

# Bath & North East Somerset Council

MEETING: **Planning Committee**

MEETING DATE: **5th June 2024**

AGENDA  
ITEM  
NUMBER

--

RESPONSIBLE OFFICER: Louise Morris - Head of Planning & Building Control

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

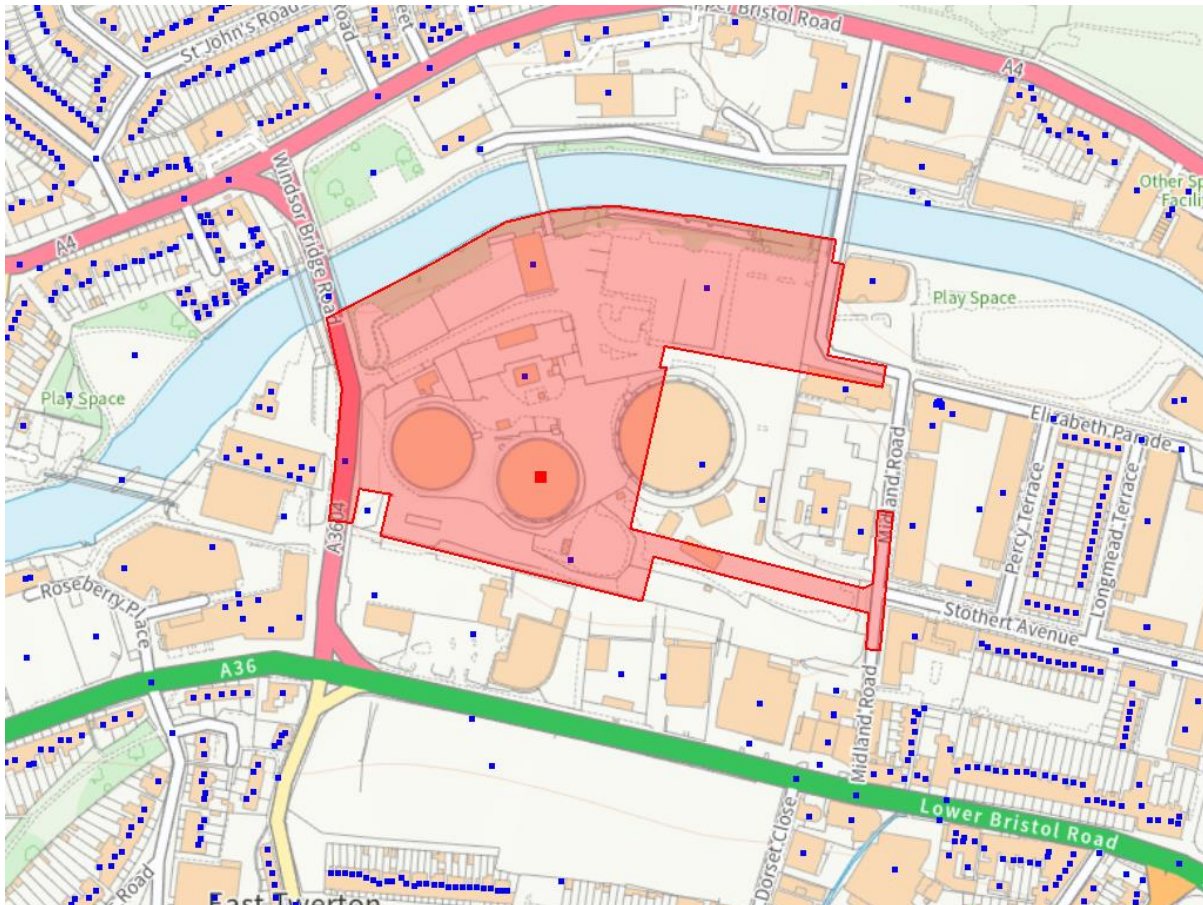
ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
01	22/03224/EFUL 29 February 2024	Berkeley Homes (Oxford & Chiltern) Ltd Former Gasworks, Windsor Bridge Road, Twerton, Bath, Bath And North East Somerset Demolition of existing buildings and decontamination/remediation of the site to facilitate redevelopment for a residential-led mixed-use development, comprising residential dwellings (Class C3 Use) and provision of Class E floorspace (Class E(b) and (f) Uses), together with associated infrastructure, landscaping, and car and cycle parking, engineering works (on site and to associated areas) and access and works to the existing river wall, infrastructure and gasholder voids.	Westmoreland	Samantha Mason	Delegate to PERMIT
02	24/01261/VAR 5 July 2024	Turley Bath Rugby Club, Bath Recreation Ground, Pulteney Mews, Bathwick, Bath Variation of condition 2 of application 21/05530/VAR (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	Gary Collins	PERMIT

