing floodlighting, erection of boundary fence with new access gates onto riverside path, provision of toilets and food and bar facilities within temporary stand (temporary application for a period of up to four years).)).	Bathwick	Chris Griggs- Trevarthen	PERMIT
03	21/05530/VAR 15 March 2022	Mr Alex Cohen (Bath Rugby) Bath Rugby Club, Bath Recreation Ground, Pulteney Mews, Bathwick, Bath Variation of condition 1 of application 20/00137/VAR (Variation of condition 1 of application 15/05237/FUL to allow the stands and related development to remain in situ for a further 2 years (until 30th May 2022) (Erection of temporary spectator stands along the north and eastern sides of the playing field; erection of hospitality boxes to either side of the retained south stand; erection of control box and screen/scoreboard between north and east stands including fence enclosure. Associated works and ancillary facilities comprising floodlighting, and toilets, food and bar facilities within temporary north and east stands (temporary application for period of up to four years)).	Bathwick	Chris Griggs- Trevarthen	PERMIT
04	21/03682/FUL 10 March 2022	The Trustees of the Jones Family Settlement Church Farm, Church Lane, Priston, Bath, Bath And North East Somerset Erection of two dwellings and associated works, to follow demolition of existing equestrian related barns.	Bathavon South	Samantha Mason	PERMIT

05	21/03965/FUL 21 October 2021	Mr & Mrs David Oliver Manor House, Watery Lane, Burnett, Keynsham, Bristol Installation of solar PV panels and ground source heat pump pipe work to eastern paddock to provide renewable energy sources for manor house. Connection of pipework to existing lower ground floor plant room.	Saltford	Dominic Battrick	PERMIT
06	21/03966/LBA 21 October 2021	Mr & Mrs David Oliver Manor House, Watery Lane, Burnett, Keynsham, Bristol Internal and external alterations for the installation of solar PV panels and ground source heat pump pipe work to eastern paddock to provide renewable energy sources for manor house. Connection of pipework to existing lower ground floor plant room.	Saltford	Dominic Battrick	CONSENT
07	21/05364/FUL 15 March 2022	Skuse 16 Broadlands Avenue, Keynsham, Bristol, Bath And North East Somerset, BS31 2DU Erection of front, side and rear extension. Provision of attic conversion and garden room.	Keynsham North	Isabel Daone	PERMIT

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

**Item No:** 01  
**Application No:** 21/05528/VAR  
**Site Location:** Bath Rugby Club Bath Recreation Ground Pulteney Mews Bathwick Bath



**Ward:** Bathwick      **Parish:** N/A      **LB Grade:** N/A  
**Ward Members:** Councillor Dr Kumar      Councillor Manda Rigby

**Application Type:** Application for Variation of Condition

**Proposal:** Variation of condition 1 of application 20/00135/VAR (Variation of conditions 1 and 2 of application 17/01637/FUL to allow the stands and related development to remain in situ for a further 2 years (until 30th May 2022) and the retention of the east stand during summer 2020 (Erection of temporary spectator stand along the eastern side of the playing field including associated works and ancillary facilities comprising floodlighting, toilets, food and bar facilities within structure. (Amended location 3 metres to the east of stand granted planning permission 12th February 2016 (LPA ref. 15/05237/FUL). Structure and capacity to remain as approved.))).

**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, Conservation Area, Contaminated Land, Policy CP9 Affordable Housing Zones, Flood Zone 2, Flood Zone 3, Policy LCR5 Safeguarded existg sport & R, LLFA - Flood Risk Management, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, Policy NE5 Ecological Networks, Placemaking Plan Allocated Sites, Public Right of Way, River Avon and Kennet & Avon Canal, SSSI - Impact Risk Zones,

**Applicant:** Mr Alex Cohen (Bath Rugby)

**Expiry Date:** 8th February 2022

**Case Officer:** Chris Griggs-Trevarthen

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

## **REPORT**

### **REASON FOR REPORTING TO COMMITTEE**

Councillor Rigby has objected to the application and, in line with the scheme of delegation, the application has been referred to the chair of the Planning Committee. The chair has decided that the application should be determined by the planning committee and has given the following reasons:

*Given the importance of this site in the heart of Bath, and the fact that a second (and in this case, third) extension of temporary permission can only be granted in exceptional circumstances, I believe that this proposal should be debated in a public forum. I therefore refer this application to the committee for a decision.*

### **DESCRIPTION**

The site is located in the heart of the city, within the City of Bath Conservation Area and the UNESCO World Heritage Site. The site is identified as part of a safeguarded sports and recreational facilities designation. The site lies adjacent to the River Avon which is a designated Site of Nature Conservation Interest (SNCI) which is also used as functional habitat for the Bath and Bradford on Avon Bats Special Area of Conservation (SAC).

The Recreation Ground is framed by and contributes to the setting of a number of listed building/heritage assets in the vicinity including:

- o Pulteney Bridge, Johnstone Street and Great Pulteney Street (all Grade I listed) to the north
- o Parade Gardens (Registered Park and Garden of Special Historic Interest), Grand Parade
- o (Grade II listed) and Bath Abbey to the west
- o North Parade bridge (Grade II listed) to the south
- o Villas along Pulteney Road (Grade II listed) to the east

The Recreation Ground itself contains three Grade II listed buildings, a former lime kiln that is located within the Club's operational area (referred to as 'The President's Lounge'), an Entrance Kiosk and gates to the Recreation Ground at the end of William Street, and the Pavilion on North Parade Road. The Recreation Ground may also contain archaeological features of interest.

Planning permission 17/01637/FUL was granted in 2017 for the erection of a temporary spectator stand along the eastern side of the playing field including associated works and ancillary facilities comprising floodlighting, toilets, food and bar facilities within structure. (Amended location 3 metres to the east of stand granted planning permission 12th February 2016 (LPA ref. 15/05237/FUL). Structure and capacity to remain as approved.) It was a resubmission of 15/05237/FUL which had been granted in 2016 but sought to move the siting of the east stand 3m to the east.

Condition 1 of 17/01637/FUL relates to the east stand within the 1.58 hectare ground and states the following:

*This permission shall expire on 30th May 2020 after which the temporary seating and other structures hereby approved shall be removed from the site and the land/premises reinstated on or before that date in accordance with a scheme of work to be submitted to and approved in writing by the Local Planning Authority prior to the expiry date.*

*Reason: The proposed development is of a design and construction that the Council will permit only for a limited period to allow for a permanent solution for the future of the Recreation Ground to be resolved.*

A variation to the temporary planning permission was granted in May 2020 (ref: 20/00135/VAR) which extended the date in condition 1 until May 2022 to allow the temporary stand to stay in-situ for a further two years.

This current application seeks a further variation of condition 1 to allow the stands and related development at the Bath Recreational Ground to remain in situ for an additional 4 years (until 30th May 2026).

## **PLANNING HISTORY**

There is a significant and lengthy history of applications related to Bath Rugby's use of the Recreation Ground including a number for temporary Stands and structures over the last 10-15 years. In the case of the east stands, planning permission for temporary stands in various forms were originally approved in 2005 and have been subsequently renewed with the current permission expiring in May 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.

CANAL AND RIVERS TRUST: No comment received

ENVIRONMENT AGENCY: No comment received

ENVIRONMENTAL HEALTH: No objection

HISTORIC ENGLAND: No objection

Historic England acknowledge that the rugby club had previously been developing proposals for a new, permanent, stadium on their existing site. However, a combination of legal complications and the Coronavirus pandemic have led to the cancellation of these plans.

Historic England had reservations about the previous plans for a permanent stadium, in particular its increased height compared to the present arrangements and consequent adverse effect on the Conservation Area and World Heritage Site. While granting consent to retain the existing stands for a further four years will prolong the existence the ground's negative aspects, they acknowledge that this length of time should be sufficient for the club to design, and hopefully build, a new stadium which is sympathetic to the character and appearance of the Bath Conservation Area and the Outstanding Universal Value of the Bath World Heritage Site.

#### PULTENEY ESTATE RESIDENTS' ASSOCIATION: Objection

The Pulteney Estate Residents Association (PERA) have made the following requests:

1. That the planning applications are made lawful by properly completing the 'Ownership' Certificate.
2. That a new EIA Screening Opinion for the whole stadium is required due to changes in noise levels, pedestrian flows, and traffic since the previous applications and that this is needed before any planning decisions are made.
3. That the applications are limited to a two-year temporary permission expiring 30.05.2024, to better expedite plans for a stadium which respects the values of the World Heritage Site.
4. That Condition 2 is retained for the removal of the East Stand each summer and that all other existing conditions are also retained.
5. That new conditions are imposed in respect of noise, relocating the TV screen/scoreboard, the Travel Plan, and making good surfaces.

To the extent any of PERA's requests are not met and changes to Conditions are not adopted by Bath and North East Somerset Council as set out above, they object to the applications and request their refusal on the grounds set out.

#### FRIENDS OF BATH RECREATION GROUND: Objection

The Friends of Bath Recreation Ground suggest that the applications to extend the temporary planning permissions are in breach of the terms of the 1956 Disposal of the Rec to which the Council is signatory.

They also take issue with the applicant's position regarding its plans for permanent stadium proposals as justification for the proposed extension to the temporary consents.

The association suggests that proposals are contrary to policy B2 of the Core Strategy and that the unique legal issues relating to the Bath Recreation Ground have not been resolved. It is also suggested that policies B2b and SB2 are unsound.

They do not consider it appropriate for a further temporary permission to be granted.

#### COUNCILLOR Manda Rigby: Objection and Call-in request



Cllr. Rigby wishes to object to this application stating that it is best practice not to extend temporary permissions and although this has been done again and again to allow for a permanent application to be made, this still has not happened. National legislation is clear on best practice, that temporary permissions should not be extended in a way that, by default, makes them appear permanent.

Cllr. Rigby asks for this application to come to committee should officer be minded to approve it because it is such an important issue and she wishes to be able to express her objections more fully.

**THIRD PARTIES/NEIGHBOURS:** 9 letters of Objection have been received. The main points raised were:

There were suggestions that a further temporary permission should not be granted as it is contrary to planning policy in the NPPF. Some felt this was a distortion of the planning process.

There was concern that allowing the temporary stands to remain for a further 4 years would destroy views of this central green area within Bath to the detriment of residents and visitors. Some suggested that it should be limited to a two year temporary permission to better expedite plans for a permanent stadium.

Several comments refer to legal issues around the ownership and conveyancing issues surrounding the Recreational Ground and consider that these were not reasons to delay consideration of the permanent proposals. Some consider that the planning applications would conflict with the 1922 and 1956 covenants on the Bath Recreation Ground.

Many comments considered that the proposals would be harmful to the Bath World Heritage Site, the Conservation Area and the setting of various listed buildings. There was concern about the lack of UNESCO's involvement in the application and the potential for the proposals to put Bath's WHS status at risk.

One comment did not want any structures erected that would rise above the end of Johnstone Street blocking the view of surrounding areas.

A couple of the comments suggested that the Recreational Ground should be opened up and made available to the public and other amateur sports clubs.

There was concern about any proposals to make the East Stand permanent and comments wanted it to be removed in the summer. (Officer note: The application does not propose making the east stand permanent)

It is suggested that a new EIA screening opinion is required due to changes in noise levels, pedestrian flows and traffic since the previous applications.

Others referred to the following changes in circumstances since 2015 including; the introduction of the Clean Air Zone (CAZ), advice from Avon and Somerset Police regarding terrorism risks in Bath, the declaration of a Climate Emergency, the closure of Milsom Street and traffic management on Queen Square and the covid pandemic.

There were requests for new conditions to be imposed in respect of noise, travel plans, making good surfaces and the location of TV screens/scoreboards.

There were concerns about the additional pollution (both noise and air) associated with traffic on match days.

A Noise Assessment (MAS Environmental) has been submitted by a third party which undertook noise monitoring at two properties on Great Pulteney Street between 3rd May and 3rd June 2019. It sought to establish the baseline environmental sound levels and compare them to noise generated by events from Bath Rugby. The report recorded a high level of noise during match days and other events.

There were concerns raised about the planning and consultation process.

The status of policy SB2 was questioned in light of the Local Plan Partial Update where it is being challenged by third parties.

Some felt that the applications clearly fail to comply with the sustainable transport sections of the NPPF, especially paragraphs 104, 110, 112 and 113. The temporary proposals need to address sustainable travel now.

## **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
- B1 Bath Spatial Strategy
- B2 Bath Central Area
- B4 Bath World Heritage Site
- CP6 Environmental Quality

## **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:

- SB2 Central Riverside and Recreation Ground
- SU1 Sustainable Drainage
- D1 General Urban Design Principles
- D2 Local Character and Distinctiveness
- D5 Building Design
- D6 Amenity
- D8 Lighting
- D10 Public Realm
- NE1 Development and Green Infrastructure
- NE2 Conserving and Enhancing the Landscape and Landscape Character
- PCS2 Noise and vibration
- PCS3 Air Quality
- PCS5 Contamination
- PCS7A Foul Sewage Infrastructure
- ST1 Promoting Sustainable Travel
- ST7 Transport Requirements for Managing Development

#### **NATIONAL POLICY**

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

#### **CLIMATE EMERGENCY**

The Council declared a climate emergency in March 2019 and this is considered to be a material consideration in the determination of this application.

#### **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 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the preservation or enhancement of the character or appearance 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 whether an extension of the temporary planning permission is justified, and, if so, what impacts this might have upon the following matters:

1. Temporary Planning Permission
2. Landscape and Visual Impact
3. Highways and Traffic
4. Air Quality
5. Noise and Disturbance
6. Flood Risk
7. Conclusion

## 1. TEMPORARY PLANNING PERMISSION

Temporary stands have been approved at the Recreation Ground over a significant number of years and have previously been renewed in anticipation of a final resolution regarding the Club's future at the Recreation ground.

The NPPG provides guidance on the use of temporary permissions and states:

*"It will rarely be justifiable to grant a second temporary permission (except in cases where changing circumstances provide a clear rationale, such as temporary classrooms and other school facilities). Further permissions can normally be granted permanently or refused if there is clear justification for doing so. There is no presumption that a temporary grant of planning permission will then be granted permanently."*

The east stand in its current form has had temporary planning permission since 2017 (ref: 17/01637/FUL and 20/00135/VAR).

The reason given for condition 1 of both planning permission 17/01637/FUL and 20/00135/VAR is as follows:

*Reason: The proposed development is of a design and construction that the Council will permit only for a limited period to allow for a permanent solution for the future of the Recreation Ground to be resolved.*

The design and construction of the temporary east stand remains unchanged. It is therefore necessary to consider whether there is a clear rationale for a 4 year extension to the 'limited period allowed for a permanent solution for the future of the recreation ground to be resolved' taking into account the fact that the temporary permission has already been in place for 5 years.

There is currently no permission or application for a new permanent stadium on the site. The last temporary permission (ref: 20/00135/VAR) was granted in May 2020 which was during the initial stages of the covid-19 pandemic. Part of the reason for granting that temporary consent was related to the uncertainty arising from the pandemic that existed at the time. The club had paused its redevelopment project at the time due to the impact of the pandemic and, whilst it was acknowledged that there was no guarantee that a permanent solution would be found within the two years temporary period, it was

considered to be reasonable to allow a degree of flexibility and breathing space during this time of national uncertainty.

In addition, one of the reasons the applicant previously indicated that proposals had not progressed was a delay in the resolution of legal issues relating to the Recreation Ground. A recent Court of Appeal decision in December was determined in favour of Bath Rugby and the applicant is now confident that legal barriers to the permanent redevelopment have now been dealt with.

The combination of the impacts of the pandemic over the last two years and the uncertainty surrounding legal issues provide sufficient justification as to why the permanent redevelopment proposals have not advanced further since the grant of the previous temporary consent.

Comments received from residents and third parties dispute that the legal issues were a significant cause for delay and argue that circumstances do not exist to justify any further delay by the applicant. Whilst these legal issues are not planning matters in and of themselves, it stands to reason that the applicant would quite rationally not wish to advance what will likely be a complicated and expensive scheme for a permanent redevelopment whilst such uncertainty remained.

Some of the uncertainty around the pandemic and the legal issues has now reduced and the rugby club have indicated that they are moving forward again with the redevelopment project for a permanent stadium.

In terms of progress towards a permanent solution for the future of the Recreation Ground, the applicant had previously undertaken significant work in preparation for a planning application prior to the pandemic. The applicant had engaged in several rounds of public consultation in 2018 and has also engaged in multiple pre-application discussions with the Local Planning Authority about proposals for a new permanent stadium on the site. Furthermore, a scoping opinion has been requested (ref: 19/03133/SCOPE) by the applicant and a response provided by the Local Planning Authority.

The applicant has also recently sought to re-engage with the Council in respect of pre-application discussions. Given the significant amount of work that has previously been undertaken, it seems reasonably likely that a planning application could be prepared, submitted and determined within the next two years. An additional two year period on top of this would also seem a reasonable timeframe for the implementation of any potential planning permission granted. A four year extension to the temporary permission would therefore support the objectives of policies SB2 by allowing time for the permanent redevelopment proposals to come forward without causing significant disruption to the current operations taking place on the site.

Furthermore, the NPPG states that:

*A temporary planning permission may also be appropriate to enable the temporary use of vacant land or buildings prior to any longer-term proposals coming forward (a 'meanwhile use').*

If the temporary permission is not extended then this would likely result in considerable disruption to the operation of Bath Rugby on the site. It would also create further uncertainty about the future and use of the site as some elements of the existing stadium are permanent whereas others are temporary. In this regard, continued use of the temporary stands prior to the resolution of a permanent solution for the Recreation Ground can be considered a suitable 'meanwhile use' which provides certainty and continuity.

In conclusion, the uncertainty caused by the pandemic in the last two years has meant that the permanent proposals for redevelopment have not yet come forward. However, the applicant has now indicated that they are moving forward again and have sought to re-engage with pre-application discussions. Furthermore, the applicant now has greater confidence about the legal issues relating to the site. An extension to the temporary permission for a further 4 years would therefore provide a suitable period for the longer-term proposals to come forward.

Furthermore, the continued meanwhile use of the site as a stadium with temporary stands is considered appropriate and serves to provide certainty and continuity whilst a permanent resolution for the site is found. It is therefore considered that an extension to the grant of temporary permission for a period of four years is considered acceptable in these circumstances.

## 2. LANDSCAPE AND VISUAL IMPACT

The site's location within the Bath World Heritage Site, Conservation Area and near to a number of listed buildings makes the visual impact of the development within its landscape very sensitive.

Application 20/00135/VAR (and application 17/01637/FUL before that) was determined to result in less than substantial harm to the Outstanding Universal Value ("OUV") of the World Heritage Site, character and appearance of the Conservation Area and setting of the nearby listed buildings. However, it was concluded that the public benefits of the proposal outweighed this harm.

The current application proposes extending the temporary permission for the north and south stands for an additional 4 years (30th May 2026). The design and appearance of the temporary stand would be unchanged. As such, the scale of the development remains the same and the likely landscape and visual impact is no greater than the existing situation.

The primary additional impact of the proposed application is temporal. Extending the temporary permission by 4 years means that the harm identified to the World Heritage Site, Conservation Area and Listed Buildings arising from its landscape and visual impact would persist for a longer period of time rather than coming to an end on the 30th May 2022.

This landscape and visual harm to these heritage assets has previously been identified as 'less than substantial' and, even taking into account the cumulative impact of the previous 5 years of temporary consents in combination with the proposed 4 year extension, this assessment of this level of harm has not significantly changed.

Where harm is identified to a heritage asset and that harm is classified as 'less than substantial' the NPPF requires that the harm is balanced against the public benefits of the proposals. The NPPF is also clear that great weight should be given to the conservation of heritage assets and that World Heritage Sites are a heritage asset of the highest significance.

Furthermore, there is a duty placed on the Council under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the preservation or enhancement of the character or appearance of the surrounding conservation area.

Similarly, there is a duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, when considering whether to grant planning permission for development which affects a listed building or its setting, that the local planning authority shall 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.

In accordance with both these duties the harm identified is given considerable importance and weight.

It was previously considered under 20/00135/VAR (and 17/01637/FUL before that) that the harm caused by the east stand was outweighed by the public benefits of the proposal, namely the contribution to the local economy arising from the rugby club. It is considered that the 4 year extension to the temporary permission, although resulting in the harm persisting for a longer period of time, does not significantly affect this balance of this previous judgement, as the stand would remain temporary rather than permanent, and it is therefore considered that the 'less than substantial harm' identified to these heritage assets is outweighed by the public benefits of the proposal.

### 3. HIGHWAYS AND TRANSPORT

The Recreation Ground is located in the centre of Bath and readily accessible by a variety of means. It has previously been concluded (ref: 20/00135/VAR, 17/01637/FUL and 15/05237/FUL) that the ground is in a sustainable location and that the operation of the club with these temporary facilities, and subject to a travel plan, would not give rise to significant congestion or highways safety issues.

The main impacts of the current application are temporal. Since the previous temporary consent was granted the Bath Clean Air Zone (CAZ) has been introduced. However, the operation of the club on this same basis for an additional 4 years is unlikely to give rise to any additional traffic or highways safety impacts beyond those previously identified and found acceptable.

### 4. AIR QUALITY

The recreation ground falls within the area identified as part of the Clean Air Zone (CAZ). Roads across the river and within the city centre are also identified as part of an Air Quality Monitoring Area (AQMA). The current temporary permission has been identified as

giving rise to car trips into the city, including along routes within the AQMA. However, these are dispersed along a number of different routes into the city and given the relatively few occasions that the club plays at the ground each year (15-16 games per season) this was not considered to have a significant impact upon air quality.

The main impacts of the current application are temporal. The operation of the club on this same basis for an additional 4 years is unlikely to give rise to additional air quality or emissions impacts beyond those previously identified and found acceptable.

## 5. NOISE AND DISTURBANCE

The closest neighbouring properties to the ground are located in Johnstone Street and they are directly affected by the development on match days. A copy of a noise report from 2019 has been submitted by third parties. Noise emanating from the ground and fans approaching or leaving the ground has the potential to be disruptive to residential amenity. However, given the relatively few occasions that the club plays at the ground each year (15 - 16 games per season) and the implementation of the crowd management measures, it was previously considered that there would not be sustained harm to the amenities of the neighbouring residents as a result of the current temporary permission.