03	24/00662/FUL 31 July 2024	Curo Enterprise Ltd 26 - 28 Orchard Vale, Midsomer Norton, Bath And North East Somerset, , Demolition of no. 26 and 28 Orchard Vale and development of 54 new homes with open space, landscaping and all associated infrastructure (Cross Boundary Application with Somerset).	Midsomer Norton Redfield	Isabel Daone	Delegate to PERMIT
04	23/03510/FUL 28 June 2024	GLL Odd Down Sports Pavilion , Chelwood Drive, Odd Down, Bath, Bath And North East Somerset Erection of extension, addition of 4no. padel tennis courts and replacement of existing floodlights to LED-based lights	Odd Down	Isabel Daone	Delegate to PERMIT
05	23/04747/FUL 15 March 2024	Mr Jamie Feilden Lower Shockerwick Farm , Shockerwick Farm Lane, Bathford, Bath, Bath And North East Somerset Change of use of farmhouse and garage Use Class C3 to residential agritherapy centre (Use Class C2). Farmhouse as weekend holiday let. Erection of extension to farmhouse and internal alterations. Internal alterations to The Stable remaining as a single use dwelling. Conversion of garage into a staff office. Replace existing windows. External works and creation of car park.	Bathavon North	Christine Moorfield	REFUSE
06	23/04748/LBA 15 March 2024	Mr Jamie Feilden Lower Shockerwick Farm , Shockerwick Farm Lane, Bathford, Bath, Bath And North East Somerset Change of use of farmhouse and garage Use Class C3 to residential agritherapy centre (Use Class C2). Farmhouse as weekend holiday let. Erection of extension to farmhouse and internal alterations. Internal alterations to The Stable remaining as a single use dwelling. Conversion of garage into a staff office. Replace existing windows. External works and creation of car park.	Bathavon North	Christine Moorfield	REFUSE
07	23/04001/OUT 16 February 2024	Mr & Mrs Thomas Gay Corner Cottage , Frog Lane, Ubley, Bristol, Bath And North East Somerset Erection of a new dwelling in the garden of Corner Cottage (BS40 6PW), formation of garden areas within the development site and the construction of a new vehicle parking area for Corner Cottage (Outline Application with All Matters Reserved).	Chew Valley	Danielle Milsom	PERMIT
08	24/00360/FUL 26 March 2024	Mr/s Selwood Staddle Stones , 5 Saltford Court, Saltford, Bath And North East Somerset, BS31 3EB Erection of two storey side extension, new front gable facade, first floor rear balcony and associated works.	Saltford	Ed Allsop	PERMIT

09	24/01330/TCA 23 May 2024	Hodge Audley House , Park Gardens, Lower Weston, Bath, Bath And North East Somerset T1 - Sequoia - Section fell Co-Dominant stem growing from base of Redwood tree. T2 - Cedar - Tip reduce limb which reaches over garden to N and has a poor union with main trunk, by up to 1.5m, to reduce end weight whilst retaining a natural shaped crown. Tip reduce 1 branch which reaches over Magnolia tree by up to 1.5m, to reduce end weight, sail area and blend canopy into a natural shape following tip reduction to North	Weston	Jane Brewer	NO COMMENT
----	-----------------------------	---	--------	-------------	---------------

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

**Item No:** 01  
**Application No:** 22/03224/EFUL  
**Site Location:** Former Gasworks Windsor Bridge Road Twerton Bath Bath And North East Somerset



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

**Ward Members:** Councillor Colin Blackburn Councillor June Player

**Application Type:** Full Application with an EIA attached

**Proposal:** Demolition of existing buildings and decontamination/remediation of the site to facilitate redevelopment for a residential-led mixed-use development, comprising residential dwellings (Class C3 Use) and provision of Class E floorspace (Class E(b) and (f) Uses), together with associated infrastructure, landscaping, and car and cycle parking, engineering works (on site and to associated areas) and access and works to the existing river wall, infrastructure and gasholder voids.