The main impacts of the current application are temporal. The operation of the club on this same basis for an additional 4 years is unlikely to give rise to additional noise or disturbance impacts beyond those previously identified and found acceptable.

## 6. FLOOD RISK

The Recreation Ground falls within Zone 3 of the Environment Agency Flood Zone Map, with part designated as Zone 3b 'functional floodplain'. In the NPPG (Table 2: Flood risk vulnerability classification) the proposed Stands represent sports and recreation and essential or ancillary facilities and are considered to be 'water compatible' development. The Flood Risk Assessment originally submitted (ref: 15/05235/FUL) was considered to be acceptable and current application does not propose to alter this.

The main impacts of the current application are temporal. The operation of the club on this same basis for an additional 4 years is unlikely to give rise to additional flood risk impacts beyond those previously identified and found acceptable.

## 7. CONCLUSION

In conclusion, the uncertainty caused by the pandemic in the last two years has meant that the permanent proposals for redevelopment have not yet come forward. However, the applicant has now announced that they are moving forward again and have sought to re-engage with pre-application discussions. Furthermore, the applicant now has greater confidence about the legal issues relating to the site. An extension to the temporary permission for a further 4 years would therefore provide a suitable period for the longer-term proposals to come forward.



Furthermore, the continued meanwhile use of the site as a stadium with temporary stands is considered appropriate and serves to provide certainty and continuity whilst a permanent resolution for the site is found. It is therefore considered that an extension to the grant of temporary permission for a period of four years is considered acceptable in these circumstances.

It is therefore considered that an extension to the grant of temporary permission for a further period of four years is considered acceptable in these circumstances.

## **RECOMMENDATION**

### **PERMIT**

## **CONDITIONS**

### **1 Temporary Planning Permission (Compliance)**

This permission shall expire on 30th May 2026 after which the temporary seating and other structures hereby approved shall be removed from the site and the land/premises reinstated on or before that date in accordance with a scheme of work to be submitted to and approved in writing by the Local Planning Authority prior to the expiry date.

Reason: The proposed development is of a design and construction that the Council will permit only for a limited period to allow for a permanent solution for the future of the Recreation Ground to be resolved.

### **2 Temporary East Stand (Compliance)**

The construction of the temporary East Stand seating and associated facilities including access stairs shall not commence more than 4 weeks before the first Home game of each rugby Premiership season. With the exception of summer 2020, the East Stand shall not be used for more than 39 weeks from the date it is first brought into use each season and the East Stand structures and associated facilities including access stairs shall be entirely removed from the site not later than 3 weeks after the last Home game of the rugby Premiership season.

Reason: In the interests of the use, character and appearance of the site as recreational open space within the Conservation Area and World Heritage Site and the setting of listed buildings. The exception of summer 2020 is due to the unprecedented circumstances relating to the COVID-19 crisis and the need to retain flexibility during this period of uncertainty.

### **3 Reinstatement (Compliance)**

The reinstatement scheme for the grass underneath the East Stand shall be implemented in accordance with details submitted to and approved under application 18/00445/COND. The reinstatement scheme shall be implemented as approved within 7 days of the Stand being removed pursuant to Condition 2.

Reason: In order to ensure that the land under the area covered by the stand is capable of being reinstated to an appropriate condition in order to ensure the continued use of the Recreation Ground for all of its users and in the interests of the character and appearance of this part of the Conservation Area and the World Heritage Site.

#### **4 Fabric Screen (Compliance)**

The East Stand hereby approved shall only be used with the green double layered screen fabric in place on the rear of the stand.

Reason: In the interests of the character and appearance of this part of the Conservation Area and the World Heritage Site.

#### **5 Seating Colour (Compliance)**

Only green coloured seating shall be installed in the temporary Stands hereby approved.

Reason: In the interests of the character and appearance of this part of the Conservation Area and the World Heritage Site.

#### **6 Construction Work (Compliance)**

Construction work associated with the erection and dismantling of the temporary Stands shall be in accordance with the submitted Construction Method Statement (Revision 03 December 2015). Works will only be carried out between the hours of 8am to 6pm Monday to Friday and 8am to 1pm on Saturday with no works undertaken on Sundays or Bank Holidays. No noisy operations shall take place other than between the hours of 8am and 4pm Monday to Friday and 8am to 1pm on Saturday and not on Sundays or on Bank Holidays.

Reason: In order to protect the amenity of adjoining properties and ensure that site access and management arrangements are satisfactory.

#### **7 Flood Risk Assessment (Compliance)**

The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by Black and Veatch, and AWW Technical Note dated March 2017 and in particular the following mitigation measures:

- Access shall be provided to the Environment Agency for a crane (up to 100T) to access Pulteney Radial Gate through the recreation ground in an emergency.
- Ground levels and structures allowing the flow of flood water between the river and the ground are to remain unchanged.
- There are no structures or changes to ground levels between the river and the new West stand.

Reason: To ensure unimpeded access for the Environment Agency to the Pulteney Gate structure in the event of an emergency; to allow flood water to be stored and thereby ensuring flood risk downstream is not increased; and to maintain conveyance flows next to the river during a flood.

#### **8 Travel Plan (Compliance)**

The development hereby permitted shall be occupied only in accordance with the submitted Travel Plan dated August 2014, the measures set out in correspondence from IMA Transport Planning dated 25 January 2016 or such other measures submitted to and approved in writing by the Local Planning Authority arising from the implementation of the Travel Plan.

Reason: In the interests of promoting the take up of sustainable transport methods and to minimise impacts on the highway network.

### **9 Unexpected Contamination (Compliance)**

In the event that contamination is found at any time when carrying out the approved development, work must be ceased and it must be reported in writing immediately to the Local Planning Authority. The Local Planning Authority Contaminated Land Department shall be consulted to provide advice regarding any further works required. Contamination may be indicated by soils that have unusual characteristics such as: unusual colour, odour, texture or containing unexpected foreign material.

Reason: In order to ensure that there are no unacceptable risks in relation to contamination and that the land is suitable for the intended use and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with section 11 of the National Planning Policy Framework.

### **10 Archaeology Watching Brief (Compliance)**

The development shall take place in accordance with the Written Scheme of Investigation for an Archaeological Watching Brief (Cotswold Archaeology dated 17 June 2010).

Reason: The site is within an area of significant archaeological interest and the Council will wish to examine and record items of interest discovered.

### **11 East Stand (Compliance)**

This permission relates only to the East Stand as shown on the submitted drawings and does not convey consent for any other development or advertising.

Reason: In order to clarify the terms of the permission

### **12 Plans List (Compliance)**

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

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

### **PLANS LIST:**

1 This decision relates to drawing nos 1865\_98 / 10, 11 and 12 received 4th April 2017.

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

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

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

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

The CIL regulations are non-discretionary in respect of exemption claims. If you are intending to claim a relief or exemption from CIL (such as a "self-build relief") it is important that you understand and follow the correct procedure **before commencing any**

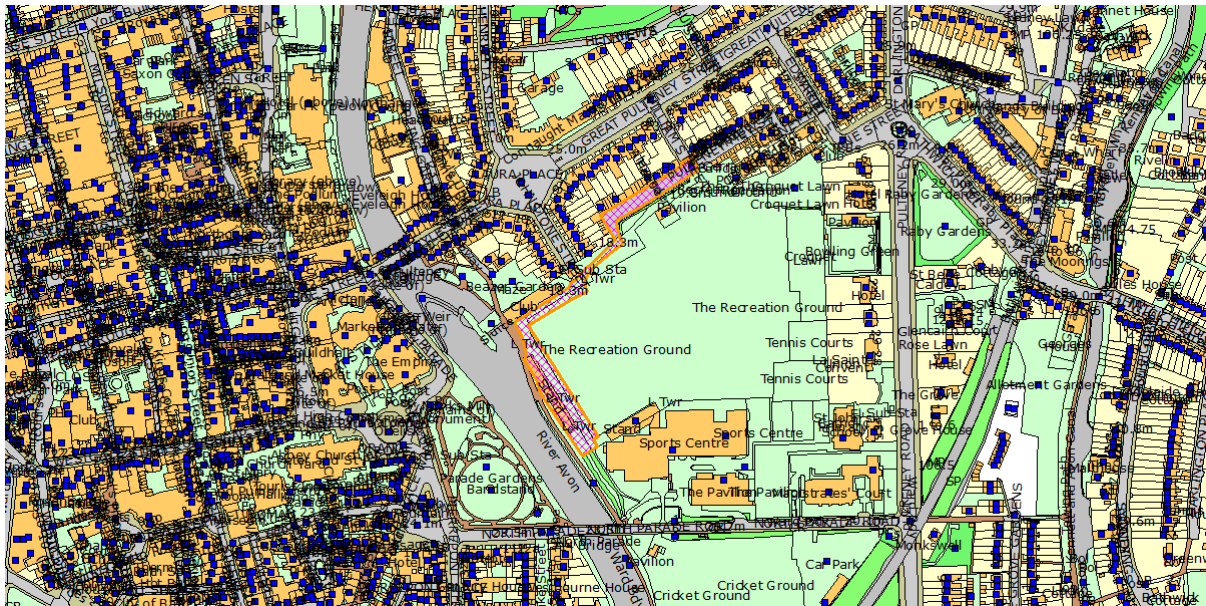
development on site. You must apply for any relief and have it approved in writing by the Council then notify the Council of the intended start date **before** you start work on site. Once development has commenced you will be unable to claim any reliefs retrospectively and CIL will become payable in full along with any surcharges and mandatory interest charges. If you commence development after making an exemption or relief claim but before the claim is approved, the claim will be forfeited and cannot be reinstated.

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

## **6 EIA BASELINE**

The Local Planning Authority considers that the grant of a 4 year extension to this temporary planning permission does not materially alter the baseline of the site for the purposes any Environmental Impact Assessment.

**Item No:** 02  
**Application No:** 21/05529/VAR  
**Site Location:** Bath Rugby Club Bath Recreation Ground Pulteney Mews Bathwick Bath



**Ward:** Bathwick      **Parish:** N/A      **LB Grade:** N/A  
**Ward Members:** Councillor Dr Kumar      Councillor Manda Rigby  
**Application Type:** Application for Variation of Condition  
**Proposal:**

Variation of condition 1 of application 20/00136/VAR (Variation of condition 1 of application 15/05235/FUL to allow the stands and related development to remain in situ for a further 2 years (until 30th May 2022) (Part demolition of existing permanent West Stand (retaining rear wall and concrete slab) together with terraces in north west corner of the site and removal of existing temporary stands and seating; erection of temporary covered West Stand and seating, including camera gantry, uncovered seating and associated works and ancillary facilities including retention of existing floodlighting, erection of boundary fence with new access gates onto riverside path, provision of toilets and food and bar facilities within temporary stand (temporary application for a period of up to four years).)).

**Constraints:** Article 4 Bath Demolition Wall, Article 4 Reg 7: Estate Agent, Article 4 HMO, Agric Land Class 3b,4,5, Policy B2 Central Area Strategic Policy, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Conservation Area, Contaminated Land, Policy CP9 Affordable Housing Zones, Flood Zone 2, Flood Zone 3, Listed Building, Policy LCR5 Safeguarded existg sport & R, LLFA - Flood Risk Management, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, Policy NE2A Landscapes and the green set, Policy NE3 SNCI, Policy NE5 Ecological Networks, Placemaking Plan Allocated Sites, All Public Rights of Way Records, River Avon and Kennet & Avon Canal, SSSI - Impact Risk Zones,

<b>Applicant:</b>	Mr Alex Cohen (Bath Rugby)
<b>Expiry Date:</b>	8th February 2022
<b>Case Officer:</b>	Chris Griggs-Trevarthen
To view the case click on the link <a href="#">here</a> .	

## REPORT

### REASON FOR REPORTING TO COMMITTEE

Councillor Rigby has objected to the application and, in line with the scheme of delegation, the application has been referred to the chair of the Planning Committee. The chair has decided that the application should be determined by the planning committee and has given the following reasons:

*Given the importance of this site in the heart of Bath, and the fact that a second (and in this case, third) extension of temporary permission can only be granted in exceptional circumstances, I believe that this proposal should be debated in a public forum. I therefore refer this application to the committee for a decision.*

### DESCRIPTION

The site is located in the heart of the city, within the City of Bath Conservation Area and the UNESCO World Heritage Site. The site is identified as part of safeguarded sports and recreational facilities designation. The site lies adjacent to the River Avon which is a designated Site of Nature Conservation Interest (SNCI) which is also used as functional habitat for the Bath and Bradford on Avon Bats Special Area of Conservation (SAC).

The Recreation Ground is framed by and contributes to the setting of a number of listed building/heritage assets in the vicinity including:

- o Pulteney Bridge, Johnstone Street and Great Pulteney Street (all Grade I listed) to the north
- o Parade Gardens (Registered Park and Garden of Special Historic Interest), Grand Parade
- o (Grade II listed) and Bath Abbey to the west
- o North Parade bridge (Grade II listed) to the south
- o Villas along Pulteney Road (Grade II listed) to the east

The Recreation Ground itself contains three Grade II listed buildings, a former lime kiln that is located within the Club's operational area (referred to as 'The President's Lounge'), an Entrance Kiosk and gates to the Recreation Ground at the end of William Street, and the Pavilion on North Parade Road. The Recreation Ground may also contain archaeological features of interest.

Planning permission 15/05235/FUL was granted in 2016 for the part demolition of existing permanent West Stand (retaining rear wall and concrete slab) together with terraces in north west corner of the site and removal of existing temporary stands and seating; erection of temporary covered West Stand and seating, including camera gantry, uncovered seating and associated works and ancillary facilities including retention of existing floodlighting, erection of boundary fence with new access gates onto riverside

path, provision of toilets and food and bar facilities within temporary stand (temporary application for a period of up to four years).

Condition 1 of 15/05235/FUL relates to the west stand within the 1.58 hectare ground and states the following:

*This permission shall expire four years from commencement of the development hereby approved or 30th May 2020 which ever is the earlier after which the temporary seating and other structures hereby approved shall be removed from the site.*

*Reason: The proposed development is of a design and construction that the Council will permit only for a limited period to allow for a permanent solution for the future of the Recreation Ground to be resolved.*

A variation to the temporary planning permission was granted in May 2020 (ref: 20/00136/VAR) which extended the date in condition 1 until May 2022 to allow the temporary stand to stay in-situ for a further two years.

This current application seeks a further variation of condition 1 to allow the stands and related development at the Bath Recreational Ground to remain in situ for an additional 4 years (until 30th May 2026).

## **PLANNING HISTORY**

There is a significant and lengthy history of applications related to Bath Rugby's use of the Recreation Ground including a number for temporary Stands and structures over the last 10-15 years.

## **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.

CANAL AND RIVERS TRUST: No comment received

ENVIRONMENT AGENCY: No comment received

ENVIRONMENTAL HEALTH: No objection

HISTORIC ENGLAND: No objection

Historic England acknowledge that the rugby club had previously been developing proposals for a new, permanent, stadium on their existing site. However, a combination of



legal complications and the Coronavirus pandemic have led to the cancellation of these plans.

Historic England had reservations about the previous plans for a permanent stadium, in particular its increased height compared to the present arrangements and consequent adverse effect on the Conservation Area and World Heritage Site. While granting consent to retain the existing stands for a further four years will prolong the existence of the ground's negative aspects, they acknowledge that this length of time should be sufficient for the club to design, and hopefully build, a new stadium which is sympathetic to the character and appearance of the Bath Conservation Area and the Outstanding Universal Value of the Bath World Heritage Site.

#### PULTENEY ESTATE RESIDENTS' ASSOCIATION: Objection

The Pulteney Estate Residents Association (PERA) have made the following requests:

1. That the planning applications are made lawful by properly completing the 'Ownership' Certificate.
2. That a new EIA Screening Opinion for the whole stadium is required due to changes in noise levels, pedestrian flows, and traffic since the previous applications and that this is needed before any planning decisions are made.
3. That the applications are limited to a two-year temporary permission expiring 30.05.2024, to better expedite plans for a stadium which respects the values of the World Heritage Site.
4. That Condition 2 is retained for the removal of the East Stand each summer and that all other existing conditions are also retained.
5. That new conditions are imposed in respect of noise, relocating the TV screen/scoreboard, the Travel Plan, and making good surfaces.

To the extent any of PERA's requests are not met and changes to Conditions are not adopted by Bath and North East Somerset Council as set out above, they object to the applications and request their refusal on the grounds set out.

#### FRIENDS OF BATH RECREATION GROUND: Objection

The Friends of Bath Recreation Ground suggest that the applications to extend the temporary planning permissions are in breach of the terms of the 1956 Disposal of the Rec to which the Council is signatory.

They also take issue with the applicant's position regarding its plans for permanent stadium proposals as justification for the proposed variations.

The association suggest that proposals are contrary to policy B2 of the Core Strategy and that the unique legal issues relating to the Bath Recreation Ground have not been resolved. It is also suggested that policies B2b and SB2 are unsound.

They do not consider it appropriate for a further temporary permission to be granted.

## COUNCILLOR Manda Rigby: Objection and Call-in request

Cllr. Rigby wishes to object to this application stating that it is best practice not to extend temporary permissions and although this has been done again and again to allow for a permanent application to be made, this still has not happened. National legislation is clear on best practice, that temporary permissions should not be extended in a way that, by default, makes them appear permanent.

Cllr. Rigby asks for this application to come to committee should officer be minded to approve it because it is such an important issue and she wishes to be able to express her objections more fully.

**THIRD PARTIES/NEIGHBOURS:** 9 letters of Objection have been received. The main points raised were:

There were suggestions that a further temporary permission should not be granted as it is contrary to planning policy in the NPPF. Some felt this was a distortion of the planning process.

There was concern that allowing the temporary stands to remain for a further 4 years would destroy views of this central green area within Bath to the detriment of residents and visitors. Some suggested that it should be limited to a two year temporary permission to better expedite plans for a permanent stadium.

Several comments refer to legal issues around the ownership and conveyancing issues surrounding the Recreational Ground and consider that these were not reasons to delay consideration of the permanent proposals. Some consider that the planning applications would conflict with the 1922 and 1956 covenants on the Bath Recreation Ground.

Many comments considered that the proposals would be harmful to the Bath World Heritage Site, the Conservation Area and the setting of various listed buildings. There was concern about the lack of UNESCO's involvement in the application and the potential for the proposals to put Bath's WHS status at risk.

One comment did not want any structures erected that would rise above the end of Johnstone Street blocking the view of surrounding areas.

A couple of the comments suggested that the Recreational Ground should be opened up and made available to the public and other amateur sports clubs.

It is suggested that a new EIA screening opinion is required due to changes in noise levels, pedestrian flows and traffic since the previous applications. Its

Others referred to the following changes in circumstances since 2015 including; the introduction of the Clean Air Zone (CAZ), advice from Avon and Somerset Police regarding terrorism risks in Bath, the declaration of a Climate Emergency, the closure of Milsom Street and traffic management on Queen Square and the covid pandemic.

There were requests for new conditions to be imposed in respect of noise, travel plans, making good surfaces and the location of TV screens/scoreboards.

There were concerns about the additional pollution (both noise and air) associated with traffic on match days.

A Noise Assessment (MAS Environmental) has been submitted by a third party which undertook noise monitoring at two properties on Great Pulteney Street between 3rd May and 3rd June 2019. It sought to establish the baseline environmental sound levels and compare them to noise generated by events from Bath Rugby. The report recorded a high level of noise during match days and other events.

There were concerns raised about the planning and consultation process.

The status of policy SB2 was questioned in light of the Local Plan Partial Update where it is being challenged by third parties.

Some felt that the applications clearly fail to comply with the sustainable transport sections of the NPPF, especially paragraphs 104, 110, 112 and 113. The temporary proposals need to address sustainable travel now.

## **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
- B1 Bath Spatial Strategy
- B2 Bath Central Area
- B4 Bath World Heritage Site
- CP6 Environmental Quality

## **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:

SB2 Central Riverside and Recreation Ground  
SU1 Sustainable Drainage  
D1 General Urban Design Principles  
D2 Local Character and Distinctiveness  
D5 Building Design  
D6 Amenity  
D8 Lighting  
D10 Public Realm  
NE1 Development and Green Infrastructure  
NE2 Conserving and Enhancing the Landscape and Landscape Character  
PCS2 Noise and vibration  
PCS3 Air Quality  
PCS5 Contamination  
PCS7A Foul Sewage Infrastructure  
ST1 Promoting Sustainable Travel  
ST7 Transport Requirements for Managing Development

#### **NATIONAL POLICY**

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

#### **CLIMATE EMERGENCY**

The Council declared a climate emergency in March 2019 and this is considered to be a material consideration in the determination of this application.

#### **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 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the preservation or enhancement of the character or appearance 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 whether an extension of the temporary planning permission is justified, and, if so, what impacts this might have upon the following matters:

1. Temporary Planning Permission
2. Landscape and Visual Impact
3. Highways and Traffic
4. Air Quality
5. Noise and Disturbance
6. Flood Risk
7. Conclusion

## 1. TEMPORARY PLANNING PERMISSION

Temporary stands have been approved at the Recreation Ground over a significant number of years and been renewed in anticipation of a final resolution regarding the Club's future at the Recreation ground.

The NPPG provides guidance on the use of temporary permissions and states:

*"It will rarely be justifiable to grant a second temporary permission (except in cases where changing circumstances provide a clear rationale, such as temporary classrooms and other school facilities). Further permissions can normally be granted permanently or refused if there is clear justification for doing so. There is no presumption that a temporary grant of planning permission will then be granted permanently."*

The west stand in its current form has had temporary planning permission since 2016 (ref: 15/05235/FUL and 20/00136/VAR).

The reason given for condition 1 of both planning permission 15/05235/FUL and 20/00136/VAR is as follows:

*Reason: The proposed development is of a design and construction that the Council will permit only for a limited period to allow for a permanent solution for the future of the Recreation Ground to be resolved.*

The design and construction of the temporary west stand remains the same. It is therefore necessary to consider whether there is a clear rationale for a 4 year extension to the 'limited period allowed for a permanent solution for the future of the recreation ground to be resolved' taking into account the fact that the temporary permission has already been in place for 5 years.

There is currently no permission or application for a new permanent stadium on the site. The last temporary permission (ref: 20/00136/VAR) was granted in May 2020 which was during the initial stages of the covid-19 pandemic. Part of the reason for granting the temporary consent was related to the uncertainty arising from the pandemic that existed at the time. The club had paused its redevelopment project due to the impact of the pandemic and, whilst it was acknowledged that there was no guarantee that a permanent solution would be found within the two years temporary period, it was considered to be reasonable to allow a degree of flexibility and breathing space during this time of national uncertainty.

In addition, one of the reasons the applicant previously indicated that proposals had not progressed was a delay in the resolution of legal issues relating to the Recreation Ground. A recent Court of Appeal decision in December was determined in favour of Bath Rugby and the applicant is now confident that legal barriers to the permanent redevelopment have now been dealt with.

The combination of the impacts of the pandemic over the last two years and the uncertainty surrounding legal issues provide sufficient justification as to why the permanent redevelopment proposals have not advanced further since the grant of the previous temporary consent.

Comments received from residents and third parties dispute that the legal issues were a significant cause for delay and argue that circumstances do not exist to justify any further delay by the applicant. Whilst these legal issues are not planning matters in and of themselves, it stands to reason that the applicant would quite rationally not wish to advance what will likely be a complicated and expensive scheme for a permanent redevelopment whilst such uncertainty remained.

Some of the uncertainty around the pandemic and the legal issues has now reduced and the rugby club have indicated that they are moving forward again with the redevelopment project for a permanent stadium.

In terms of progress towards a permanent solution for the future of the Recreation Ground, the applicant had previously undertaken significant work in preparation for a planning application prior to the pandemic. The applicant had engaged in several rounds of public consultation in 2018 and has also engaged in multiple pre-application discussions with the Local Planning Authority about proposals for a new permanent stadium on the site. Furthermore, a scoping opinion has been requested (ref: 19/03133/SCOPE) by the applicant and a response provided by the Local Planning Authority.

The applicant has also recently sought to re-engage with the Council in respect of pre-application discussions. Given the significant amount of work that has previously been undertaken, it seems reasonably likely that a planning application could be prepared, submitted and determined within the next two years. An additional two year period on top of this would also seem a reasonable timeframe for the implementation of any potential planning permission granted. A four year extension to the temporary permission would therefore support the objectives of policies SB2 by allowing time for the permanent redevelopment proposals to come forward without causing significant disruption to the current operations taking place on the site.

Furthermore, the NPPG states that:

*A temporary planning permission may also be appropriate to enable the temporary use of vacant land or buildings prior to any longer-term proposals coming forward (a 'meanwhile use').*

If the temporary permission is not extended then this would likely result in considerable disruption to the operation of Bath Rugby on the site. It would also create further uncertainty about the future and use of the site as some elements of the existing stadium are permanent whereas other are temporary. In this regard, continued use of the

temporary stands prior to the resolution of a permanent solution for the Recreation Ground can be considered a suitable 'meanwhile use' which provides certainty and continuity.

In conclusion, the uncertainty caused by the pandemic in the last two years has meant that the permanent proposals for redevelopment have not yet come forward. However, the applicant has now indicated that they are moving forward again and have sought to re-engage with pre-application discussions. Furthermore, the applicant now has greater confidence about the legal issues relating to the site. An extension to the temporary permission for a further 4 years would therefore provide a suitable period for the longer-term proposals to come forward.

Furthermore, the continued meanwhile use of the site as a stadium with temporary stands is considered appropriate and serves to provide certainty and continuity whilst a permanent resolution for the site is found. It is therefore considered that an extension to the grant of temporary permission for a period of four years is considered acceptable in these circumstances.

## 2. LANDSCAPE AND VISUAL IMPACT

The site's location within the Bath World Heritage Site, Conservation Area and near to a number of listed buildings makes the visual impact of the development within its landscape very sensitive.

Application 20/00136/VAR (and application 15/05235/FUL before that) was determined to result in less than substantial harm to the OUV of the World Heritage Site, character and appearance of the Conservation Area and setting of the nearby listed buildings. However, it was concluded that the public benefits of the proposal outweighed this harm.

The current application proposes extending the temporary permission for the north and south stands for an additional 4 years (30th May 2026). The design and appearance of the temporary stand would be unchanged. As such, the scale of the development remains the same and the likely landscape and visual impact is no greater than the existing situation.

The primary additional impact of the proposed application is temporal. Extending the temporary permission by 4 years means that the harm identified to the World Heritage Site, Conservation Area and Listed Buildings arising from its landscape and visual impact would persist for a longer period of time rather than coming to an end on the 30th May 2022.

This landscape and visual harm to these heritage assets has previously been identified as 'less than substantial' and, even taking into account the cumulative impact of the previous 5 years of temporary consents in combination with the proposed 4 year extension, this assessment of this level of harm has not significantly changed.

Where harm is identified to a heritage asset and that harm is classified as 'less than substantial' the NPPF requires that the harm is balanced against the public benefits of the proposals. The NPPF is also clear that great weight should be given to the conservation of heritage assets and that World Heritage Sites are a heritage asset of the highest significance.

Furthermore, there is a duty placed on the Council under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the preservation or enhancement of the character or appearance of the surrounding conservation area.

Similarly, there is a duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, when considering whether to grant planning permission for development which affects a listed building or its setting, that the local planning authority shall 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.

In accordance with both these duties the harm identified is given considerable importance and weight.

It was previously considered under 20/00136/VAR (and 15/05235/FUL before that) that the harm caused by the west stand was outweighed by the public benefits of the proposal, namely the contribution to the local economy arising from the rugby club. It is considered that the 4 year extension to the temporary permission, although resulting in the harm persisting for a longer period of time, does not significantly affect this balance of this previous judgement, as the stand would remain temporary rather than permanent. It is therefore considered that the 'less than substantial harm' identified to these heritage assets is outweighed by the public benefits of the proposal.

### 3. HIGHWAYS AND TRANSPORT

The Recreation Ground is located in the centre of Bath and readily accessible by a variety of means. It has previously been concluded (ref: 20/00136/VAR and 15/05235/FUL) that the ground is in a sustainable location and that the operation of the club with these temporary facilities, and subject to a travel plan, would not give rise to significant congestion or highways safety issues.

The main impacts of the current application are temporal. Since the previous temporary consent was granted the Bath Clean Air Zone (CAZ) has been introduced. However, the operation of the club on this same basis for an additional 4 years is unlikely any additional traffic or highways safety impacts beyond those previously identified and found acceptable.

### 4. AIR QUALITY

The recreation ground falls within the area identified as part of the Clean Air Zone (CAZ). Roads across the river and within the city centre are also identified as part of an Air Quality Monitoring Area (AQMA). The current temporary permission has been identified as giving rise to car trips into the city, including along routes within the AQMA. However, these are dispersed along a number of different routes into the city and given the relatively few occasions that the club plays at the ground each year (15-16 games per season) this was not considered to have a significant impact upon air quality.



The main impacts of the current application are temporal. The operation of the club on this same basis for an additional 4 years is unlikely to give rise to additional air quality or emissions impacts beyond those previously identified and found acceptable.

## 5. NOISE AND DISTURBANCE

The closest neighbouring properties to the ground are located in Johnstone Street and they are directly affected by the development on match days. A copy of a noise report from 2019 has been submitted by third parties. Noise emanating from the ground and fans approaching or leaving the ground has the potential to be disruptive to residential amenity. However, given the relatively few occasions that the club plays at the ground each year (15 - 16 games per season) and the implementation of the crowd management measures, it was previously considered that there would not be sustained harm to the amenities of the neighbouring residents as a result of the current temporary permission.

The main impacts of the current application are temporal. The operation of the club on this same basis for an additional 4 years is unlikely to give rise to additional noise or disturbance impacts beyond those previously identified and found acceptable.

## 6. FLOOD RISK

The Recreation Ground falls within Zone 3 of the Environment Agency Flood Zone Map, with part designated as Zone 3b 'functional floodplain'. In the NPPG (Table 2: Flood risk vulnerability classification) the proposed Stands represent sports and recreation and essential or ancillary facilities and are considered to be 'water compatible' development. The Flood Risk Assessment originally submitted (ref: 15/05235/FUL) was considered to be acceptable and current application does not propose to alter this.

The main impacts of the current application are temporal. The operation of the club on this same basis for an additional 4 years is unlikely to give rise to additional flood risk impacts beyond those previously identified and found acceptable.

## 7. CONCLUSION

In conclusion, the uncertainty caused by the pandemic in the last two years has meant that the permanent proposals for redevelopment have not yet come forward. However, the applicant has now announced that they are moving forward again and have sought to re-engage with pre-application discussions. Furthermore, the applicant now has greater confidence about the legal issues relating to the site. An extension to the temporary permission for a further 4 years would therefore provide a suitable period for the longer-term proposals to come forward.

Furthermore, the continued meanwhile use of the site as a stadium with temporary stands is considered appropriate and serves to provide certainty and continuity whilst a permanent resolution for the site is found. It is therefore considered that an extension to the grant of temporary permission for a period of four years is considered acceptable in these circumstances.

It is therefore considered that an extension to the grant of temporary permission for a further period of four years is considered acceptable in these circumstances.

## **RECOMMENDATION**

### **PERMIT**

## **CONDITIONS**

### **1 Temporary Planning Permission (Compliance)**

This permission shall expire on 30th May 2026 after which the temporary seating and other structures hereby approved shall be removed from the site.

Reason: The proposed development is of a design and construction that the Council will permit only for a limited period to allow for a permanent solution for the future of the Recreation Ground to be resolved.

### **2 Materials Sample Panel (Compliance)**

The development shall be constructed in accordance with the sample panel of all external wall and roofing materials approved under application reference 16/01303/COND.

Reason: To ensure that the details of the building preserve or enhance the character and appearance of the Conservation Area.

### **3 Material Details (Compliance)**

The materials approved under application reference 16/01303/COND shall be used in the construction of the Temporary Stand.

Reason: In the interests of the character and appearance of this part of the Conservation Area and the World Heritage Site.

### **4 Seating Colour (Compliance)**

The colour of the temporary seating hereby approved shall be dark grey or match the existing green seating which is in use elsewhere on the site.

Reason: In the interests of the character and appearance of this part of the Conservation Area and the World Heritage Site.

### **5 Construction Method Statement (Compliance)**

Construction work associated with the erection and dismantling of the temporary Stand shall be in accordance with the submitted Construction Method Statement (Revision 03 December 2015). Works will only be carried out between the hours of 8am to 6pm Monday to Friday and 8am to 1pm on Saturday with no works undertaken on Sundays or Bank Holidays. No noisy operations shall take place other than between the hours of 8am and 4pm Monday to Friday and 8am to 1pm on Saturday and not on Sundays or on Bank Holidays.

Reason: In order to protect the amenity of adjoining properties and ensure that site access and management arrangements are satisfactory.

## **6 Flood Risk Measures (Compliance)**

The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by Black and Veatch, subsequent letter dated 12 January 2016, accompanying 'Bath Rugby 100T Crane Access' note dated 08 January 2016 and in particular the following mitigation measures:

- Access shall be provided to the Environment Agency for a crane (up to 100T) to access Pulteney Radial Gate through the recreation ground in an emergency.
- Ground levels and structures allowing the flow of flood water between the river and the ground are to remain unchanged.
- There are no structures or changes to ground levels between the river and the new West stand.

Reason: To ensure unimpeded access for the Environment Agency to the Pulteney Gate structure in the event of an emergency, to allow flood water to be stored and thereby ensuring flood risk downstream is not increased, to maintain conveyance flows next to the river during a flood.

## **7 Construction Environmental Management Plan (Compliance)**

The works shall be carried out in accordance with the Construction and Environmental Management Plan (Construction Management Plan - West Stand Redevelopment January 2016 Revision 04) approved under application reference 16/01303/COND..

Reason: To protect the environment from construction activities.

## **8 Travel Plan (Compliance)**

The development hereby permitted shall be occupied only in accordance with the submitted Travel Plan dated August 2014, the measures set out in correspondence from IMA Transport Planning dated 25 January 2016 or such other measures submitted to and approved in writing by the Local Planning Authority arising from the implementation of the Travel Plan.

Reason: In the interests of promoting the take up of sustainable transport methods and to minimise impacts on the highway network.

## **9 Arboricultural Compliance Certificate (Compliance)**

No development or other operations shall take place except in complete accordance with the Detailed Arboricultural Method Statement (Greenman ref. BRWS\_DAMS\_17032016\_JP\_v1 received 30th March 2016) approved under application reference 16/01303/COND.

Reason: To ensure that the approved method statement is complied with for the duration of the development.

## **10 Plans List (Compliance)**

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

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

## **PLANS LIST:**

1 PL101, PL102, PL104, PL105, PL106, PL107, PL108, PL110, PL111, PL112, PL113B, PL114, PL116, PL117

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

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. CIL may apply to new developments granted by way of planning permission as well as by general consent (permitted development) and may apply to change of use permissions and certain extensions. **Before** commencing any development on site you should ensure you are

familiar with the CIL process. If the development approved by this permission is CIL liable there are requirements to assume liability and notify the Council **before any development commences**.

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

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

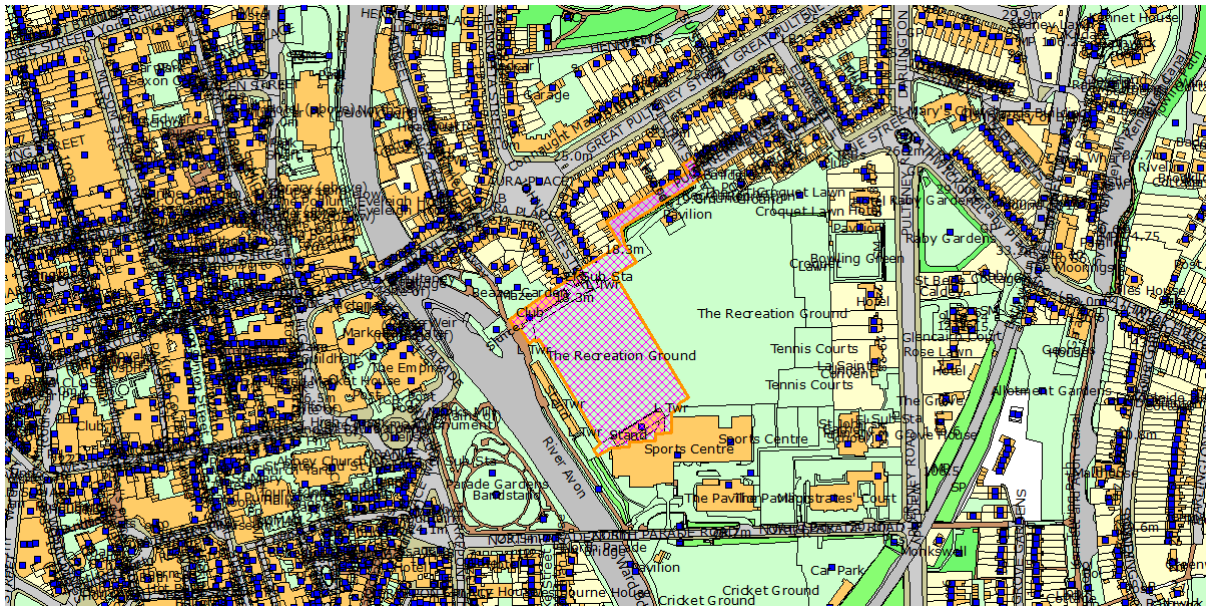
The CIL regulations are non-discretionary in respect of exemption claims. If you are intending to claim a relief or exemption from CIL (such as a "self-build relief") it is important that you understand and follow the correct procedure **before** commencing **any** development on site. You must apply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

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

### **6 EIA BASELINE**

The Local Planning Authority considers that the grant of a 4 year extension to this temporary planning permission does not materially alter the baseline of the site for the purposes any Environmental Impact Assessment.

**Item No:** 03  
**Application No:** 21/05530/VAR  
**Site Location:** Bath Rugby Club Bath Recreation Ground Pulteney Mews Bathwick Bath



**Ward:** Bathwick      **Parish:** N/A      **LB Grade:** N/A  
**Ward Members:** Councillor Dr Kumar      Councillor Manda Rigby  
**Application Type:** Application for Variation of Condition  
**Proposal:**

Variation of condition 1 of application 20/00137/VAR (Variation of condition 1 of application 15/05237/FUL to allow the stands and related development to remain in situ for a further 2 years (until 30th May 2022) (Erection of temporary spectator stands along the north and eastern sides of the playing field; erection of hospitality boxes to either side of the retained south stand; erection of control box and screen/scoreboard between north and east stands including fence enclosure. Associated works and ancillary facilities comprising floodlighting, and toilets, food and bar facilities within temporary north and east stands (temporary application for period of up to four years)).

**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, Conservation Area, Contaminated Land, Policy CP9 Affordable Housing Zones, Flood Zone 2, Flood Zone 3, Listed Building, Policy LCR5 Safeguarded existg sport & R, LLFA - Flood Risk Management, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, Policy NE2A Landscapes and the green set, Policy NE5 Ecological Networks, Placemaking Plan Allocated Sites, All Public Rights of Way Records, River Avon and Kennet & Avon Canal, SSSI - Impact Risk Zones,

**Applicant:** Mr Alex Cohen (Bath Rugby)  
**Expiry Date:** 15th March 2022

**Case Officer:** Chris Griggs-Trevarthen

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

## **REPORT**

### **REASON FOR REPORTING TO COMMITTEE**

Councillor Rigby has objected to the application and, in line with the scheme of delegation, the application has been referred to the chair of the Planning Committee. The chair has decided that the application should be determined by the planning committee and has given the following reasons:

*Given the importance of this site in the heart of Bath, and the fact that a second (and in this case, third) extension of temporary permission can only be granted in exceptional circumstances, I believe that this proposal should be debated in a public forum. I therefore refer this application to the committee for a decision.*

### **DESCRIPTION**

The site is located in the heart of the city, within the City of Bath Conservation Area and the UNESCO World Heritage Site. The site is identified as part of safeguarded sports and recreational facilities designation. The site lies adjacent to the River Avon which is a designated Site of Nature Conservation Interest (SNCI) which is also used as functional habitat for the Bath and Bradford on Avon Bats Special Area of Conservation (SAC).

The Recreation Ground is framed by and contributes to the setting of a number of listed building/heritage assets in the vicinity including:

- o Pulteney Bridge, Johnstone Street and Great Pulteney Street (all Grade I listed) to the north
- o Parade Gardens (Registered Park and Garden of Special Historic Interest), Grand Parade
- o (Grade II listed) and Bath Abbey to the west
- o North Parade bridge (Grade II listed) to the south
- o Villas along Pulteney Road (Grade II listed) to the east

The Recreation Ground itself contains three Grade II listed buildings, a former lime kiln that is located within the Club's operational area (referred to as 'The President's Lounge'), an Entrance Kiosk and gates to the Recreation Ground at the end of William Street, and the Pavilion on North Parade Road. The Recreation Ground may also contain archaeological features of interest.

Planning permission 15/05237/FUL was granted in 2016 for the erection of temporary spectator stands along the north and eastern sides of the playing field, the erection of hospitality boxes to either side of the retained south stand, the erection of control box and screen/scoreboard between north and east stands, including a fence enclosure and associated works and ancillary facilities comprising floodlighting, and toilets, food and bar facilities within the temporary north and east stands.

Condition 1 of 15/05237/FUL relates to the north and east stands within the 1.58 hectare ground and states the following:

*This permission shall expire on 30th May 2022 after which the temporary seating and other structures hereby approved shall be removed from the site and the land/premises reinstated on or before that date in accordance with a scheme of work to be submitted to and approved in writing by the Local Planning Authority prior to the expiry date.*

*Reason: The proposed development is of a design and construction that the Council will permit only for a limited period to allow for a permanent solution for the future of the Recreation Ground to be resolved.*

A variation to the temporary planning permission was granted in May 2020 (ref: 20/00137/VAR) which extended the date in condition 1 until May 2022 to allow the temporary stand to stay in-situ for a further two years.

This current application seeks a further variation of condition 1 to allow the stands and related development at the Bath Recreational Ground to remain in situ for an additional 4 years (until 30th May 2026).

## **PLANNING HISTORY**

There is a significant and lengthy history of applications related to Bath Rugby's use of the Recreation Ground including a number for temporary Stands and structures over the last 10-15 years.

## **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.

CANAL AND RIVERS TRUST: No comment received

ENVIRONMENT AGENCY: No comment received

ENVIRONMENTAL HEALTH: No objection

HISTORIC ENGLAND: No objection

Historic England acknowledge that the rugby club had previously been developing proposals for a new, permanent, stadium on their existing site. However, a combination of legal complications and the Coronavirus pandemic have led to the cancellation of these plans.

Historic England had reservations about the previous plans for a permanent stadium, in particular its increased height compared to the present arrangements and consequent adverse effect on the Conservation Area and World Heritage Site. While granting consent



to retain the existing stands for a further four years will prolong the existence the ground's negative aspects, they acknowledge that this length of time should be sufficient for the club to design, and hopefully build, a new stadium which is sympathetic to the character and appearance of the Bath Conservation Area and the Outstanding Universal Value of the Bath World Heritage Site.

ENVIRONMENTAL HEALTH: No objection

PULTENEY ESTATE RESIDENTS' ASSOCIATION: Objection

The Pulteney Estate Residents Association (PERA) have made the following requests:

1. That the planning applications are made lawful by properly completing the 'Ownership' Certificate.
2. That a new EIA Screening Opinion for the whole stadium is required due to changes in noise levels, pedestrian flows, and traffic since the previous applications and that this is needed before any planning decisions are made.
3. That the applications are limited to a two-year temporary permission expiring 30.05.2024, to better expedite plans for a stadium which respects the values of the World Heritage Site.
4. That Condition 2 is retained for the removal of the East Stand each summer and that all other existing conditions are also retained.
5. That new conditions are imposed in respect of noise, relocating the TV screen/scoreboard, the Travel Plan, and making good surfaces.