**Constraints:** Article 4 Bath Demolition Wall, Article 4 Reg 7: Estate Agent, Article 4 HMO, Agric Land Class 3b,4,5, Air Quality Management Area, Policy B1 Bath Enterprise Area, Policy B3 Bath Riverside Area, Policy B4 WHS - Indicative Extent, British Waterways Major and EIA, British Waterways Minor and Householders, Conservation Area,

Contaminated Land, Contaminated Land, Policy CP9 Affordable Housing, District Heating Priority Area, Flood Zone 2, Flood Zone 3, HMO Stage 1 Test Area (Stage 2 Test Req), 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, Ecological Networks Policy NE5, Placemaking Plan Allocated Sites, River Avon and Kennet & Avon Canal, SSSI - Impact Risk Zones, Policy ST2 Sustainable Transport Routes,

**Applicant:** Berkeley Homes (Oxford & Chiltern) Ltd

**Expiry Date:** 29th February 2024

**Case Officer:** Samantha Mason

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

## REPORT

The site comprises approximately 4.27 hectares of brownfield land and is bound by the River Avon to the north and Windsor Bridge Road to the west. The former Bath Gasworks site lies to the west of Bath City Centre. Currently, access is gained from Windsor Bridge Road. The site currently comprises several gas holder voids, which are no longer in use, and derelict buildings. A large proportion of the site area is located within Flood Risk Zone 1 (the lowest risk of flooding), however the northern part of Windsor Bridge Road is located within Flood Zone 3 (high probability of flooding). There are no listed buildings on the site. It is located within two World Heritage Site designations; the City of Bath World Heritage Site and the Great Spa Towns of Europe (Bath).

Planning permission is sought for the demolition of existing buildings and decontamination/ remediation of the site to facilitate redevelopment for a residential-led mixed-use development, comprising residential dwellings (Class C3 Use) and provision of Class E floorspace (Class E(b) and (f) Uses), together with associated infrastructure, landscaping, and car and cycle parking, engineering works (on site and to associated areas) and access and works to the existing river wall, infrastructure and gasholder voids.

The proposal is subject to an Environmental Impact Assessment which has been submitted with the scheme.

## REASON FOR COMMITTEE:

This application is being heard at committee in line with the Council Scheme of Delegation which states that 'Any planning application which is subject to a viability assessment in respect of affordable housing will be reported to Planning Committee.'

## Relevant Planning History:

99/00401/HAZ - APPROVED - 5 July 1999 - Continuation of hazardous substances consent following a change in control of part of the land (section17)

00/02467/HAZ - APPROVED - 27 March 2001 - Continuation of hazardous substances consent following a change in control of part of the land

02/00475/FUL - PERMITTED - 3 May 2002 - Erection of a storage shed

02/00657/HAZ - APPROVED - 13 May 2002 - Continuation of hazardous substances consent following a change in control of part of the land

06/0384/FUL - APPROVED - April 2007 - Change of use from vehicle maintenance depot (Use Class B2) to a vehicle rental depot (temporary 3 years)

06/01733/EOUT - APPROVED - December 2010 - A new residential quarter including up to 2281 residential homes and apartments (Class C3); up to 675 student bedrooms and associated communal areas (Class C3) (or alternatively up to 345 student bedrooms (Class C3) and a primary school (Class D1)); local shops, restaurants, and other community services and facilities (within Classes A1, A2, A3, A4, A5, D1); construction of new bridges, roads, footways and cycleways; associated infrastructure and facilities; accommodation works; and landscaping

10/05065/FUL - APPROVED - March 2011 - Engineering works to facilitate environmental improvement (Remediation) of land, at the former Gas Works,

13/01566/DEM - PRIOR APPROVAL NOT REQUIRED - May 2013 - Demolition of one single storey brick-built building,

18/02857/FUL - APPROVED - October 2018 - Erection of two gas governor kiosks, gas governor compound and associated works.