To the extent any of PERA's requests are not met and changes to Conditions are not adopted by Bath and North East Somerset Council as set out above, they object to the applications and request their refusal on the grounds set out.

FRIENDS OF BATH RECREATION GROUND: Objection

The Friends of Bath Recreation Ground suggest that the applications to extend the temporary planning permissions are in breach of the terms of the 1956 Disposal of the Rec to which the Council is signatory.

They also take issue with the applicant's position regarding its plans for permanent stadium proposals as justification for the proposed variations.

The association suggest that proposals are contrary to policy B2 of the Core Strategy and that the unique legal issues relating to the Bath Recreation Ground have not been resolved. It is also suggested that policies B2b and SB2 are unsound.

They do not consider it appropriate for a further temporary permission to be granted.

COUNCILLOR Manda Rigby: Objection and Call-in request

Cllr. Rigby wishes to object to this application stating that it is best practice not to extend temporary permissions and although this has been done again and again to allow for a permanent application to be made, this still has not happened. National legislation is clear on best practice, that temporary permissions should not be extended in a way that, by default, makes them appear permanent.

Cllr. Rigby asks for this application to come to committee should officer be minded to approve it because it is such an important issue and she wishes to be able to express her objections more fully.

**THIRD PARTIES/NEIGHBOURS:** 9 letters of Objection have been received. The main points raised were:

There were suggestions that a further temporary permission should not be granted as it is contrary to planning policy in the NPPF. Some felt this was a distortion of the planning process.

There was concern that allowing the temporary stands to remain for a further 4 years would destroy views of this central green area within Bath to the detriment of residents and visitors. Some suggested that it should be limited to a two year temporary permission to better expedite plans for a permanent stadium.

Several comments refer to legal issues around the ownership and conveyancing issues surrounding the Recreational Ground and consider that these were not reasons to delay consideration of the permanent proposals. Some consider that the planning applications would conflict with the 1922 and 1956 covenants on the Bath Recreation Ground.

Many comments considered that the proposals would be harmful to the Bath World Heritage Site, the Conservation Area and the setting of various listed buildings. There was concern about the lack of UNESCO's involvement in the application and the potential for the proposals to put Bath's WHS status at risk.

One comment did not want any structures erected that would rise above the end of Johnstone Street blocking the view of surrounding areas.

A couple of the comments suggested that the Recreational Ground should be opened up and made available to the public and other amateur sports clubs.

It is suggested that a new EIA screening opinion is required due to changes in noise levels, pedestrian flows and traffic since the previous applications. Its

Others referred to the following changes in circumstances since 2015 including; the introduction of the Clean Air Zone (CAZ), advice from Avon and Somerset Police regarding terrorism risks in Bath, the declaration of a Climate Emergency, the closure of Milsom Street and traffic management on Queen Square and the covid pandemic.

There were requests for new conditions to be imposed in respect of noise, travel plans, making good surfaces and the location of TV screens/scoreboards.

There were concerns about the additional pollution (both noise and air) associated with traffic on match days.

A Noise Assessment (MAS Environmental) has been submitted by a third party which undertook noise monitoring at two properties on Great Pulteney Street between 3rd May and 3rd June 2019. It sought to establish the baseline environmental sound levels and compare them to noise generated by events from Bath Rugby. The report recorded a high level of noise during match days and other events.

There were concerns raised about the planning and consultation process.

The status of policy SB2 was questioned in light of the Local Plan Partial Update where it is being challenged by third parties.

Some felt that the applications clearly fail to comply with the sustainable transport sections of the NPPF, especially paragraphs 104, 110, 112 and 113. The temporary proposals need to address sustainable travel now.

## **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
- B1 Bath Spatial Strategy
- B2 Bath Central Area
- B4 Bath World Heritage Site
- CP6 Environmental Quality

## **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:

- SB2 Central Riverside and Recreation Ground
- SU1 Sustainable Drainage

D1 General Urban Design Principles  
D2 Local Character and Distinctiveness  
D5 Building Design  
D6 Amenity  
D8 Lighting  
D10 Public Realm  
NE1 Development and Green Infrastructure  
NE2 Conserving and Enhancing the Landscape and Landscape Character  
PCS2 Noise and vibration  
PCS3 Air Quality  
PCS5 Contamination  
PCS7A Foul Sewage Infrastructure  
ST1 Promoting Sustainable Travel  
ST7 Transport Requirements for Managing Development

#### **NATIONAL POLICY**

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

#### **CLIMATE EMERGENCY**

The Council declared a climate emergency in March 2019 and this is considered to be a material consideration in the determination of this application.

#### **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 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the preservation or enhancement of the character or appearance 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 whether an extension of the temporary planning permission is justified, and, if so, what impacts this might have upon the following matters:

1. Temporary Planning Permission
2. Landscape and Visual Impact

3. Highways and Traffic
4. Air Quality
5. Noise and Disturbance
6. Flood Risk
7. Conclusion

## 1. TEMPORARY PLANNING PERMISSION

Temporary stands have been approved at the Recreation Ground over a significant number of years and been renewed in anticipation of a final resolution regarding the Club's future at the Recreation ground.

The NPPG provides guidance on the use of temporary permissions and states:

*"It will rarely be justifiable to grant a second temporary permission (except in cases where changing circumstances provide a clear rationale, such as temporary classrooms and other school facilities). Further permissions can normally be granted permanently or refused if there is clear justification for doing so. There is no presumption that a temporary grant of planning permission will then be granted permanently."*

The north and east stands in its current form has had temporary planning permission since 2016 (ref: 15/05237/FUL and 20/00137/VAR).

The reason given for condition 1 of both planning permission 15/05237/FUL and 20/00137/VAR is as follows:

*Reason: The proposed development is of a design and construction that the Council will permit only for a limited period to allow for a permanent solution for the future of the Recreation Ground to be resolved.*

The design and construction of the temporary north and east stand remains the same. It is therefore necessary to consider whether there is a clear rationale for a 4 year extension to the 'limited period allowed for a permanent solution for the future of the recreation ground to be resolved' taking into account the fact that the temporary permission has already been in place for 5 years.

There is currently no permission or application for a new permanent stadium on the site. The last temporary permission (ref: 20/00137/VAR) was granted in May 2020 which was during the initial stages of the covid-19 pandemic. Part of the rationale for granting the temporary consent was related to the uncertainty arising from the pandemic that existed at the time. The club had paused its redevelopment project due to the impact of the pandemic and, whilst it was acknowledged that there was no guarantee that a permanent solution would be found within the two years temporary period, it was considered to be reasonable to allow a degree of flexibility and breathing space during this time of national uncertainty.

In addition, one of the reasons the applicant previously indicated that proposals had not progressed was a delay in the resolution of legal issues relating to the Recreation Ground. A recent Court of Appeal decision in December was determined in favour of Bath Rugby

and the applicant is now confident that legal barriers to the permanent redevelopment have now been dealt with.

The combination of the impacts of the pandemic over the last two years and the uncertainty surrounding legal issues provide sufficient justification as to why the permanent redevelopment proposals have not advanced further since the grant of the previous temporary consent.

Comments received from residents and third parties dispute that the legal issues were a significant cause for delay and argue that circumstances do not exist to justify any further delay by the applicant. Whilst these legal issues are not planning matters in and of themselves, it stands to reason that the applicant would quite rationally not wish to advance what will likely be a complicated and expensive scheme for a permanent redevelopment whilst such uncertainty remained.

Some of the uncertainty around the pandemic and the legal issues has now reduced and the rugby club have indicated that they are moving forward again with the redevelopment project for a permanent stadium.

In terms of progress towards a permanent solution for the future of the Recreation Ground, the applicant had previously undertaken significant work in preparation for a planning application prior to the pandemic. The applicant had engaged in several rounds of public consultation in 2018 and has also engaged in multiple pre-application discussions with the Local Planning Authority about proposals for a new permanent stadium on the site. Furthermore, a scoping opinion has been requested (ref: 19/03133/SCOPE) by the applicant and a response provided by the Local Planning Authority.

The applicant has also recently sought to re-engage with the Council in respect of pre-application discussions. Given the significant amount of work that has previously been undertaken, it seems reasonably likely that a planning application could be prepared, submitted and determined within the next two years. An additional two year period on top of this would also seem a reasonable timeframe for the implementation of any potential planning permission granted. A four year extension to the temporary permission would therefore support the objectives of policies SB2 by allowing time for the permanent redevelopment proposals to come forward without causing significant disruption to the current operations taking place on the site.

Furthermore, the NPPG states that:

*A temporary planning permission may also be appropriate to enable the temporary use of vacant land or buildings prior to any longer-term proposals coming forward (a 'meanwhile use').*

If the temporary permission is not extended then this would likely result in considerable disruption to the operation of Bath Rugby on the site. It would also create further uncertainty about the future and use of the site as some elements of the existing stadium are permanent whereas other are temporary. In this regard, continued use of the temporary stands prior to the resolution of a permanent solution for the Recreation Ground can be considered a suitable 'meanwhile use' which provides certainty and continuity.

In conclusion, the uncertainty caused by the pandemic in the last two years has meant that the permanent proposals for redevelopment have not yet come forward. However, the applicant has now indicated that they are moving forward again and have sought to re-engage with pre-application discussions. Furthermore, the applicant now has greater confidence about the legal issues relating to the site. An extension to the temporary permission for a further 4 years would therefore provide a suitable period for the longer-term proposals to come forward.

Furthermore, the continued meanwhile use of the site as a stadium with temporary stands is considered appropriate and serves to provide certainty and continuity whilst a permanent resolution for the site is found. It is therefore considered that an extension to the grant of temporary permission for a period of four years is considered acceptable in these circumstances.

## 2. LANDSCAPE AND VISUAL IMPACT

The site's location within the Bath World Heritage Site, Conservation Area and near to a number of listed buildings makes the visual impact of the development within its landscape very sensitive.

Application 20/00137/VAR (and application 15/05237/FUL before that) was determined to result in less than substantial harm to the OUV of the World Heritage Site, character and appearance of the Conservation Area and setting of the nearby listed buildings. However, it was concluded that the public benefits of the proposal outweighed this harm.

The current application proposes extending the temporary permission for the north and south stands for an additional 4 years (30th May 2026). The design and appearance of the temporary stand would be unchanged. As such, the scale of the development remains the same and the likely landscape and visual impact is no greater than the existing situation.

The primary additional impact of the proposed application is temporal. Extending the temporary permission by 4 years means that the harm identified to the World Heritage Site, Conservation Area and Listed Buildings arising from its landscape and visual impact would persist for a longer period of time rather than coming to an end on the 30th May 2022.

This landscape and visual harm to these heritage assets has previously been identified as 'less than substantial' and, even taking into account the cumulative impact of the previous 5 years of temporary consents in combination with the proposed 4 year extension, this assessment of this level of harm has not significantly changed.

Where harm is identified to a heritage asset and that harm is classified as 'less than substantial' the NPPF requires that the harm is balanced against the public benefits of the proposals. The NPPF is also clear that great weight should be given to the conservation of heritage assets and that World Heritage Sites are a heritage asset of the highest significance.

Furthermore, there is a duty placed on the Council under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the

preservation or enhancement of the character or appearance of the surrounding conservation area.

Similarly, there is a duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, when considering whether to grant planning permission for development which affects a listed building or its setting, that the local planning authority shall 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.

In accordance with both these duties the harm identified is given considerable importance and weight.

It was previously considered under 20/00137/VAR (and 15/05237/FUL before that) that the harm caused by the north and east stands was outweighed by the public benefits of the proposal, namely the contribution to the local economy arising from the rugby club. It is considered that the 4 year extension to the temporary permission, although resulting in the harm persisting for a longer period of time, does not significantly affect this balance of this previous judgement, as the stand would remain temporary rather than permanent, and it is therefore considered that the 'less than substantial harm' identified is outweighed by the public benefits of the proposal.

### 3. HIGHWAYS AND TRANSPORT

The Recreation Ground is located in the centre of Bath and readily accessible by a variety of means. It has previously been concluded (ref: 20/00137/VAR and 15/05237/FUL) that the ground is in a sustainable location and that the operation of the club with these temporary facilities, and subject to a travel plan, would not give rise to significant congestion or highways safety issues.

The main impacts of the current application are temporal. Since the previous temporary consent was granted the Bath Clean Air Zone (CAZ) has been introduced. However, the operation of the club on this same basis for an additional 4 years is unlikely to give rise to any additional traffic or highways safety impacts beyond those previously identified and found acceptable.

### 4. AIR QUALITY

The recreation ground falls within the area identified as part of the Clean Air Zone (CAZ). Roads across the river and within the city centre are also identified as part of an Air Quality Monitoring Area (AQMA). The current temporary permission has been identified as giving rise to car trips into the city, including along routes within the AQMA. However, these are dispersed along a number of different routes into the city and given the relatively few occasions that the club plays at the ground each year (15-16 games per season) this was not considered to have a significant impact upon air quality.

The main impacts of the current application are temporal. The operation of the club on this same basis for an additional 4 years is unlikely to give rise to additional air quality or emissions impacts beyond those previously identified and found acceptable.



## 5. NOISE AND DISTURBANCE

The closest neighbouring properties to the ground are located in Johnstone Street and they are directly affected by the development on match days. A copy of a noise report from 2019 has been submitted by third parties. Noise emanating from the ground and fans approaching or leaving the ground has the potential to be disruptive to residential amenity. However, given the relatively few occasions that the club plays at the ground each year (15 - 16 games per season) and the implementation of the crowd management measures, it was previously considered that there would not be sustained harm to the amenities of the neighbouring residents as a result of the current temporary permission.

The main impacts of the current application are temporal. The operation of the club on this same basis for an additional 4 years is unlikely to give rise to additional noise or disturbance impacts beyond those previously identified and found acceptable.

## 6. FLOOD RISK

The Recreation Ground falls within Zone 3 of the Environment Agency Flood Zone Map, with part designated as Zone 3b 'functional floodplain'. In the NPPG (Table 2: Flood risk vulnerability classification) the proposed Stands represent sports and recreation and essential or ancillary facilities and are considered to be 'water compatible' development. The Flood Risk Assessment originally submitted (ref: 15/05237/FUL) was considered to be acceptable and current application does not propose to alter this.

The main impacts of the current application are temporal. The operation of the club on this same basis for an additional 4 years is unlikely to give rise to additional flood risk impacts beyond those previously identified and found acceptable.

## 7. CONCLUSION

In conclusion, the uncertainty caused by the pandemic in the last two years has meant that the permanent proposals for redevelopment have not yet come forward. However, the applicant has now announced that they are moving forward again and have sought to re-engage with pre-application discussions. Furthermore, the applicant now has greater confidence about the legal issues relating to the site. An extension to the temporary permission for a further 4 years would therefore provide a suitable period for the longer-term proposals to come forward.

Furthermore, the continued meanwhile use of the site as a stadium with temporary stands is considered appropriate and serves to provide certainty and continuity whilst a permanent resolution for the site is found. It is therefore considered that an extension to the grant of temporary permission for a period of four years is considered acceptable in these circumstances.

It is therefore considered that an extension to the grant of temporary permission for a further period of four years is considered acceptable in these circumstances.

## **RECOMMENDATION**

### **PERMIT**

## **CONDITIONS**

### **1 Temporary Planning Permission (Compliance)**

This permission shall expire on 30th May 2026 after which the temporary seating and other structures hereby approved shall be removed from the site and the land/premises reinstated on or before that date in accordance with a scheme of work to be submitted to and approved in writing by the Local Planning Authority prior to the expiry date.

Reason: The proposed development is of a design and construction that the Council will permit only for a limited period to allow for a permanent solution for the future of the Recreation Ground to be resolved.

### **2 East Stand (Compliance)**

The construction of the temporary East Stand seating and associated facilities including access stairs shall not commence more than 4 weeks before the first Home game of each rugby Premiership season. The East Stand shall not be used for more than 39 weeks from the date it is first brought into use each season and the East Stand structures and associated facilities including access stairs shall be entirely removed from the site not later than 3 weeks after the last Home game of the rugby Premiership season.

Reason: In the interests of the use, character and appearance of the site as recreational open space within the Conservation Area and World Heritage Site and the setting of listed buildings.

### **3 Reinstatement (Bespoke Trigger)**

The reinstatement scheme for the grass underneath the East Stand shall be implemented in accordance with the details approved under application references 16/02012/COND. The reinstatement scheme shall be implemented as approved within 7 days of the Stand being removed pursuant to Condition 2.

Reason: In order to ensure that the land under the area covered by the stand is capable of being reinstated to an appropriate condition in order to ensure the continued use of the Recreation Ground for all of its users and in the interests of the character and appearance of this part of the Conservation Area and the World Heritage Site.

### **4 North and East Stand (Compliance)**

The North and East Stand hereby approved shall only be used with the green double layered screen fabric in place on the rear of the stand.

Reason: In the interests of the character and appearance of this part of the Conservation Area and the World Heritage Site.

### **5 Seat Colour (Compliance)**

Only green coloured seating shall be installed in the temporary Stands hereby approved.

Reason: In the interests of the character and appearance of this part of the Conservation Area and the World Heritage Site.

#### **6 Construction Method Statement (Compliance)**

Construction work associated with the erection and dismantling of the temporary Stands shall be in accordance with the submitted Construction Method Statement (Revision 03 December 2015). Works will only be carried out between the hours of 8am to 6pm Monday to Friday and 8am to 1pm on Saturday with no works undertaken on Sundays or Bank Holidays. No noisy operations shall take place other than between the hours of 8am and 4pm Monday to Friday and 8am to 1pm on Saturday and not on Sundays or on Bank Holidays.

Reason: In order to protect the amenity of adjoining properties and ensure that site access and management arrangements are satisfactory.

#### **7 Flood Risk Measures (Compliance)**

The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by Black and Veatch, subsequent letter dated 12 January 2016, accompanying 'Bath Rugby 100T Crane Access' note dated 08 January 2016 and in particular the following mitigation measures:

- Access shall be provided to the Environment Agency for a crane (up to 100T) to access Pulteney Radial Gate through the recreation ground in an emergency.
- Ground levels and structures allowing the flow of flood water between the river and the ground are to remain unchanged.
- There are no structures or changes to ground levels between the river and the Recreation ground.

Reason: To ensure unimpeded access for the Environment Agency to the Pulteney Gate structure in the event of an emergency, to allow flood water to be stored and thereby ensuring flood risk downstream is not increased, to maintain conveyance flows next to the river during a flood.

#### **8 Travel Plan (Compliance)**

The development hereby permitted shall be occupied only in accordance with the submitted Travel Plan dated August 2014, the measures set out in correspondence from IMA Transport Planning dated 25 January 2016 or such other measures submitted to and approved in writing by the Local Planning Authority arising from the implementation of the Travel Plan.

Reason: In the interests of promoting the take up of sustainable transport methods and to minimise impacts on the highway network.

#### **9 Clarification of Permission (Compliance)**

This permission relates only to the East Stand, North Stand, South Stand hospitality boxes, Control Room and TV Screen as shown on the submitted drawings and does not convey consent for any other development including any flags/advertising.

Reason: In order to clarify the terms of the permission.

### **10 Scoreboard (Compliance)**

The screen/scoreboard hereby permitted shall only be operated on Home rugby Premiership match days. The screen/scoreboard shall be operated for a maximum of two hours before or after a rugby Premiership Home game and no later than 10-00pm.

Reason: To safeguard the amenities of nearby residents and in the interests of safeguarding the character and appearance of this part of the Conservation Area and the World Heritage Site.

### **11 TV Screen (Compliance)**

The treatment of the rear of the TV screen shall be in accordance with the details approved under application reference 16/02012/COND.

The works shall be completed as approved prior to the first Home game of the rugby Premiership 2016/17 season.

Reason: To protect the amenities of nearby residents and in the interests of safeguarding the character and appearance of this part of the Conservation Area and the World Heritage Site.

### **12 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 15.1646.PL101, PL102, PL107, PL108, PL109, PL110, PL111, PL112, PL113, PL114, PL116, PL117, PL118, PL119

## **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.

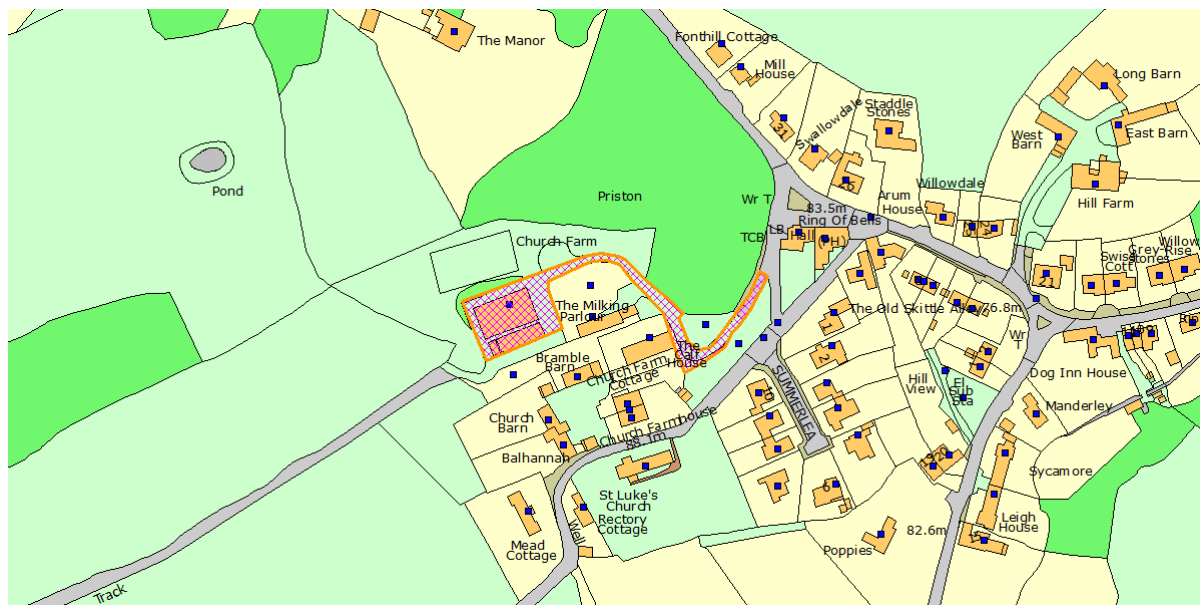
#### **4 Responding to Climate Change (Informative):**

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 EIA BASELINE**

The Local Planning Authority considers that the grant of a 4 year extension to this temporary planning permission does not materially alter the baseline of the site for the purposes any Environmental Impact Assessment.

**Item No:** 04  
**Application No:** 21/03682/FUL  
**Site Location:** Church Farm Church Lane Priston Bath Bath And North East Somerset



**Ward:** Bathavon South      **Parish:** Priston      **LB Grade:** N/A  
**Ward Members:** Councillor Neil Butters      Councillor Matt McCabe  
**Application Type:** Full Application  
**Proposal:** Erection of two dwellings and associated works, to follow demolition of existing equestrian related barns.  
**Constraints:** Agric Land Class 1,2,3a, Coal - Standing Advice Area, Policy CP8 Green Belt, Policy CP9 Affordable Housing Zones, Housing Development Boundary, SSSI - Impact Risk Zones, Tree Preservation Order,  
**Applicant:** The Trustees of the Jones Family Settlement  
**Expiry Date:** 10th March 2022  
**Case Officer:** Samantha Mason  
To view the case click on the link [here](#).

## REPORT

### REASON FOR GOING TO COMMITTEE:

The Parish Council object to the scheme and the officer is minded to permit, as such the application was referred to the Chair of the Committee as per the Council's Scheme of Delegation. The Chair recommended the application be heard at committee, stating: 'I have reviewed this application carefully and have read all the comments and objections. The officer has worked with applicant to address most of the issues raised however concerns remain, both about the presence of new development on this plot and the size of the footprint it will occupy, which have been articulated by CPRE, Priston Parish Council

and a number of 3rd parties. For this reason, I believe it would benefit from being debated in a public forum by the planning committee.' The Vice Chair concurred.

#### DETAILS OF LOCATION AND PROPOSAL AND RELEVANT HISTORY:

The application refers to a site located on the western edge of the village of Priston. The site is located outside of the Housing Development Boundary and within the Green Belt.

Planning permission is sought for the erection of two dwellings and associated works, to follow demolition of existing equestrian related barns.

#### RELEVANT PLANNING HISTORY:

DC - 04/02734/FUL - WD - 27 October 2004 - New horse riding arena

DC - 04/03636/CLEU - PERMIT - 12 August 2005 - DIY livery stable for 7 horses

DC - 05/02355/FUL - PERMIT - 6 December 2005 - Construction of a manege with 2 lighting columns, in association with adjacent livery stables

DC - 10/05135/COND - DISCHG - 22 July 2011 - Discharge of condition 6 of application 05/02355/FUL (Construction of a manege with 2 lighting columns, in association with adjacent livery stables)

DC - 20/02819/FUL - WD - 10 May 2021 - Demolition of existing equestrian related barn and erection of three dwellings and associated works.

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

Consultation Responses :

##### ARBORICULTURE:

14th Sept 2021: No objection subject to conditions

##### ARCHAEOLOGY:

24 August 2021: No objection

##### CONSERVATION:

28th Sept 2021: Scope for revision. The scheme has been significantly reduced in scale and the design altered to address concerns previously raised. The general revised design and scale is acceptable. However, there are no details of material finishes to comment on.

16th Nov 2021: More info requested on materials.

##### CONTAMINATED LAND:

13 August 2021: No objection subject to conditions

## DRAINAGE AND FLOODING:

24 August 2021: Scope for revision. The Drainage and flooding team require more information as to how surface water will be managed on site.

26th Jan 2022: No objection subject to condition.

## ECOLOGY:

6 Sept 2021: Scope for revision. An assessment of all buildings/habitat features within the red line boundary needs to be provided. The surveyed area in the ecology report and red line boundary of the site differ.

4th Dec: No objection subject to conditions

## HIGHWAYS:

31 August 2021: additional information required on large vehicle access. Otherwise, no objection subject to conditions

4th Nov: No objection subject to conditions

## HISTORIC ENGLAND:

26 August 2021: We do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

## PRISTON PARISH COUNCIL:

9th Sept 2021: Objection. Summary as follows.

1. The site cannot be considered previously developed land and does not qualify as one of the exceptions prohibiting the development of land within the Green Belt listed in para 145 of the NPPF. The Applicant claims (a) that the site is previously developed land, (b) that this has been recognized by BANES and (c) that this application deals with contested issues of inappropriate materials and modern design which rendered the previous scheme unacceptable. Priston Parish Council disputes these claims by referring to compelling evidence presented in Appendix 1.

2. The site lies outside the Housing Development boundary and does not constitute infill and in the absence of exceptional factors is therefore contrary to policy GB2 of the Core Strategy.

3. Despite the claim that the footprint and volume of the proposed development is smaller than the barns it would replace, it does not follow that there is lesser impact on the openness of the Green Belt. As discussed in the guidance to the NPPF, openness has a visual aspect as well as a spatial. Recent cases have emphasized the negative impact on the Green Belt of urban paraphernalia, suburban layout, boundary walls and fences etc.



Replacing an agricultural barn with residential development would diminish the openness of the Green Belt in contradiction to the requirements of para 145 of the NPPF.

4. Policies RA1 and RA2 of the Core Strategy guides development towards villages which have the facilities to make it sustainable. Priston is a village with few amenities and very poor links to other settlements, so is unsuited to further unsupported and substantial development.

5. In contravention of BANES guidance on the preparation of Planning Applications, the drawings provided contain no dimensions or levels which makes it very difficult to assess or to challenge some of the Applicant's assertions, such as that height of the proposed dwellings has been significantly reduced to ensure that the proposed dwellings are lower in height than the existing barn structures to be demolished and in scale with the surrounding buildings (para 5.3 of the Planning Statement). The proposed development extends substantially beyond the eastern boundary of the barns (contrary to the assertion in the Planning Statement) and covers an area greater than the two barns, which is difficult to see because of the lack of drawing dimensions. The footprint of the development is also considerably greater than that of the previous application.

6. The application form states that sewage disposal is to be handled by septic tanks which is contrary to Policy PCS 7A (3). No details have been supplied, yet the results of soakaway tests show that septic tanks are not viable, to which is added the difficulty of locating and servicing such tanks on this restricted site while conforming to stringent current regulations.

7. The Parish Council support BANES Drainage and Flood Team who have identified that major issues have not been addressed requiring a full drainage strategy. The fact that the existing bund, which protects the Milking Parlour and the Orchard from flooding, is in the garden of Plot 1, is surely not acceptable.

8. There is generally a lack of detail in this Application, for example in external lighting (Priston is a 'dark' village), the provision of services, construction materials, heating and ventilation etc.

Priston Parish Council requests that, should the Case Officer be minded to recommend acceptance of this application despite the Parish Council's objections, the matter should be raised at the Planning Committee.

Representations Received :

8 objections have been received from third parties, the following is a summary of the points raised:

- Not previously developed land
- Unclear what will be retained
- The menage should be returned to normal
- Some documents old or incorrect
- Ecological appraisal is lacking
- Application missing details on materials etc

- Concern over construction traffic
- Impact on green belt openness
- Impact on landscape
- Dangerous precedent
- Outside of housing development boundary
- No reference to village design statement
- Increase in traffic movements
- Drainage, flooding and sewerage concerns
- Ecology concerns
- Climate change concerns
- Out of scale and character with surroundings
- Loss of agricultural land
- Turning circle cannot be kept clear of obstruction due to neighbours right of access

CPRE: objection. Firstly, it does not conform to Policy GB2 of the BANES Core Strategy, which requires that residential development in villages washed over by the Green Belt be confined to infill sites. This proposal is outside the Housing Development Boundary and is not infill.

Secondly, while para 145 of the NPPF does allow for residential development on previously developed land within the Green Belt, examination of the previous planning history of the site does not support the view that the agricultural barns which it is proposed to develop actually lie within the curtilage of an area established for equestrian use by a certificate of lawful use (04/03636/CLEU). The area cannot therefore be considered to be previously developed land and the Application is not supported by the NPPF.

Thirdly, even if the land were established as previously developed (which it is not), the NPPF requires that there should be no detrimental effect on the openness of the Green Belt. As pointed out in our previous response, CPRE emphasises the visual as well as the spatial aspects of openness. The fact that the existing barns to be demolished comprise a lesser volume than the 2 houses intended to replace them takes no account of the fact that barns are much more fitted to a Green Belt than the urban residential development with its separate curtilages, garages and small gardens. The openness of the Green Belt would therefore be harmed both from the standpoint of Priston residents as well as impinging on the near and distant views from the various approaches to the village.

## **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  
CP10: Housing Mix  
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  
D.3: Urban fabric  
D.5: Building design  
D.6: Amenity  
D7: Infill and backland development  
GB1: Visual amenities of the Green Belt  
GB2: Development in Green Belt villages  
HE1: Historic environment  
NE2A: Landscape setting of settlements  
NE3: Sites, species and habitats  
NE5: Ecological networks  
NE6: Trees and woodland conservation  
RA1: Development in the villages meeting the listed criteria  
RA2: Development in villages outside of the Green Belt not meeting Policy RA1 criteria  
ST7: Transport requirements for managing development  
H7: Housing accessibility  
SCR1: On-site renewable energy requirement  
SCR5: Water efficiency  
SU1: Sustainable drainage policy  
LCR9: Increasing the provision of local food growing  
PC55: Contamination

#### 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).

## 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 and heritage
- Archaeology
- Trees
- Residential amenity
- Highways matters
- Flooding and drainage
- Contaminated land
- Ecology
- Sustainable construction and renewable energy

### PRINCIPLE OF DEVELOPMENT IN THE GREEN BELT:

Planning permission is sought for the demolition of an existing equestrian related barn and the erection of two dwellings and associated works. The primary issue to consider is whether the proposal represents inappropriate development in the Green Belt.

The NPPF sets out that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. It goes on, however, to set out a number of exceptions to this, including exception g:

'Limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: not have a greater impact on the openness of the Green Belt than the existing development'.

The NPPF defines previously developed land as 'Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes land that is or was last occupied by agricultural or forestry buildings'.

In 2004 a Certificate of Lawful use was granted on the site for the use of the building as a livery stable for 7 horses. It is understood the Parish Council have concerns over which part of the site the certificate of lawfulness pertains to.

Officers have looked back over the site history. There appears to be 6 plan drawings on the file for 04/03636/CLEU, one of which is in colour and 5 of which are in black and white.

The application description is for 'DIY livery stable for 7 horses'. The officer report states under the section 'Details of the Proposal' that the application relates to a 'modern farm building... 7 loose horse boxes have been formed with the remainder of the barn used as a hay store...'. The report later in the officer's assessment advises that the stables being 'applied' for were built into the barn in 1992. The second to last plan is marked with the application reference and dated on the 25th Nov 2004 (prior to the applications decision date) this plan shows the barns clearly outlined with a distinct line. The last plan then shows the location of the stables in the barn and is entitled 'stables', presumably this marked out the floor plan for the site.

Seven years have passed since the Certificate of Lawful use was granted. Whilst there may be some ambiguity over the Certificate of Lawfulness officers have visited the site and following a site visit it is clear that the stables are located in the modern barn along with storage of equestrian paraphernalia. There is a menage on site. There were horses in the fields. The Dutch barn had hay stored within it. There was also a horse box vehicle on site. The entire site was in equestrian use. The council is satisfied that the site is in established equestrian use rather than agricultural and therefore is considered to be previously developed land.

Therefore, the proposal is appropriate in the first instance in the Green Belt in accordance with exceptions G. To reiterate exception G goes on to say that the proposal will only be appropriate if it would not have a greater impact on the openness of the Green Belt than the existing development'

The build form of proposed plot one is T shaped and plot 2 is L shaped. Much of the bulk of the built form will be located on the southern and eastern footprint of the Modern barn and part of the Dutch barn. The footprint will spread slightly wider than the existing footprint but much less in other places. Overall, the built form footprint is comparable to the existing footprint. The heights of the proposed dwellings are much reduced than the height of the existing barns. The dwellings will read as single storey with elements of altering heights which breaks up the massing. Open gaps are maintained around the buildings where parking is located. Physically and visually the proposal is not considered to have a greater impact on openness than the existing built form.

Overall, the proposal is therefore considered to be appropriate development in the Green Belt and accords with policy CP8 of the Core Strategy and NPPF.

#### PRINCIPLE OF DEVELOPMENT IN COUNTRYSIDE LOCATION:

The Placemaking Plan identifies Priston as one of the villages where Policy GB2 (Development in Green Belt Villages) applies. GB2 states that development in villages in the Green Belt will not be permitted unless it is limited to infilling and in the case of residential development the proposal is within the defined Housing Development Boundary.

It is recognised that the land is outside of, but adjoining, the Housing Development Boundary of Priston and therefore does not directly comply with policy GB2. Whilst the Housing Development Boundary should not be viewed simply as some arbitrary line it is noted that in the High Court Decision of *Wood v Secretary of State* (Feb 2015) the judge

considered that an assessment of the 'village on the ground' was also required. The site is surrounded on three sides by development (houses, roads and the riding arena). When driving to the site it doesn't seem as though one has yet left the village when arriving at it. The built form of the village is readily visible in views from and into the site. Even some objectors have made comment that the site is 'within the village'. As such this is a material consideration.

Policy DW1 of the Core Strategy sets out a district-wide spatial strategy. It seeks an increase in the supply of housing by around 13,000 homes. It sets out the focus of new housing, jobs and community facilities will be in Bath, Keynsham and the Somer Valley. In the rural area, it seeks to ensure that development is located at settlements with a good range of local facilities and with good access to public transport. The village benefits from daily public transport, and facilities including a pub, church, village hall, and cricket ground. The parish has a population of around 232 people.

The proposal must also be considered in accordance with paragraph 80 of the NPPF which seeks to avoid introducing new, isolated homes within the countryside. The proposal is closely related to other buildings and located adjoining the development boundary. As such, the proposal cannot be considered to be isolated.

Section 11 of the NPPF has regard to making effective use of land, it states at paragraph 120 that substantial weight must be given in decision making to the value of using suitable brownfield land within settlements for homes. The site is considered to be previously developed land (brownfield land). As such in this instance it is considered that a departure from policy GB2 is acceptable to accord with the development plan and NPPF as a whole.

On balance therefore, the location of housing in this location can be supported in principle.

#### DESIGN, CHARACTER AND APPEARANCE:

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.

The proposal will replace a set of existing barns as previously discussed in this report. The loss of the existing buildings is acceptable. The application proposal two dwellings in their place, plot 1 is roughly T shaped and plot 2 is roughly L Shaped. The two plots are set in the south west of the site, with the site entrance and parking in the north west of the site. Both plots have amenity space. A field access remains in place to the south. The proposed layout is considered acceptable and the quantum of development is not considered to result in overdevelopment.

The proposed dwellings could be described as bungalows in nature, they will have a mainly single storey appearance with some elements being taller, reading as 1 and a half stories. The overall height and massing is comparable to surrounding buildings in the village and is less than the existing buildings on site. This is considered acceptable.

In terms of design detail, the buildings are now of a quiet, more traditional design that are not offensive. During the course of the application the agent has confirmed that the proposed materials used will be:

Roof - Clay roof tiles

Walls - Natural coursed rubble stone in lime mortar

Windows and doors - Timber windows and doors, natural stain

Rainwater goods - Black metal rainwater goods

Fascia and soffit - Timber

These materials are considered to be acceptable as they follow the local palate of materials and are appropriate within the sites sensitive local setting. A material schedule and samples will be conditioned.

The proposal by reason of its design, siting, scale, massing, layout and materials is acceptable and contributes and responds to the local context and maintains the character and appearance of the surrounding area. The proposal accords with policy CP6 of the adopted Core Strategy (2014) and policies D1, D2, D3, D4 and D5 of the Placemaking Plan for Bath and North East Somerset (2017) and paragraph 17 and part 7 of the NPPF.

#### HERITAGE:

Policy HE1 requires development that has an impact upon a heritage asset, whether designated or non-designated, will be expected to enhance or better reveal its significance and setting.

The current building is a modern barn and there are no concerns with its demolition.

Immediately adjacent to the application site is Church Farmhouse and associated barn conversions. The main farmhouse is grade II listed together with a granary adjacent, whilst the barns are not individually listed, these are clearly important heritage assets. In addition, the grade I listed Church of St Luke and St Andrew is in close proximity.

Historic England have been consulted and have not raised an objection or specific concerns with the revised drawings.

The Conservation Officer has been consulted. The scheme has been significantly reduced in scale and the design altered to address concerns previously raised. The general revised design and scale is acceptable. The officer has no longer raised an objection.

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. In this case by virtue of the design, scale, massing, position and the external materials of the proposed development it is considered that the development would at least preserve the character and appearance of this part of the Conservation Area and its setting.

The proposal accords with policy CP6 of the adopted Core Strategy (2014) and policy HE1 of the Placemaking Plan for Bath and North East Somerset (2017) and Part 12 of the NPPF.

#### ARCHEAOLGY:

Policy HE1 requires development that has an impact upon a heritage asset, whether designated or non-designated, will be expected to enhance or better reveal its significance and setting. South West Heritage Trust have been consulted on the scheme in regard to archaeology and have raised no objection. The proposed new dwellings lie within the core of the medieval settlement of Priston and in close proximity to the medieval church and possible manor, as such condition have been recommended including an archaeological watching brief and publication of any results. As such these will be attached to the decision.

#### TREES:

Policy NE6 has regard to trees and woodland conservation. It states development will only be permitted if it is demonstrated that adverse impact on trees is unavoidable to allow for development, and that compensatory measures will be made in accordance with guidance in the Planning Obligations SPD.

The application is supported by an arboricultural report which includes a tree survey, impact assessment and method statement.

The red line boundary which has been identified excludes all trees and provides insufficient space to contain construction activities. This means that tree protection measures are essential to control the spread of these activities as outlined in the Arboricultural report. A condition will be included to ensure compliance with the report.

No objection is raised to the proposed tree pruning and tree removals. Ash Dieback is widespread in the district and the likely requirement to remove those trees affected is acknowledged.

The proposal is considered acceptable and accords with policy NE6 of the Placemaking Plan.

#### RESIDENTIAL AMENITY:

Policy D.6 sets out to ensure developments provide an appropriate level of amenity space for new and future occupiers, relative to their use and avoiding harm to private amenity in terms of privacy, light and outlook/overlooking.

Given the design, scale, massing and siting of the proposed development the proposal would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, smell, traffic or other disturbance.

The proposal accords with policy D6 of the Placemaking Plan 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.

#### Accessibility / Public Transport / Walking / Cycling:

The site has limited opportunities for sustainable travel due to the distance to most local services and lack of dedicated cycling and walking facilities. There is limited public transport links in the locality and as a result the development is likely to be dependent on the private car. However, it is noted that this is previously developed land where car trips would already be generated. The site is located in proximity to the housing development boundary with some local facilities within the village. As such, an objection on the grounds of sustainability would not be justifiable in this instance.

#### Access/ Traffic:

The site is accessed via a shared access from Church Farm Lane which also serves a number of existing dwellings including The Orchard, The Milking Parlour and The Calf House. The proposed development is unlikely to significantly increase the number of vehicular trips compared to the existing use. There might be an additional benefit of removing the need for large, slow-moving vehicles to access the site if the equestrian use of the barns is ceased.

The red line boundary of the application on the Site Location Plan has been updated to include

the area labelled as 'existing turning area'. This enables the turning area which would be required for any large vehicles accessing the proposed dwellings to be secured by planning

Neighbours have raised concerns over the right of access to turn into the site. Certificate A has been submitted with the application. Any easements or covenants are a civil matter which would not preclude the granting of planning permission.

#### Car Parking /Cycle Parking/ EV charging:

Each of the proposed residential dwellings requires the provision of a minimum of two secure covered cycle parking spaces, plus 3 car parking spaces per four-bed dwelling. Based on the proposed floorplans, that equates to 6 parking spaces. The provision shown within the application submission meets with the standards set out in the Placemaking Plan.

In the case of new development proposals, facilities for charging plug-in and other ultra-low emission vehicles will be sought where practicable as set out in Policy ST7 of the Placemaking Plan. The BANES Parking Strategy says that Electric vehicle charging should be provided residential developments with individual parking - passive provision within each property.

Passive provision requires the enabling work to be undertaken, including ensuring sufficient capacity in the connections and providing cabling to the parking spaces. This will be conditioned.

#### Waste:

The Waste Management Plan states that the refuse collection vehicles currently enter the shared private lane to collect waste rather than collecting from the Church Farm Lane which is the nearest adopted highway. The proposal for an additional 2 dwellings to have similar collection arrangements is acceptable.

#### Construction Management Plan:

Due to the nature of the local highway the introduction of construction vehicles may cause harm to road safety and residential amenity. Therefore a demolition and construction management plan should be required prior to commencement of the development.

#### DRAINAGE AND FLOODING:

Policy CP5 of the Core Strategy has regard to Flood Risk Management. It states that all development will be expected to incorporate sustainable drainage systems to reduce surface water run-off and minimise its contribution to flood risks elsewhere. All development should be informed by the information and recommendations of the B&NES Strategic Flood Risk Assessments and Flood Risk Management Strategy.

The Drainage and flooding team have been consulted on the application and additional information has been submitted over the course of the application. A General Arrangement Drainage Plan has now been submitted. The proposed plans now show an acceptable drainage system. A condition will be required confirming capacity of the onward system or an alternative method of drainage.

As such, the proposed development is considered to comply with policy CP5 of the Core strategy in regard to flooding and drainage matters, as well as the NPPF.