22/02375/NMA - APPROVED - July 2022- Non-material amendment to application 18/02857/FUL (Erection of two gas governor kiosks, gas governor compound and associated works),

23/02643/COND - DISCHARGED - 7 August 2023 - Partial discharge of condition 50 of application 06/01733/EOUT (A new residential quarter including up to 2281 residential homes and apartments (Class C3); up to 675 student bedrooms and associated communal areas (Class C3) (or alternatively up to 345 student bedrooms (Class C3) and a primary school (Class D1)); local shops, restaurants, and other community services and facilities (within Classes A1, A2, A3, A4, A5, D1); construction of new bridges, roads, footways and cycleways; associated infrastructure and facilities; accommodation works; and landscaping).

23/01762/EREG03 - PENDING CONSIDERATION - Erection of up to 351 No. dwellings (Class C3); provision of up to 260sqm dual use flexible space comprising community use (Class F2) and/or commercial use (Class E); and associated demolition, land remediation, drainage, landscaping and access works.

23/02291/COND - PENDING CONSIDERATION - Discharge of conditions 4, 19, 21 and 23 of application 06/01733/EOUT (A new residential quarter including up to 2281 residential homes and apartments (Class C3); up to 675 student bedrooms and associated communal areas (Class C3) (or alternatively up to 345 student bedrooms (Class C3) and a primary school (Class D1)); local shops, restaurants, and other community services and facilities (within Classes A1, A2, A3, A4, A5, D1); construction of

new bridges, roads, footways and cycleways; associated infrastructure and facilities; accommodation works; and landscaping).

DC - 23/03780/EFUL - PERMIT - 30 April 2024 - Demolition of existing buildings, structures and remediation of the site together with associated infrastructure and enabling works to facilitate a residential-led mixed use development

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS CONSULTATION RESPONSES :**

### **ACTIVE TRAVEL:**

1st Nov 2023: ATE is not currently in a position to support this application and requests further assessment, evidence, revisions and/or dialogue as set out in this response. request for further information as detailed below.

Further discussion relating to off-site works to address deficiencies around the wider highway network alongside distribution and assignment diagrams for daily active travel trips;

Details of Visitor Cycle Parking;

Confirmation of parking management arrangements / controls to prevent rogue / overspill parking within and outside of the site;

Confirmation is required of the treatment along the Sustainable Transport Route, with particular respect to the passage of westbound cyclists and the detailed between the Victoria Bridge Toucan crossing and the segregated route;

Confirmation that the proposed access ramp to the riverside park area conforms to the minimum requirements of Inclusive Mobility to ensure access by all members of the community:

Improvements to the Travel Plan.

### **ARBORICULTURE:**

22nd September 2022: Scope for revision. No arboricultural objection to the loss of trees on the site to enable land decontamination and flood remediation works subject to onsite replacement planting. The proposed tree planting shown beside the river is within the 5m easement required for access for the Environment Agency and to provide a flood conveyancing strip so is not considered to be sufficient to form continuous canopy cover beside the river or provide adequate space for medium to large trees to grow unhindered.

30th Oct 2023: Scope for revision. No arboricultural objection to the loss of trees on the site which is necessary to enable land decontamination and flood remediation works. The proposed tree planting shown beside the river is within the 5m easement required for access for the Environment Agency and to provide a flood conveyancing strip. The proposed layout should deliver 20% on site canopy cover and ideally continuous canopy cover beside the river. Adequate space for medium to large trees to grow unhindered must be delivered as part of the redevelopment of the site.

### **ARCHAEOLOGY:**

7th September 2022: No objection subject to conditions.



#### AVON AND SOMERSET FIRE:

5th September 2022: Avon Fire & Rescue Service will have additional Hydrant requirements associated with this application, please see attached plan as to our hydrant requirements. The costs will need to be borne by developers through developer contributions. I have set out below the calculated costs per Hydrant.