#### CONTAMINATED LAND:

Policy PCS5 has regard to Contamination. The Contaminated Land Officer has been consulted on the application. Taking account of the sensitive nature of the development (i.e. residential), conditions are recommended in regard to reporting unexpected contamination.

The proposal is considered acceptable in terms of policy PCS5 of the Placemaking Plan.

#### ECOLOGY:

Policy NE3 has regards to Sites, Species and Habitats, it states that development that would adversely affect protected species and habitats will not be permitted unless in certain exceptional circumstances. In all cases the policy seeks that any harm to nature conservation is minimised and mitigation and compensation is provided otherwise.

The Council's ecologist has been consulted on the scheme. There is no ecological objection in principle to the proposals.

Previous ecology comments have been provided (Sarah Dale 6th Sept 21) raising the issue of a

discrepancy between the site boundaries of the submitted planning application and the site

boundary used for the ecological survey and assessment. A revised ecological survey and assessment has been submitted which now includes the whole site. Appropriate recommendations are made regarding avoidance of harm to nesting birds, and provision of replacement habitats, nesting sites and ecological enhancements.

In relation to the northern barn and associated hardstanding and scrub, the assessment and its findings are accepted. The site supports limited wildlife value, although the building does have nest boxes and signs of use by nesting birds; swallow nests were also noted. Appropriate recommendations are made regarding provision of replacement and new habitat, and measures to avoid harm to wildlife and to provide additional benefits for wildlife. These include provision of bird and bat boxes and landscape planting, sufficient to achieve net gain for biodiversity (in accordance with Policies NE3 and D5e and the NPPF) which could be provided through a wildlife friendly landscape and planting scheme to be secured by condition. This must also include provision of replacement swallow nesting sites within a suitable sheltered location such as beneath an overhang, within porches or within an open building.

Sensitive lighting design would be necessary in this location in accordance Policy D8, and best practice to avoid harm to wildlife including bats. A condition will be attached accordingly.

A detailed mitigation scheme is also required, the Council's ecologist has confirmed this can be sought by condition.

#### **SUSTAINABLE CONSTRUCTION AND RENEWABLE ENERGY:**

Policy CP2 of the Placemaking Plan has regard to Sustainable construction. The policy requires sustainable design and construction to be integral to all new development in B&NES and that a sustainable construction checklist (SCC) is submitted with application evidencing that the prescribed standards have been met.

For minor new build development a 19% reduction in CO<sub>2</sub> emissions is required by sustainable construction. In this case the submitted SCC shows that a 48% CO<sub>2</sub> emissions reduction has been achieved from energy efficiency and/or renewables. Therefore the proposed development is compliant with policy CP2 in this instance.

Policy SCR5 of the emerging Placemaking Plan requires that all dwellings meet the national optional Building Regulations requirement for water efficiency of 110 litres per person per day. This can be secured by condition.

Policy SCR5 also requires all residential development to include a scheme for rainwater harvesting or other method of capturing rainwater for use by residents (e.g. water butts). These matters can be secured by a relevant planning condition.

Policy LCR9 states that all residential development will be expected to incorporate opportunities for local food growing (e.g. border planting, window boxes, vertical planting, raised beds etc.).

## CONCLUSION:

The location of housing in this location is contrary to Policy GB2 of the PMP, however on balance, as set out in the report above, given its siting 'within' the village, it meeting the objectives of policy DW1 and its non-isolated location, it is considered the development can be supported in principle. As such, in this particular case, it is considered that a departure from policy GB2 is acceptable. The proposal complies with all other the relevant planning policies as outlined above and the proposal is recommended for approval.

## RECOMMENDATION

PERMIT

## CONDITIONS

### 1 Standard Time Limit (Compliance)

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

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

### 2 Arboricultural Compliance (Compliance)

No development or other operations shall take place except in complete accordance with the approved Arboricultural Method Statement and Tree Protection Plan (Tim Pursey 29th July 2021 )

Reason: To ensure that the approved method statement is complied with for the duration of the development to protect the trees to be retained in accordance with policy NE.6 of the Placemaking Plan.

### 3 Archaeology Watching Brief (Pre-commencement)

No development shall commence, except archaeological investigation work, until the applicant,  
or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work should provide a controlled watching brief during ground works on the site,  
with provision for excavation of any significant deposits or features encountered and shall be  
carried out by a competent person(s) and completed in accordance with the approved written  
scheme of investigation.

Reason: The site is within an area of significant archaeological interest and the Council will  
wish to examine and record items of interest discovered in accordance with Policy HE1 of the  
Bath & North East Somerset Placemaking Plan. This is a condition precedent because

archaeological remains and features may be damaged by the initial development works.

#### **4 Archaeology Post Excavation and Publication (Pre-occupation)**

No occupation of the development shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of post-excavation analysis in accordance with a publication plan which has been submitted to and approved in writing by the Local Planning Authority. The programme of post-excavation analysis shall be carried out by a competent person(s) and completed in accordance with the approved publication plan, or as otherwise agreed in writing with the Local Planning Authority.

Reason: The site has produced significant archaeological findings and the Council will wish to publish or otherwise disseminate the results in accordance with Policy HE1 of the Bath & North East Somerset Placemaking Plan.

#### **5 Materials - Submission of Materials Schedule (Bespoke Trigger)**

No construction of the external walls of the development shall commence until a schedule of materials and finishes to be used in the construction of the external surfaces, including roofs, has 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.

Samples of any of the materials in the submitted schedule shall be made available at the request of the Local Planning Authority.

The development shall thereafter be carried out 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.

#### **6 Sample Panel - Walling (Bespoke Trigger)**

No construction of the external walls of the development shall commence until a sample panel of all external walling materials to be used has been erected on site, approved in writing by the Local Planning Authority, and kept on site for reference until the development is completed. The development shall be undertaken 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.

#### **7 Reporting of Unexpected Contamination (Bespoke Trigger)**

In the event that contamination is found at any time when carrying out the approved development, work must be ceased and it must be reported in writing immediately to the Local Planning Authority. The Local Planning Authority Contaminated Land Department shall be consulted to provide advice regarding any further works required. Unexpected contamination may be indicated by soils or materials with unusual colour, odour, texture or containing unexpected foreign material.

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with section 11 and 15 of the National Planning Policy Framework.

### **8 Parking and Turning (Compliance)**

The areas allocated for parking and turning, as indicated in the Site Location Plan 001 Rev.A and Ground Floor Plan 111B, shall be kept clear of obstruction and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.

Reason: To ensure adequate car parking and turning areas are always retained, in the interests of amenity and highways safety in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

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

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

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

### **10 Electric Vehicle Charging Points (Pre-occupation)**

No building shall be occupied until details of the total number of car parking spaces, the number/type/location/means of operation and a programme for the installation and maintenance of Electric Vehicle Charging Points and points of passive provision for the integration of future charging points has been submitted to and approved in writing by the Local Planning Authority prior to construction of the above ground works. The Electric Vehicle Charging Points as approved shall be installed prior to occupation and retained in that form thereafter for the lifetime of the development.

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

### **11 Surface Water Drainage (Pre-Commencement)**

No development shall commence, except ground investigations, until written confirmation of the capacity of the onward system can take the flow of 13.4 l/sec as proposed by the Drawing 101P3 is submitted and approved by the LPA if this is not the case an alternative method of surface water drainage, which has first been submitted to and approved in writing by the Local Planning Authority, should be installed prior to the occupation of the development.

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

## **12 Wildlife Protection and Enhancement (Pre-commencement)**

No development shall take place until full details of a Wildlife Protection and Enhancement Scheme that is in accordance with Section 5 of the approved Ecological Appraisal (Engain, 8th November 2021) 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 precommencement 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 suitable replacement nesting provision for swallow;

wildlife-friendly planting / landscape details; and provision of bat and bird boxes. Proposed specifications, numbers, models, materials, species, sizes, and positions (as applicable) shall

be provided and shown on a plan; for fencing shall include provision of gaps to allow movement

of wildlife such as hedgehog through and around the site.

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 Local Plan.

NB 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.

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

No occupation of the development hereby approved shall commence until a report produced by a suitably experienced professional ecologist (based on post-construction on-site inspection by the ecologist) confirming and demonstrating, using photographs, adherence to and completion of the Wildlife Protection and Enhancement Scheme in accordance with approved details, has been submitted to and approved in writing by the Local Planning Authority.

Reason: To demonstrate compliance with the Wildlife Protection and Enhancement measures, 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 External Lighting (Bespoke Trigger)**

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

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

#### **15 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 to the local planning authority together with the further documentation listed below:

- o Table 2.4 (Calculations);
- o Building Regulations Part L post-completion documents

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).

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

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



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

### **17 Water Efficiency (Compliance)**

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

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

### **18 Plans List (Compliance)**

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

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

#### **PLANS LIST:**

1 This decision relates to the following plans:

01 Oct 2021	001 A	SITE LOCATION PLAN
01 Oct 2021	002 B	TOPOGRAPHICAL SURVEY
01 Oct 2021	110 E	GROUND FLOOR PLAN
09 Nov 2021	109 E	SITE PLAN - ROOF PLAN
09 Nov 2021	111 C	FIRST FLOOR PLAN
09 Nov 2021	112 E	ELEVATIONS
09 Nov 2021	113 F	SITE ELEVATIONS
25 Nov 2021	114	SITE PLAN - EXISTING BARN FOOTPRINT ROOF PLAN
06 Jan 2022	101 P3	DRAINAGE SYSTEM - GENERAL ARRANGEMENT

### **2 Informative**

#### **Desk Study and Walkover Survey**

Where development is proposed, the developer is responsible for ensuring that the development is safe and suitable for use for the purpose for which it is intended.

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

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

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

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

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

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

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

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

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

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



"I have studied the application carefully & note the comments from both statutory & third party consultees, some comments object while others support the proposal as is the case with CDPC & the Ward Cllr. who have differing views.

The proposal is clearly controversial & therefore I recommend the application be determined by the planning committee so the impact on the Green Belt & very special circumstances can be debated fully in the public arena."

The Chair, Cllr Sue Craig, has considered the application and the recommendation of the Vice Chair and decided that the application will be determined at Planning Committee, commenting as follows:

"I have reviewed this application and note the opposing comments from the ward councillor and parish council, plus the comments from other 3rd parties. Notwithstanding the fact that all applications are judged on their own merits, I believe that this case provides an opportunity to debate, in a public forum, a degree of harm to a listed building vs climate change mitigation. I therefore refer this application to the planning committee for a decision.

#### DESCRIPTION OF SITE AND APPLICATION:

Manor House is a residential property comprising a Grade II listed house and its curtilage, and a large paddock field located to the east and northeast of the house. The field is adjacent to Old Burnett Lane to the south and Burnett Hill to the east. The site is within the small village of Burnett, which is part of the parish of Compton Dando.

Planning permission is sought for the proposed installation of solar PV panels and ground source heat pipework within the eastern end of the paddock to provide renewable energy sources for Manor House. The solar array is to be bordered with a security fence and hedging. An application for listed building consent accompanies this planning application under reference number 21/03966/LBA, seeking consent for works associated with the connecting the installation to the plant room in the basement of Manor House.

#### RELEVANT PLANNING HISTORY:

AP - 04/00036/RF - DISMIS - 5 November 2004 - Repositioned access and driveway

DC - 02/02067/FUL - RF - 17 December 2002 - Repositioned access and new driveway

DC - 02/02208/LBA - RF - 15 November 2002 - Repositioned access and new driveway to existing house

DC - 03/02654/FUL - RF - 10 December 2003 - Repositioned access and driveway

DC - 05/03121/FUL - RF - 17 November 2005 - Change of use of land from agricultural to domestic curtilage (extension of existing garden)

DC - 07/01705/FUL - PERMIT - 11 July 2007 - Replacement covered structure for the oil tanker and associated works

DC - 07/01706/LBA - CON - 20 July 2007 - Replacement covered structure for the oil tanker and associated works

DC - 19/03436/FUL - PERMIT - 23 September 2019 - Erection of a single storey rear extension to provide larger utility room, extension to first floor sun room, internal alterations with replacement of spiral stairs and new opening to garage. Repointing of part of rear elevation and other minor repair works.

DC - 19/03437/LBA - CON - 23 September 2019 - Internal and external alterations to include the erection of a single storey rear extension to provide larger utility room, extension to first floor sun room, internal alterations with replacement of spiral stairs and new opening to garage. Repointing of part of rear elevation and other minor repair works.

DC - 19/04808/CONDLB - DISCHG - 6 December 2019 - Discharge of condition 3 of application 19/03437/LBA (Internal and external alterations to include the erection of a single storey rear extension to provide larger utility room, extension to first floor sun room, internal alterations with replacement of spiral stairs and new opening to garage. Repointing of part of rear elevation and other minor repair works).

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

The following comments received during the consultation process are summarised only. Please view the online case file for full comments.

### **CONSULTATIONS AND REPRESENTATIONS:**

Compton Dando Parish Council: objection. (Comments received 22/09/21)

- The proposed solar panels are located in a sensitive area and will harm the historic open parkland setting of Manor House
- Adverse visual impact on the Green Belt
- Impact on wildlife
- Concerns over highway safety
- Hedging should be mixed native species
- The installation of the ground source heat pump is supported, subject to an archaeological watching brief during excavations
- The PC would like to have supported the application due to the Climate Emergency, but the location of the solar panels is considered inappropriate, and an alternative siting would be more acceptable

Conservation: no objection. (Revised comments received 12/01/22)

Archaeology: No objection, subject to conditions for archaeological monitoring for all groundworks and publication of the results. (Comments received 5/10/21)

Arboriculture: No objection, subject to conditions to secure tree protection measures and mitigation planting. (Comments received 25/10/21)

Ecology: No objection, subject to conditions to secure a wildlife protection and enhancement scheme and an ecological follow-up report. An informative for great crested newt is advised.

Highways: No objection. (Comments received 23/09/21)

#### OTHER REPRESENTATIONS / THIRD PARTIES:

24 representations received from the public, including 21 in objection, 1 in support and 2 neutral comments. The comments made are summarised as follows:

- Renewable energy should be supported in addressing the Climate Emergency
- Siting appears to maximise solar efficiency by avoiding trees
- Harm to Green Belt
- Renewable energy is supported in principle, but solar panels should be relocated to a more discreet location
- The installation is excessive for a domestic property, generating 24kw, 6 times that of a typical domestic installation
- The site contains 2.9 acres of land to choose an alternative location for the array
- The south-facing roof slope of Manor House or a curtilage outbuilding should be used to provide the PV panels instead
- The solar panels are unsightly and will be prominent in views from Whitson Lodge, particularly during winter when leaves are shed from the tree and hedge. The array should be re-sited
- It will take years for the screen hedging to mature, exposing the development
- Harm to character of historic parkland and rural setting of village
- Burnett has retained its historic charm should have conservation area status
- Harm to setting of the Victorian-period house of Whitson Lodge
- The submitted heritage statement has not assessed the impact on Whitson Lodge
- The solar panels will be prominent from the road
- The panels will be surrounded by a hedge of the same height and will not be visible from the road
- Concerns over highway visibility and safety due to PV array disrupting sightlines causing a distraction and reflective glare for motorists
- The adjacent road (B3116) is prone to accidents near this location
- The panels are angled away from the road, mitigating reflection towards the road
- Harm to wildlife
- Concerns over impact of groundworks for the ground source heat pump on local archaeology
- Neighbours were not consulted by the applicant prior to submission, contrary to application information
- The application form incorrectly states that the development cannot be seen from a highway or public land
- Devaluation of neighbouring property

Cllr Alastair Singleton, ward member for Saltford, has commented in support of the application, with a request for referral to planning committee in the event that case officers recommend refusal. The comments are as follows:

"I wish these applications be determined at the planning committee should the case officer recommend refusal. The applications refer to a well conceived and very professionally designed renewable energy scheme combining a ground source heat pump and ground-mounted solar panels to provide significant energy to the house - with surplus potentially available for other consumers. The project is sympathetic to the local environment and

ecology and entirely in keeping with the Ambitions exemplified in the B&NES Council Climate Emergency policy. It has my full support."

A representation was received from the Campaign to Protect Rural England (CPRE) after the consultation period but has been considered as part of this assessment. The comments are summarised as follows:

- Objection, endorsing the comments of Compton Dando Parish Council.
- Burnett is a "very special village" and the proposed panels would have an adverse visual impact on the Green Belt and local buildings of historical importance.
- CPRE does not object in principle and supports non-carbon sources of energy but more consideration should be given to their location so they are not visually intrusive.

## **POLICIES/LEGISLATION**

### **POLICY CONTEXT:**

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:

DW1: District Wide Spatial Strategy  
CP3: Renewable Energy  
CP6: Environmental Quality  
CP7: Green Infrastructure  
CP8: Green Belt

### **Placemaking Plan:**

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



SCR3: Ground-mounted Solar Arrays  
D1: General Urban Design Principles  
D2: Local Character and Distinctiveness  
D6: Amenity  
GB1: Visual Amenities of the Green Belt  
HE1: Historic Environment  
RE5: Agricultural Land

### **SPDs:**

The following supplementary planning documents are also relevant in the determination of this application:

Energy Efficiency & Renewable Energy Guidance for Listed Buildings and Undesignated Historic Buildings (2013)

### **National policy and guidance:**

The National Planning Policy Framework (NPPF) was updated in July 2021 and is a material consideration.

Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

#### *Conservation Areas*

In addition, 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.

#### *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 PLANNING ISSUES:**

The main issues to consider are:

- Principle of development
- Green Belt impact
- Impact on character, including setting of the village and listed buildings
- Impact on residential amenity
- Highway safety
- Ecology
- Arboriculture
- Archaeology

## **OFFICER'S ASSESSMENT:**

### *Principle of Development:*

The applications are seeking to install a solar photovoltaic (PV) panel array and ground source heat pump to provide renewable energy for the property of Manor House, located within the small village of Burnett. The proposed development is located within a parkland area adjacent to the B3116 to the east and northeast of the house. The parkland, referred to as the paddock in the application, is private land forming part of the estate of Manor House, but is outside the recognised domestic curtilage of the house. Burnett has no Housing Development Boundary and is within the Bristol and Bath Green Belt.

Renewable energy development is broadly acceptable in principle, in accordance with policy CP3 of the B&NES Core Strategy (subject to assessment against policy CP6 and environmental impacts) and paragraph 158 of the National Planning Policy Framework (NPPF). The latter recognises that small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.

Ground-mounted solar arrays are more directly addressed under policy SCR3 of the B&NES Placemaking Plan and are supported in principle, and should seek to minimise visual impact, respect nationally and locally protected landscapes and biodiversity. Proposals should be focused on non-agricultural land or land of lower agricultural quality. In all cases, proposals will be expected to be consistent with the relevant design, heritage, and landscape policies. These matters are addressed separately below.

The site is located within the Green Belt. National and local planning policy places substantial weight on the protection of the Green Belt, the aim of protecting their openness and permanence. Inappropriate development is, by definition, harmful to the Green Belt and should

not be approved except in very special circumstances, as stated by paragraph 147 of the NPPF.

Paragraph 151 directly addresses renewable energy developments, stating that elements of many such projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.

A statement from GeoEnergy Design (dated 19 August 2021) outlines the justification for the development.

Manor House currently burns 8000 litres of heating oil per year to provide for heating and hot water, producing roughly 20,160 kg of CO<sup>2</sup> per year. Space heating and domestic water provision attributes to over 80% of annual CO<sup>2</sup> production.

Steps have already been undertaken to draught-proof the windows and improve the insulation at Manor House; however, scope for further energy efficiency measures are limited by the listed building status of the building and the applicants are keen to utilise available land for renewable energy provision, given the CO<sup>2</sup> output of the property.

The proposed solar PV installation will generate 32,217 kWh of electricity p.a., offsetting the GSHP consumption of 20,901 kWh p.a. and providing a net production of 11,316 kWh available for domestic use, while a surplus can be fed back to the grid for use by other local properties. The statement estimates that the combined GSHP and PV system would result in a p.a. saving of 21,332 kg CO<sup>2</sup>.

This is a substantial reduction in carbon production for a domestic property. Given the Climate Emergency, it is considered that the outlined energy benefits of the proposals outweigh the in-principle harm to the Green Belt, subject to consideration of openness, in accordance with Policy CP8 of the Placemaking Plan and paragraph 151 of the NPPF.

#### *Impact on Green Belt openness:*

The Solar PV array is to be located at the northeast corner of the paddock, occupying 6% of its 2.9 acres. The parkland south of the PV array site will be kept undeveloped above ground, maintaining its open and rural character throughout most of this land. By positioning the PV array at the northern boundary, the screen hedging will enclose the compound while minimising its intrusion into the parkland. It is considered that the siting and design adequately mitigates harm to the openness and amenity of the Green Belt, taking into account the very special circumstances for the development which are accepted.

The GHSP will be housed inside Manor House and the ground collector pipes will be buried below ground, negating any visual impact on the Green Belt. The engineering operations will not harm Green Belt openness.

The proposals therefore comply with policy GB1 of the Placemaking Plan and paragraph 150 of the NPPF.

### *Character and appearance:*

The development is located at the edge of the small village of Burnett, adjacent to the B3116 which runs past the village. While Burnett does not have a conservation area designation, it has well-preserved historic rural character, and this is reflected in the listed buildings that form focal points within the village. These include St Michael's Church and the nearby Manor House to the south, both of which are Grade II listed. The estate benefits from a large area of parkland (referred to in the application as the paddock) to the east and north of the domestic curtilage.

Due to the scale of this land, its undeveloped and leafy appearance, and its open boundaries to the east and south fronting the B3116 and Old Burnett Lane respectively, the parkland contributes to the rural character of the village.

The proposed siting of the development has been chosen to maximise solar gain while attempting to mitigate and limit harm to the landscape and heritage assets.

It is acknowledged that, by siting the PV array close to the highway, the development will be prominent externally, at least in terms of its security fencing and screen hedging, and this will encroach into some of the visible parkland. However, positioning the installation adjacent to the northern boundary and the hedge that runs along it is considered the least intrusive location within the parkland, factoring in its open viewpoints from the public realm and the setting of listed buildings.

Upon site inspection, it was observed that the northeast corner of the parkland is largely obscured from view from Manor House by its dense trees and soft landscaping within the curtilage of the house. The siting of the PV installation minimises its visual impact both on views from the listed building and views to the building from the public realm. The setting of the Grade II listed St Michael's Church will also be safeguarded, although the development will be visible in the background from part of the churchyard. Harm may be adequately mitigated from the proposed hedging which will screen the installation.

One of the primary concerns raised in public objections relates to the impact on Whitson Lodge, Located immediately beyond the development site to the north. Whitson Lodge is a 19th Century building with elegant, well preserved Victorian character and is understood to have originally been a school building. The building is not listed but due to its local heritage value and its architectural value is considered to be a non-designated heritage asset.

The heritage statement provides limited consideration over the impact on the setting of Whitson Lodge, although it does highlight that the perimeter hedge, if adequately implemented, will screen the installation from ground level and should appear indistinct from the existing hedge at the boundary of Whitson Lodge.

The PV installation and associated enclosure will nonetheless appear visible at close range from Whitson Lodge within its immediate setting, particularly when viewed above ground level. This results in less than substantial harm to the setting of this non-designated heritage asset. Great weight should be given to the assets' conservation (para 199 NPPF) however, non-designated assets are not afforded the same level of protection as designated assets and paragraph 201 requires a balanced judgement, having regard to

the scale of harm and the significance of the asset. In this instance, it is concluded that the sustainability benefits of the development outweigh this harm.

The Council's Conservation Officer was consulted to consider the application, including the additional heritage statement and supporting information received in November 2021, and is satisfied that the proposed development and its siting has been appropriately considered and justified.

The Council has a statutory requirement under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 when considering whether to grant planning permission for any works of development which affect 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. Taking account of the above, in this instance the proposed works will on balance preserve the setting of the listed building and as such this proposal would meet this requirement.

Subject to conditions ensuring the implementation and retention of appropriate hedging, it is considered that the siting and design of the proposed development will sufficiently safeguard the character and appearance of the site and its surroundings, including the setting of listed buildings. The proposed development is therefore in accordance with policies D1, D2, HE1 and NE2 of the Placemaking Plan, policy CP6 of the Core Strategy and sections 12 and 16 of the NPPF.

#### *Residential amenity:*

The proposed solar array is positioned to face south, which, while maximising solar gain, also mean that the panels face away from the adjacent property of Whitson Lodge to the north, preventing any issues of reflective light glare. The array, by virtue of their height relative to the existing and proposed boundary vegetation, will not result in any overbearing or overshadowing impacts.

The PV installation will be visible from upper floor south-facing windows of Whitson Lodge, as demonstrated with photographs supporting neighbour objections. However, this is a matter of private views which cannot be given significant weight.

The proposals do not raise any other concerns relating to residential amenity and are in accordance with policy D6 of the Placemaking Plan.

#### *Highway safety:*

Public representations raised concerns over the potential impact of the solar PV panels on highway safety, due to concerns of obstruction of visibility, distraction, and reflective glare.

The nearby highway junction Watery Lane and Burnett Lane (B3116) is separated from the site by the intervening property of Whitson Lodge, which provides an obstruction of visibility immediately south of the junction. The PV array is set back from the highway and separated from the existing fence by the proposed fence and hedge, limiting its prominence from the highway. The panels are angled in a directly due south and are therefore angled slightly away from the adjacent road running southeast to northwest, minimising any residual risks of glare.

There is no compelling evidence that the proposed development will impact an existing highway safety concern.

Paragraph 109 of the NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts will be severe. Highways DC are unable to provide evidence that the development will result in unacceptable harm in this respect.

Highways are satisfied that the proposed development will not result in an adverse impact on the existing vehicular access to Manor House and will not result in a loss of existing parking.

The proposed development is therefore in accordance with policy ST7 of the Placemaking Plan.

#### *Ecology:*

The submitted bat survey is acceptable and demonstrates that the basement and Leyland cypress offer negligible roosting opportunity. While the horse chestnut supports preliminary roost features, a tree climbing inspection found that no roosts or evidence of bats were found. Measures to protect bats in the event they are discovered during works are proposed and supported.

The Council's ecologist has expressed disappointment that the assessment has not detailed procedures to protect nesting birds, hedgehogs, or badgers, but measures can be appropriately controlled via condition.

Subject to conditions securing the submission and implementation of a wildlife protection and enhancement scheme, the proposals comply with policies NE1, NE3, NE5, D5e and D8 of the Placemaking Plan and policies CP6 and CP7 of the Core Strategy.

#### *Arboriculture:*

The Council's Arboriculturist has considered the submitted arboricultural impact assessment and has no objection to the removal of the T4 oak tree, subject to the planting of two trees in compliance with policy NE6. A condition is recommended to secure the necessary replacement planting. The indicative tree protection plan satisfactorily demonstrates how retained trees can be protected during construction.

Subject to conditions securing the submission and implementation of a detailed arboricultural method statement and a soft landscaping scheme concerning the replacement trees, the proposed development is in accordance with policy NE6 of the Placemaking Plan.

#### *Archaeology:*

The Council's Archaeologists were consulted to consider any archaeological issues associated with the proposals, including, most significantly, the extensive groundworks and excavation associated with the proposed ground source heat pump.

The proposed development lies close to St Michael's Church in an area where Roman material indicative of settlement activity has been recovered. Conditions are therefore recommended to secure archaeological monitoring of groundworks and publication of the results.

Subject to conditions, the proposed development is in accordance with policy HE1 of the Placemaking Plan.

*Other matters:*

Public representations have highlighted inaccuracies in the application, including the suggestion that the proposed development cannot be seen from highway or the public realm; this matter is noted. Local residents have raised disappointment that they were not consulted prior to the application. While this is regrettable, this matter does not influence the assessment that led to the officer's recommendation, which has taken into account comments received during the formal public consultation process.

Devaluation of property is not a matter that may be afforded weight in the assessment of a planning application.

**CONCLUSION:**

While the proposed development is inappropriate development in the Green Belt, very special circumstances are considered to apply that outweigh harm to the Green Belt.

The proposals will cause some limited harm to the landscape and character of the village and result in less than substantial harm to a non-designated heritage asset of Whitson Lodge adjacent to the site. However, the harm is sufficiently mitigated in the siting and design of the proposals.

In applying the planning balance, the officer's conclusion is that the substantial renewable energy benefits of the proposals in addressing the climate emergency outweigh the harm identified, and it is recommended that the application is approved, subject to the conditions referred to in this report.

**RECOMMENDATION**

PERMIT

**CONDITIONS**

**1 Standard Time Limit (Compliance)**

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

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

**2 Archaeology Watching Brief (Pre-commencement)**

No development shall commence, except archaeological investigation work, until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work should provide a controlled watching brief during ground works on the site, with provision for excavation of any significant deposits or features encountered and shall be carried out by a competent person(s) and completed in accordance with the approved written scheme of investigation.

Reason: The site is within an area of significant archaeological interest and the Council will wish to examine and record items of interest discovered in accordance with Policy HE1 of the Bath & North East Somerset Placemaking Plan. This is a condition precedent because archaeological remains and features may be damaged by the initial development works.

### **3 Archaeology Post Excavation and Publication (Pre-occupation)**

No occupation of the development shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of post-excavation analysis in accordance with a publication plan which has been submitted to and approved in writing by the Local Planning Authority. The programme of post-excavation analysis shall be carried out by a competent person(s) and completed in accordance with the approved publication plan, or as otherwise agreed in writing with the Local Planning Authority.

Reason: The site has produced significant archaeological findings and the Council will wish to publish or otherwise disseminate the results in accordance with Policy HE1 of the Bath & North East Somerset Placemaking Plan.

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

No development shall take place until a Detailed Arboricultural Method Statement with Tree Protection Plan following the recommendations contained within BS 5837:2012 has been submitted to and approved in writing by the Local Planning Authority and details within the approved document implemented as appropriate. The final method statement shall incorporate a provisional programme of works; supervision and monitoring details by an Arboricultural Consultant and provision of site visit records and compliance statements to the local planning authority. The statement should also include the control of potentially harmful operations such as the storage, handling and mixing of materials on site, service run locations and movement of people and machinery.

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

### **5 Arboriculture - Compliance with Arb Method Statement (Compliance)**

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



Reason: To ensure that the approved method statement is complied with for the duration of the development to protect the trees to be retained in accordance with policy NE6 of the Placemaking Plan.

### **6 Soft Landscaping Scheme (Bespoke Trigger)**

Within two months of the commencement of works a soft landscape scheme with plan and a programme of implementation shall be submitted to and approved in writing by the Local Planning Authority showing the species, planting size and location of two replacement trees and the proposed perimeter hedging for the PV array.

Reason: To secure replacement tree planting on site and appropriate landscaping to screen the PV array and security fence in accordance with policies D2, NE2 and NE6 of the Placemaking Plan and the fixed number tree replacement policy within the Planning Obligations Supplementary Planning Document.

### **7 Implementation of Landscaping Scheme (Bespoke Trigger)**

All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the solar photovoltaic array being brought into use or in accordance with the programme of implementation agreed in writing with the Local Planning Authority. Any trees or plants indicated on the approved scheme which, within a period of 10 years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the current or first available planting season with other trees or plants of species, size and number as originally approved unless the Local Planning Authority gives its written consent to any variation. All hard and soft landscape works shall be retained in accordance with the approved details for the lifetime of the development.

Reason: To ensure that the landscape works are implemented and maintained to ensure the continued provision of amenity and environmental quality in accordance with policies D1, D2 and NE2 of the Bath and North East Somerset Placemaking Plan.

### **8 Wildlife Protection and Enhancement Scheme (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 be in accordance with (but not limited to) the recommendations and proposed mitigation measures described in the Recommendations sections of the approved PEA report 26.08.21 together with the Bat Survey & Assessment report 19.11.21 both produced by Alder Ecology UK Ltd including:

- i) Method statement for pre-construction and construction phases to provide full details of all necessary protection and mitigation measures, including, protection of the rows of trees & beech hedgerow, translocation of 5 x fruit trees, compensatory tree planting and where applicable, proposed pre-commencement checks and update surveys, for the avoidance of harm to bats, reptiles, nesting birds, hedgehog, badger and other wildlife, and proposed reporting of findings to the LPA prior to commencement of works; and
- ii) Detailed proposals for implementation of the enhancement measures and recommendations of the approved ecological reports, including a new native hedgerow, creation of habitat piles, installation of bat and bird boxes and conservation grassland

management, with specifications and proposed numbers and positions to be shown on plans as applicable.

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

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

### **9 Ecological Follow-up Report (Pre-occupation)**

No occupation of the development hereby approved shall commence until an Ecological Follow-up Report has been submitted to and approved in writing by the Local Planning Authority. The report shall be produced by a suitably experienced professional ecologist and shall confirm and demonstrate, based on a post-construction ecologist's site inspection and using photographs, the completion and implementation of all measures of the approved ecological mitigation and compensation schemes in accordance with approved details.

Reason: To demonstrate adherence to the approved ecological mitigation and compensation schemes and to prevent ecological harm, in accordance with NPPF and policies NE3 & D5e of the Bath and North East Somerset Local Plan.

### **10 Plans List (Compliance)**

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

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

### **PLANS LIST:**

1 This decision relates to the following plans:

Existing Block & Location Plan - SMH/16/19/18-20 - received 23/08/2021  
Existing Basement Plan - SMH/16/19/18-06 - received 23/08/2021  
Proposed North & East Elevation - SMH/16/19/18-40 - received 23/08/2021  
Proposed Basement Plan - SMH/16/19/18-41 - received 23/08/2021  
Topographical Survey - SMH/16/19/18-50 - received 23/08/2021  
Proposed PV Layouts - MH1001-GEO-EE-00-02-DR-PV-1401 - received 26/08/2021  
Proposed Block & Location Plan - SMH/16/19/18-51 - received 26/08/2021  
PV Enclosure Cross Section - SMH/16/19/18-52 - received 19/11/2021

### **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 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.

4 Please note that great crested newts are protected under the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended). This includes individual newts, breeding ponds and terrestrial habitat. If great crested newts are unexpectedly found during works, all works must cease, and a suitably qualified ecologist and Natural England should be contacted for advice. Precautionary measures such as storage of materials and waste on pallets or in skips and fitting excavations with an escape board/plank should be followed.

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

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

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

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

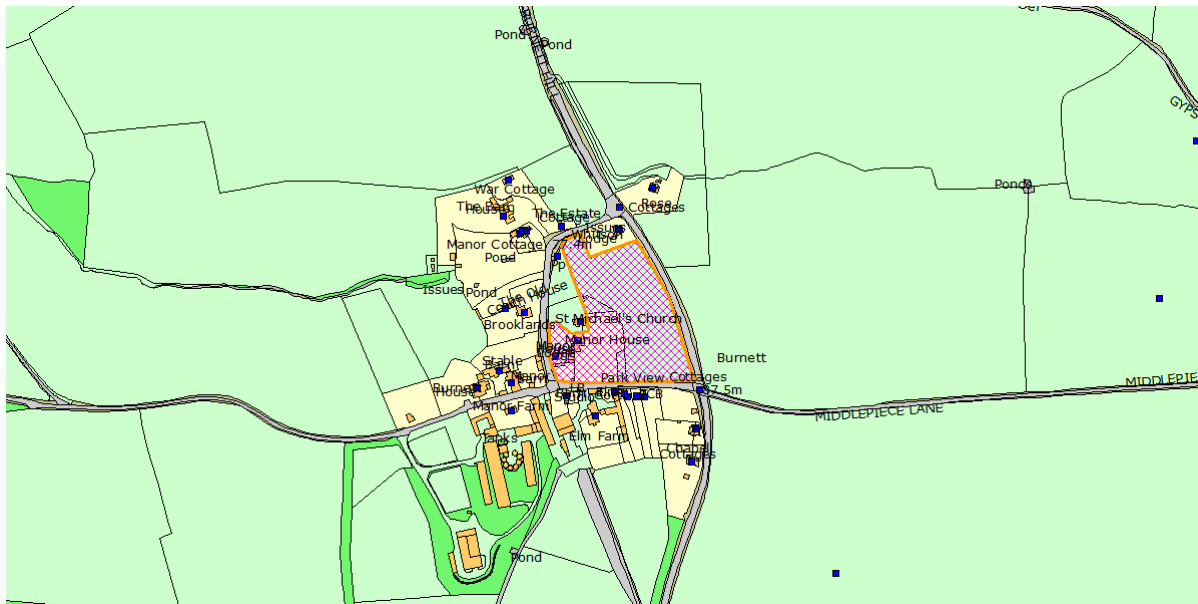
The CIL regulations are non-discretionary in respect of exemption claims. If you are intending to claim a relief or exemption from CIL (such as a "self-build relief") it is important that you understand and follow the correct procedure **before** commencing **any** development on site. You must apply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

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

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

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

**Item No:** 06  
**Application No:** 21/03966/LBA  
**Site Location:** Manor House Watery Lane Burnett Keynsham Bristol



**Ward:** Saltford                      **Parish:** Compton Dando                      **LB Grade:** II  
**Ward Members:** Councillor Duncan Hounsell                      Councillor Alastair Singleton  
**Application Type:** Listed Building Consent (Alts/exts)  
**Proposal:** Internal and external alterations for the installation of solar PV panels and ground source heat pump pipe work to eastern paddock to provide renewable energy sources for manor house. Connection of pipework to existing lower ground floor plant room.  
**Constraints:** Agric Land Class 1,2,3a, Policy CP8 Green Belt, Policy CP9 Affordable Housing Zones, Listed Building, MOD Safeguarded Areas, SSSI - Impact Risk Zones,  
**Applicant:** Mr & Mrs David Oliver  
**Expiry Date:** 21st October 2021  
**Case Officer:** Dominic Battrick  
To view the case click on the link [here](#).

## REPORT

### REASON FOR REPORTING APPLICATION TO COMMITTEE:

The application was referred to the Committee Chair in accordance with the Council's Scheme of Delegation. A formal objection to the application has been lodged by Compton Dando Parish Council, with planning policy reasons for the objection comments. The officer recommendation is contrary to this objection.

The Vice Chair, Cllr Sally Davis, has made the following comments:

"I have studied the application carefully & note the comments from both statutory & third party consultees, some comments object while others support the proposal as is the case with CDPC & the Ward Cllr. who have differing views.

The proposal is clearly controversial & therefore I recommend the application be determined by the planning committee so the impact on the Green Belt & very special circumstances can be debated fully in the public arena."

The Chair, Cllr Sue Craig, has considered the application and the recommendation of the Vice Chair and decided that the application will be determined at Planning Committee, commenting as follows:

"I have reviewed this application and note the opposing comments from the ward councillor and parish council, plus the comments from other 3rd parties. Notwithstanding the fact that all applications are judged on their own merits, I believe that this case provides an opportunity to debate, in a public forum, a degree of harm to a listed building vs climate change mitigation. I therefore refer this application to the planning committee for a decision.

#### DESCRIPTION OF SITE AND APPLICATION:

Manor House is a residential property comprising a Grade II listed house and its curtilage, and a large paddock field located to the east and northeast of the house. The field is adjacent to Old Burnett Lane to the south and Burnett Hill to the east. The site is within the small village of Burnett, which is part of the parish of Compton Dando.

The application is seeking listed building consent for internal and external alterations to Manor House to facilitate the installation of a solar photovoltaic array and ground source heat pump within the adjoining field. Consent is required for works associated with the connecting the installation to the plant room in the basement of Manor House. Planning application 21/03965/FUL accompanies this application, seeking planning permission for the installations.

#### RELEVANT PLANNING HISTORY:

AP - 04/00036/RF - DISMIS - 5 November 2004 - Repositioned access and driveway

DC - 02/02067/FUL - RF - 17 December 2002 - Repositioned access and new driveway

DC - 02/02208/LBA - RF - 15 November 2002 - Repositioned access and new driveway to existing house

DC - 03/02654/FUL - RF - 10 December 2003 - Repositioned access and driveway

DC - 05/03121/FUL - RF - 17 November 2005 - Change of use of land from agricultural to domestic curtilage (extension of existing garden)

DC - 07/01705/FUL - PERMIT - 11 July 2007 - Replacement covered structure for the oil tanker and associated works

DC - 07/01706/LBA - CON - 20 July 2007 - Replacement covered structure for the oil tanker and associated works

DC - 19/03436/FUL - PERMIT - 23 September 2019 - Erection of a single storey rear extension to provide larger utility room, extension to first floor sun room, internal alterations with replacement of spiral stairs and new opening to garage. Repointing of part of rear elevation and other minor repair works.

DC - 19/03437/LBA - CON - 23 September 2019 - Internal and external alterations to include the erection of a single storey rear extension to provide larger utility room, extension to first floor sun room, internal alterations with replacement of spiral stairs and new opening to garage. Repointing of part of rear elevation and other minor repair works.

DC - 19/04808/CONDLB - DISCHG - 6 December 2019 - Discharge of condition 3 of application 19/03437/LBA (Internal and external alterations to include the erection of a single storey rear extension to provide larger utility room, extension to first floor sun room, internal alterations with replacement of spiral stairs and new opening to garage. Repointing of part of rear elevation and other minor repair works).

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

The following comments received during the consultation process are summarised only. Please view the online case file for full comments.

### **CONSULTATIONS AND REPRESENTATIONS:**

Compton Dando Parish Council: objection. (Comments received 22/09/21)

- The proposed solar panels are located in a sensitive area and will harm the historic open parkland setting of Manor House
- Adverse visual impact on the Green Belt
- Impact on wildlife
- Concerns over highway safety
- Hedging should be mixed native species
- The installation of the ground source heat pump is supported, subject to an archaeological watching brief during excavations
- The PC would like to have supported the application due to the Climate Emergency, but the location of the solar panels is considered inappropriate, and an alternative siting would be more acceptable

Conservation: no objection. (Revised comments received 12/01/22)

Archaeology: No objection, subject to conditions for archaeological monitoring for all groundworks and publication of the results. (Comments received 5/10/21)

Arboriculture: No objection, subject to conditions to secure tree protection measures and mitigation planting. (Comments received 25/10/21)

Ecology: No objection, subject to conditions to secure a wildlife protection and enhancement scheme and an ecological follow-up report. An informative for great crested newt is advised.

Highways: No objection. (Comments received 23/09/21)

#### OTHER REPRESENTATIONS / THIRD PARTIES:

21 representations received from the public during the consultation period, including 17 in objection, 1 in support and 3 neutral comments. The comments made reiterate the comments made on the accompanying planning application and are summarised as follows:

- Renewable energy should be supported in addressing the Climate Emergency
- Siting appears to maximise solar efficiency by avoiding trees
- Harm to Green Belt
- Renewable energy is supported in principle, but solar panels should be relocated to a more discreet location
- The installation is excessive for a domestic property, generating 24kw, 6 times that of a typical domestic installation
- The site contains 2.9 acres of land to choose an alternative location for the array
- The south-facing roof slope of Manor House or a curtilage outbuilding should be used to provide the PV panels instead
- The solar panels are unsightly and will be prominent in views from Whitson Lodge, particularly during winter when leaves are shed from the tree and hedge. The array should be re-sited
- It will take years for the screen hedging to mature, exposing the development
- Harm to character of historic parkland and rural setting of village
- Burnett has retained its historic charm should have conservation area status
- Harm to setting of the Victorian-period house of Whitson Lodge
- The submitted heritage statement has not assessed the impact on Whitson Lodge
- The solar panels will be prominent from the road
- The panels will be surrounded by a hedge of the same height and will not be visible from the road
- Concerns over highway visibility and safety due to PV array disrupting sightlines causing a distraction and reflective glare for motorists
- The adjacent road (B3116) is prone to accidents near this location
- The panels are angled away from the road, mitigating reflection towards the road
- Harm to wildlife
- Concerns over impact of groundworks for the ground source heat pump on local archaeology
- Neighbours were not consulted by the applicant prior to submission, contrary to application information
- The application form incorrectly states that the development cannot be seen from a highway or public land
- Devaluation of neighbouring property

Cllr Alastair Singleton, ward member for Saltford, has commented in support of the application, with a request for referral to planning committee in the event that case officers recommend refusal. The comments are as follows:

"I wish these applications be determined at the planning committee should the case officer recommend refusal. The applications refer to a well conceived and very professionally designed renewable energy



scheme combining a ground source heat pump and ground-mounted solar panels to provide significant energy to the house - with surplus potentially available for other consumers. The project is sympathetic to the local environment and ecology and entirely in keeping with the Ambitions exemplified in the B&NES Council Climate Emergency policy. It has my full support."