#### AVON AND SOMERSET POLICE:

15th September 2022: Not acceptable in current form. Further information to make a suitable decision as to the ability of this application to meet the safety and security requirements of the National Planning Policy Framework or the B&NES Core Strategy. List of specifics to consider including that communal cycle stores should be partitioned into smaller access-controlled stores restricting access numbers further. And communal stores must have internal and external lighting and have CCTV able to reproduce identification quality product under any lighting conditions.

#### CANAL AND RIVER TRUST:

6th September: The Trust has no comment to make on the proposal except with regard to any possible works to the waterway wall or river channel. Any works which affect the navigation of the waterway should be agreed by the Trust. Should planning permission be granted we request that an informative is appended.

20th Oct 2023: The Trust has no comment to make on the proposal except with regard to any possible works to the waterway wall or river channel. Any works which affect the navigation of the waterway should be agreed by the Trust. Should planning permission be granted we request that an informative is appended.

#### CONTAMINATED LAND:

3rd October 2022: No objection subject to conditions.

17th November: No objection subject to conditions. At present, in relation to risks to human health, I can confirm that I am satisfied with the Remedial Strategy. I understand as detailed in the strategy that additional ground investigation will be undertaken to enable the development, including further work to define the gas regime, gas protection system and verification methodology and detailed specification of remedial methodology such as stabilisation, solidification and bioremediation in due course, following treatment trials. Taking account of the remediation strategy submitted, the site investigation and risk assessment reports, their findings and recommendations, the requirement for further assessment and the need for the Environment Agency to review and comment on the risks to Controlled Waters, I recommend that the full set of contaminated land conditions be placed on the application at this stage.

#### CONSERVATION AND WORLD HERITAGE:

10th November 2022: Objection, scope for revision. Major concerns regarding building heights and negative impact on heritage assets. Concerns regarding design and

materials. Concerns regarding views. Concerns regarding demolition of Pipe Bridge recognised as a NDHA.

25th Jan 2024: No objection subject to conditions. Previously identified adverse issues and concerns largely overcome. On balance support subject to conditions relating to materials.

#### DRAINAGE AND FLOODING:

13th October 2022: No objection subject to conditions

15th Dec 2023: Scope for revision. The recent re-submission did not include an updated FRA/Drainage strategy. A revised "Flood Risk Assessment and Outline Drainage Strategy" document is required to accommodate the changes.

#### ECOLOGY:

10th November 2022: Objection, scope for revision and further information required. There is an ecological objection to the proposal in its current form because:

- the scheme does not demonstrate that it is capable of avoiding a net loss of biodiversity,
- the risk of harm to SAC bats and to the River Avon and associated bankside habitats including mature woodland, which are considered to provide supporting habitat to the SAC cannot be ruled out
- The information required to enable the LPA to properly assess the likely impact of the proposal on ecology, protected species, and the SAC, is not yet complete
- There is therefore a reasonable likelihood of unacceptable harm to ecology and protected species, harm to SAC bat activity and supporting habitat to the SAC, and net loss of biodiversity

Revisions to the scheme and additional information will be required to address this.

26th Jan: There is an ecological holding objection at this stage as: the scheme does not yet provide biodiversity net gain assessment that is sufficiently complete and sufficiently demonstrates that the scheme delivers 10% net gain for biodiversity in accordance with current guidelines and standards, and; because there is insufficient information available at this stage to enable the LPA to properly assess the likely impact of the scheme on protected species including bats associated with the Bath & Bradford on Avon Bats Special Area of Conservation (SAC), and the River Avon as functional supporting habitat to the SAC.

19th March 2024: Additional information has been submitted which is welcome. There is still some information missing from the BNG assessment and BNG trading rules are not yet met. The revisions to proposed riverside planting, and revised lighting report are accepted and welcome. It is understood that an updated shadow HRA is to be submitted.

9th May: No objection subject to conditions.

#### ECONOMIC DEVELOPMENT:

No comments received

#### EDUCATION EARLY YEARS:

31st August 2022: No objection subject to conditions. Condition requiring further information in regards to how the nursery will be set up and operated.

#### EDUCTATION:

2nd September 2022: No objection.