A representation was received from the Campaign to Protect Rural England (CPRE) after the consultation period but has been considered as part of this assessment. The comments are summarised as follows:

- Objection, endorsing the comments of Compton Dando Parish Council.
- Burnett is a "very special village" and the proposed panels would have an adverse visual impact on the Green Belt and local buildings of historical importance.
- CPRE does not object in principle and supports non-carbon sources of energy but more consideration should be given to their location so they are not visually intrusive.

## **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 National Planning Policy Framework (NPPF) 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:

B4: The World Heritage Site  
CP6: Environmental Quality

## **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:

D2: Local Character and Distinctiveness  
HE1: Historic Environment

## **NPPF:**

The adopted National Planning Policy Framework (NPPF) was revised in July 2021 and is a material consideration due significant weight. The following sections of the NPPF are of particular relevance:

Section 12: Achieving well-designed places  
Section 16: Conserving and enhancing the historic environment

Due consideration has also been given to the provisions of the Planning Practice Guidance (PPG).

## **LOW CARBON AND SUSTAINABLE CREDENTIALS**

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

## **OFFICER ASSESSMENT** **OFFICER'S ASSESSMENT:**

This application is for the works which physically impact the listed building, however for completeness matters covered in the accompanying planning application in respect of the setting of heritage assets are also reviewed here.

Policy HE1 requires development that has an impact upon a heritage asset, whether designated or non-designated, will be expected to enhance or better reveal its significance and setting.

The development is located at the edge of the small village of Burnett, adjacent to the B3116 which runs past the village. While Burnett does not have a conservation area designation, it has well-preserved historic rural character, and this is reflected in the listed buildings that form focal points within the village. These include St Michael's Church and the nearby Manor House to the south, both of which are Grade II listed.

The proposed siting of the development has been chosen to maximise solar gain while attempting to mitigate and limit harm to the landscape and heritage assets.

It is acknowledged that, by siting the PV array close to the highway, the development will be prominent externally, at least in terms of its security fencing and screen hedging, and this will encroach into some of the visible parkland. However, positioning the installation adjacent to the northern boundary and the hedge that runs along it is considered the least intrusive location within the parkland, factoring in its open viewpoints from the public realm and the setting of listed buildings.

Upon site inspection, it was observed that the northeast corner of the parkland is largely obscured from view from Manor House by its dense trees and soft landscaping within the curtilage of the house. The siting of the PV installation minimises its visual impact both on views from the listed building and views to the building from the public realm. The setting of the Grade II listed St Michael's Church will also be safeguarded, although the development will be visible in the background from part of the churchyard. Harm may be adequately mitigated from the proposed hedging which will screen the installation (subject to conditions recommended under planning application 21/03965/FUL).

The plant is located within the Grade II listed Manor House at basement level and cabling and pipework is required to connect the services.

The equipment is freestanding and will be installed within an existing plant room. Pipework will pass through two 100mm diameter holes in the external wall below ground level and run across the open ceiling of the plant room. The proposals minimise harm to the historic fabric of the listed building and will not detract from its character and significance.

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. The Conservation Officer is satisfied that the physical and visual impact on the listed building as a result of the installation of the associated services is now demonstrated to be negligible for the reasons set out in the supporting documentation: minimal aperture required for the pipework within below ground rubble stonework and an area of the house within the basement already the location for, and compromised by, existing services. It is concluded that the proposed PV installation and associated works will not harm the setting of the host listed building, nor the setting of the adjacent Grade II listed St Michael's Church.

It is concluded that the proposals are consistent with the aims and requirements of the primary legislation and planning policy and guidance. The development would preserve the significance of the listed building. The proposal accords with policy HE1 of the Bath and North East Somerset Placemaking Plan and part 16 of the NPPF.

#### *Other Matters:*

A number of issues and concerns have been raised during public consultation which relate to planning matters. These have been addressed under the committee report for the accompanying planning application 21/03965/FUL.

#### **CONCLUSION:**

It is therefore considered that the proposal complies with the relevant policies as outlined above and the proposal is recommended for approval.

## **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 This decision relates to the following plans:

Existing Block & Location Plan - SMH/16/19/18-20 - received 23/08/2021  
Existing Basement Plan - SMH/16/19/18-06 - received 23/08/2021  
Proposed North & East Elevation - SMH/16/19/18-40 - received 23/08/2021  
Proposed Basement Plan - SMH/16/19/18-41 - received 23/08/2021  
Topographical Survey - SMH/16/19/18-50 - received 23/08/2021  
Proposed PV Layouts - MH1001-GEO-EE-00-02-DR-PV-1401 - received 26/08/2021  
Proposed Block & Location Plan - SMH/16/19/18-51 - received 26/08/2021  
PV Enclosure Cross Section - SMH/16/19/18-52 - received 19/11/2021

### **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 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.

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

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

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

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

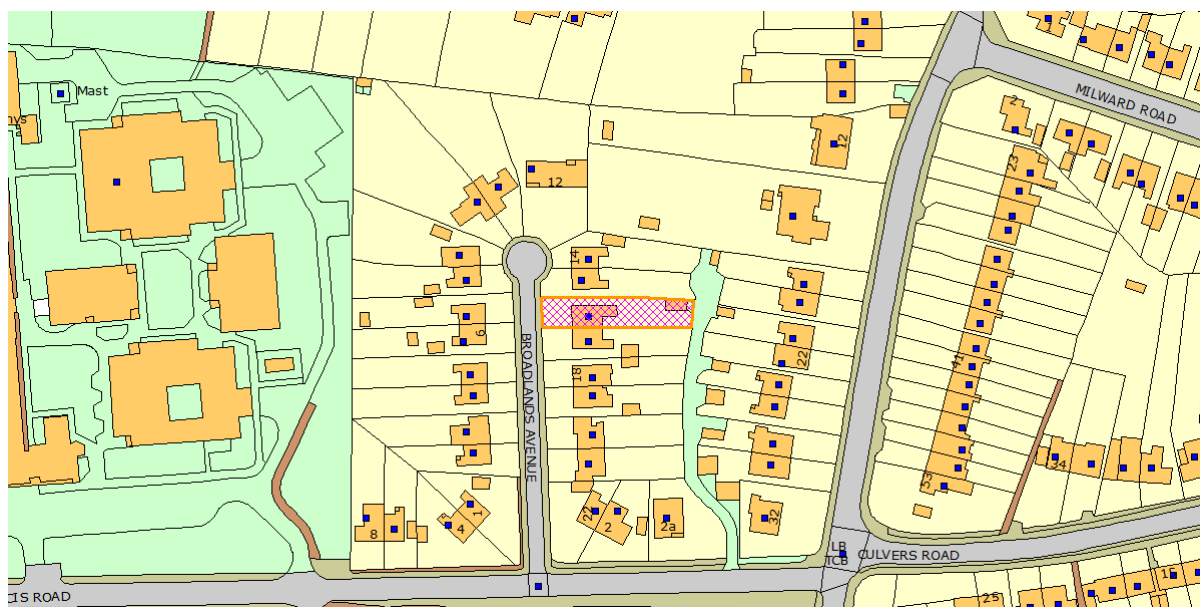
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## **5 Permit/Consent Decision Making Statement**

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:** 07  
**Application No:** 21/05364/FUL  
**Site Location:** 16 Broadlands Avenue Keynsham Bristol Bath And North East Somerset BS31 2DU



**Ward:** Keynsham North      **Parish:** Keynsham Town Council      **LB Grade:** N/A  
**Ward Members:** Councillor Brian Simmons Councillor Vic Clarke  
**Application Type:** Full Application  
**Proposal:** Erection of front, side and rear extension. Provision of attic conversion and garden room.  
**Constraints:** Bristol Airport Safeguarding, Agric Land Class 3b,4,5, Coal - Standing Advice Area, Policy CP9 Affordable Housing Zones, Housing Development Boundary, SSSI - Impact Risk Zones, Policy ST8 Safeguarded Airport & Aerodrome,  
**Applicant:** Skuse  
**Expiry Date:** 15th March 2022  
**Case Officer:** Isabel Daone  
To view the case click on the link [here](#).

## REPORT

The application was referred to the Chair and Vice Chair of the Planning Committee as the Town Council's comment were contrary to the officer's recommendation. Councillor Simmons had also called the application to committee; however this did not trigger the referral process as this was done outside of the time period for ward councillor call in. However, the comments of the Town Council did trigger the process. The Chair and Vice Chair's decisions and reasons are as follows:

### CHAIR: Committee

I have reviewed this application and note the objections from Keynsham Town Council, the ward Councillor and other third parties. The officer has worked with the applicant to

modify various aspects of the proposal during the application process, but concerns remain due to the overall volume of change and size of the development. For this reason, I believe it would benefit from being debated at committee.

**VICE CHAIR: Committee**

I have studied this application carefully noting objection comments from both third party & statutory consultees, the Officer has negotiated some amendments to the application as it has progressed through the planning process, but concerns remain regarding parking & size.

These concerns have been assessed against relevant planning policies & some issues e.g. parking adhere to policy as the report explains however it also states the changes are seen as significant therefore I recommend the application be determined by the planning committee so it can be debated in the public arena whether it leads to an overdevelopment of the host dwelling.

**Details of location and proposal and Relevant History:**

The application refers to a semi-detached, two-storey property which is located within the Keynsham Housing Development Boundary.

Planning permission is sought for the erection of a front, side and rear extensions, the installation of a dormer and the erection of a garden room.

**Relevant Planning History:**

No relevant planning history.

**SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

**Consultation Responses :**

**KEYNSHAM TOWN COUNCIL:**

Original comments received 14th December 2021:

Object - Keynsham Town Council object on the following grounds:

- (i) The proposal is incongruous with the street scene and would dominate this section of the road.
- (ii) The extension proposed would constitute overdevelopment of the site.
- (iii) The amenity of neighbours' light would not be preserved.
- (iv) The proposed conversion to the rear of the garden is also considered as an overdevelopment of the site.

The application is contrary to Policies D2, D3 and D6 of the Bath and North East Somerset Placemaking Plan.

Re-consultation response comments received 8th February 2022:

Object - Keynsham Town Council reiterate their objections with a few additions on the following grounds:



- (i) The proposal is incongruous with the street scene and would dominate this section of the road.
- (ii) The extension proposed would constitute overdevelopment of the site.
- (iii) The amenity of neighbours' light would not be preserved, and the development would create overlooking into neighbouring properties.
- (iv) The proposed conversion to the rear of the garden is also considered as an overdevelopment of the site.
- (v) Keynsham Town Council support the objections of local residents that parking in this location will be exacerbated by this development and agree with Highways that the applicant has failed to demonstrate that access on to the public highway can be achieved satisfactorily.

The application is contrary to Policies D2, D3 and D6 of the Bath and North East Somerset Placemaking Plan.

#### HIGHWAYS:

Highways have provided comments on both the original and revised scheme. Their latest comments are summarised below, received 8th February:

- Revised proposals propose three no. policy compliance parking spaces at the front of the property
- Wall will be removed
- Dropped kerb will need permission through a S184 Licence
- The proposed garage is not permissible as a parking space as it has insufficient internal dimensions
- Not clear whether the garage is accessible from the rear lane to the east of the property's boundary
- Submitted information does not demonstrate that visibility can be achieved
- It needs to be demonstrated that a 2m by 25m visibility splay can be provided between either the side of the access, and the back edge of the footway within land owned by the applicant or under the control of the Local Highway Authority
- The submitted information does not demonstrate that adequate pedestrian visibility can be achieved. The applicant should therefore demonstrate that a 2m x 2m visibility splay can be provided between either side of the access, and the back edge of the footway within land owned by the applicant or under the control of the Local Highway Authority.

#### COUNCILLOR BRIAN SIMMONS:

I wish to have the application 21/05364/FUL dealt with by the committee if the officer recommends to permit for the reasons stated in the Keynsham Town Council Planning Committee Meeting on 7/02/2022

#### Representations Received :

17 objections have been received and this includes objections to the original scheme and revisions. All comments have been assessed in full by the case officer and a summary of the main points is given below:

- Increase in traffic
- Impact to tranquil environment
- Increase in air pollution due to traffic
- Bungalow in rear garden
- Potentially going to turn property into an HMO
- Overdevelopment of the site
- Will cause disruption during construction
- Change the appearance of the street
- Overlooking
- Impact to privacy
- Overbearing and overshadowing
- Back lane is not fit for purpose
- Construction will block the rear lane for residents
- Access issues to the land after construction
- Parking issues

## **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:

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

#### 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).

#### 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:

- Character and appearance
- Residential amenity
- Parking and highway safety
- Other matters

#### 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.

#### CHARACTER AND APPEARANCE:

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.

There are a number of elements to the scheme which will be assessed separately for clarity.

#### Two storey side and single storey front extension:

The proposed two-storey side extension will be approximately 1.5m in width. The proposed front extension will be a lean-to. It is considered subservient to the host dwelling. The materials have been amended to be painted cement render, rather than the cladding previously proposed. Officers consider that this will better reflect the character of the street scene. A number of properties in the street have had extensions to the side and as such, the principle of the side and front extensions is considered acceptable. Officers consider that these elements of the scheme reflect the character of the host dwelling and the materials maintain the character of the street scene and they are considered to be acceptable.

#### Hip-to-gable and dormer loft conversion:

The roof height is not raising above the existing ridge but will go from a hip to a gable. There are other hip-to-gable conversions in the street, and this is considered acceptable in principle. The proposed dormer has been revised so that it is a similar size to that previous approved at no.18. Although still large, it is considered subservient to the roof scape.

#### Single storey rear extension:

A flat-roof, single storey extension is also proposed to the rear, and this will be clad. Cladding is not a common material within the street scene, however as this is on the rear and single storey, visibility is limited.

#### Conclusion on these elements:

It is noted that these changes together are significant. However, they are not considered to be an overdevelopment of the host building. Each element is considered to compliment and respect the host dwelling. The material palette is considered to be appropriate given the existing dwelling and surrounding developments.

#### Garden Room:

The proposal also includes the provision of a garden room. The garden room will replace the existing garage and shed; there is no objection to the loss of these structures. There are a number of outbuildings located along this rear lane and the principle of such a building is again, considered acceptable. The building will have a flat roof and be finished in painted block work to the lane elevation, which will also include a garage door. The garden facing elevation will be finished in cladding which will match the single storey extension. The overall appearance of the garden room is considered appropriate.

#### Conclusion:

Overall, the proposals are considered acceptable in terms of their character and appearance. They are not considered an overdevelopment of the site. Although garden

space will be lost, the property benefits from a long plot and sufficient garden space will remain. The development will not appear cramped. Officers accept that the proposals will change the appearance of the street scene, as noted by third parties. However, other similar developments have been approved in the locality, most notably no.18 which has a hip-to-gable loft conversion. It is not considered that the proposals would be incongruous.

The proposal by reason of its design, siting, scale, massing, layout and materials is acceptable and contributes and responds to the local context and maintains the character and appearance of the surrounding area. The proposal accords with policy CP6 of the adopted Core Strategy (2014) and policies D1, D2, D3, D4 and D5 of the Placemaking Plan for Bath and North East Somerset (2017) and part 12 of the NPPF.

#### RESIDENTIAL AMENITY:

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

A number of objections have been received from third parties and the Town Council pertaining to residential amenity issues.

The matter to consider is whether the development will result in a loss of privacy to neighbours, as a result of overlooking from the property. The proposed side window on the first floor of the side extension will be obscurely glazed and this will be secured by condition. This will therefore not result in additional overlooking.

The proposed dormer will introduce windows at third floor level. The windows at second floor level provide views in the gardens of the neighbouring properties and the new windows will not exacerbate the current situation to a level which would warrant a refusal. Concerns have been raised that the dormer will provide views in the rears of the properties on St Ladoc Road, which are located on the opposite side of the lane to the host dwelling. The proposed dormer is located around 30m from the rear boundaries of the properties on St Ladoc Road, measured from the site layout plan. This is considered a sufficient distance so that the impacts of overlooking are not severe, and it is not considered reasonable to sustain an objection on this basis. There is already some overlooking from other neighbouring dormers and a degree of overlooking in a built-up residential area can be expected.

It has been raised that the windows of the garden room will allow views into the neighbouring garden and property. These windows are at ground floor level and will provide no greater views than standing in the garden and looking up the garden. The proposed situation is not considered to create a significantly greater impact than the existing arrangement. The garden room is around 15m from the neighbouring property's rear elevation which is considered a sufficient separation distance.

Consideration has also been given to overbearing, overshadowing and loss of light as a result of the proposals. The proposed two storey extension will result in built form being closer to the neighbour. However, there will still be separation between the two dwellings and the two-storey element does not extend to the rear of the existing rear elevation. It is

not considered that it will appear significantly overbearing or create significant overshadowing which would justify a refusal on this basis.

The proposed single storey rear extension is of a height and depth which is also not considered to cause significant harm in these regards. It will extend slightly beyond the neighbouring built form, but only by around 2m which is not considered to be significant.

The proposed garden room is also a single storey and around 3m in height. As such, it is not anticipated that it would create significant overshadowing and loss of light.

Matters of noise and disturbance during construction have also been raised. However, these are temporary and can be reasonably expected for householder developments. It is not a valid reason for refusal.

Overall, it is not considered that the proposal would cause a significant impact to the neighbouring residents and a refusal on this basis would not be justified.

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

#### HIGHWAYS 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.

In order to address the concerns of highways, and local residents, the applicant will provide three policy compliant car parking spaces to the front of the property. There is no objection to this, and the dwelling would have a policy compliant number of parking spaces.

The proposed garden room will feature a garage. However, the garage does not have sufficient internal dimensions to count towards the parking provision. The garage would be accessed via a lane which runs to the rear of Broadlands Avenue and St Ladoc Road. A number of residents have garages and parking areas accessed via this lane.

The Highways Officer has objected to the scheme and has requested visibility splays and pedestrian visibility splays for the proposed garage. However, as this lane is not part of the adopted highway, it is not considered reasonable to request these in this case. The garden room would be constructed within the applicant's land and would be accessible by a vehicle. The lane is not a right of way and is used by the occupiers of the dwellings which back onto it.

The NPPF states "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

Given that the property will have sufficient parking space without the garage, which is not policy compliant, and the lane is already accessed by a number of residents and that there is an existing garage on the site, it is not considered that there would be an unacceptable impact upon highway safety. Users of the lane are not generally the general public, and it serves as access to the rear of these dwellings. Officers consider that on balance, the failure to provide this information in this case is not a reason for refusal.

It has also been raised that construction traffic should not block the lane. The scale of the development does not warrant a Construction Management Plan; however the applicant should not block access to neighbouring properties with construction traffic. Construction is temporary and this will not be a permanent issue.

It has also been raised that the back lane is not fit for purpose. However, it is already used by a number of vehicles and is considered to be accessible by a vehicle.

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.

#### OTHER MATTERS:

It has been raised that the dwelling may become an HMO. The dwellinghouse is not within the district's Article 4 area and therefore, planning permission would not be required to change the use from C3 to C4. The site is currently a C3 dwellinghouse. Should the applicant wish to change the use to a C4 property, it could be done under permitted development in this location.

#### CONCLUSION:

It is therefore considered that the proposal complies with the relevant planning policies as outlined above and the proposal is recommended for approval.

#### RECOMMENDATION

PERMIT

#### CONDITIONS

##### **1 Standard Time Limit (Compliance)**

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

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

##### **2 Materials - Submission of Materials Schedule (Bespoke Trigger)**

No construction of the external walls of the development shall commence until a schedule of materials and finishes to be used in the construction of the external surfaces, including roofs, has 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.

Samples of any of the materials in the submitted schedule shall be made available at the request of the Local Planning Authority.

The development shall thereafter be carried out 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.

### **3 Ancillary Use (Compliance)**

The garden room hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 16 Broadlands Avenue, Keynsham, Bristol

Bath And North East Somerset, BS31 2DU; and shall not be occupied as an independent dwelling unit.

Reason: The garden room is not capable of independent occupation without having a detrimental impact to the residential amenity of the neighbouring occupiers and highway safety.

### **4 Parking (Pre-occupation)**

Prior to the first use of the development hereby approved, 3no. parking spaces shall be provided in accordance with plan reference 16BA.P03 Revision B. The parking spaces shall be permanently retained for the parking of vehicles thereafter.

Reason: To ensure sufficient off-street car parking in accordance with policy ST7.

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

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

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

### **6 Obscure Glazing and Non-opening Window(s) (Compliance)**

The proposed first-floor window on the side elevation of the two-storey side extension shall be obscurely glazed. Thereafter the window shall be permanently retained as such.

Reason: To safeguard the amenities of adjoining occupiers from overlooking and loss of privacy in accordance with Policy D6 of the Bath and North East Somerset Placemaking Plan.



## PLANS LIST:

1 This decision relates to the following plans:

16BA.P01 Revision B. Location Plan & Site Layout Plan. Received 16th February 2022

16BA.P02 Revision A. As Existing. Received 18th January 2022

16BA.P03 Revision B. As Proposed. Received 15th February 2022

## 2 Permit/Consent Decision Making Statement

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

## 3 Condition Categories

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **6 Highways Access Advice Note**

The applicant should be advised to contact the Highway Maintenance Team at [Highways@bathnes.gov.uk](mailto:Highways@bathnes.gov.uk) with regard to securing a licence under Section 184 of the Highways Act 1980 for the construction of a vehicular crossing. The access shall not be brought into use until the details of the access have been approved and constructed in accordance with the current Specification.