#### ENVIRONMENT AGENCY:

29th September 2023: Objection. The applicant should submit a revised FRA to the local planning authority supported by the additional modelling detail described above, alongside further explanation of proposed works within 8m of the River Avon. This must demonstrate, to our satisfaction, that the works will not impede operational access to the riverside, affect the integrity of the river banks/walls or increase the risk of flooding and address our concerns above.

26th Jan 2024: No objection subject to conditions

#### ENVIRONMENTAL MONITORING:

15th September: Scope for revision, further information required including in regards to traffic flows and nearby biomass plant

9th Nov 2023: Further information required. Within the Environmental Statement- Chapter 06- Air Quality (Tracked Changed) report, dated September 2023, there are several aspects which need addressing before the Environmental Protection Team can accept the assessment.

15th May 2024: No objection subject to conditions

#### ENVIRONMENTAL PROTECTION:

5th September 2022: No Objection subject to conditions. Conditions regarding environmental noise and construction/demolition.

30th October 2023: No Objection subject to conditions. Conditions regarding environmental noise and construction/demolition.

20th November 2023: Gull Management Plan required.

#### HEALTH AND SAFTEY EXECUTIVE:

15th November 2022: The proposed development site which you have identified does not currently lie within the consultation distance (CD) of a major hazard site or major accident hazard pipeline; therefore, at present HSE does not need to be consulted on any developments on this site. However, should there be a delay submitting a planning application for the proposed development on this site, you may wish to approach HSE again to ensure that there have been no changes to CDs in this area in the intervening period.

27th January 2023: The proposed development site which you have identified does not currently lie within the consultation distance (CD) of a major hazard site or major accident hazard pipeline; therefore, at present HSE does not need to be consulted on any developments on this site. However, should there be a delay submitting a planning application for the proposed development on this site, you may wish to approach HSE again to ensure that there have been no changes to CDs in this area in the intervening period.

#### HIGHWAYS:

2nd October 2022: Objection. Further information required relating to active travel, trip generation, parking, cycle parking, nursery parking, travel plan, off site mitigation, movement strategy, and cumulative impact.

11 November 2022: Objection. Modelling audit has now been undertaken and there are concerns as a result. Further information is required.

5th April 2024: Scope for revision. The application has been provided with a thorough assessment of the impacts and sustainable transport options available. The proposals do not currently comply with adopted transport policies around providing genuine travel choice. In addition, there are a number of issues identified that relate to safety and design that require resolution at this stage. With suitable amendments and commitments, a positive recommendation is achievable.

17th May 2024: Scope for revision, further information required. The majority of issues have been resolved, some remain outstanding and require resolution to allow a favourable response.

#### HISTORIC ENGLAND:

28th September 2022: Historic England has concerns on heritage grounds. We consider that the proposals would result in a degree of harm to the Outstanding Universal Value of the World Heritage Sites. There would also be a minor degree of harm to the setting of Victoria Park, a Grade I Registered landscape. The harm is towards the lower end of the wide spectrum of impacts that constitute "less than substantial harm". However, both the World Heritage Sites and Victoria Park are heritage assets of the very highest significance, and as the NPPF advises, the more important the asset, the greater the weight that should be given to its conservation. We recommend some modification to the scheme to introduce greater vertical delineation in its roofscape and parapets, as required by the Bath Western Riverside masterplan SPD. We also suggest that reducing the height of the 8-storey riverside block would better preserve the setting of Victoria Park.

1st Nov 2023: Historic England considers that the amended proposals address our previous concerns. However, we are aware that DCMS considers that it is necessary for the amended case to be notified to UNESCO as previously. Historic England would therefore recommend that any decision by your authority be deferred until the advice of the World Heritage Committee's Advisory Body ICOMOS has been received.

#### HOUSING:

25th October 2023: Objection. This is a revised application, however the background viability has yet to be revisited & the subsequent outcome in terms of Policy CP9 affordable housing delivery confirmed.

No further comments received on revised scheme.

ICOMOS:

April 2023: As a result of the analysis provided, ICOMOS considers that the current plans have a highly negative and unacceptable impact on the Outstanding Universal Value of the properties and should not be approved.

A completely revised Gaswork regeneration project should be elaborated that respects the Outstanding Universal Value of the two World Heritage properties. ICOMOS considers that a proper application of the SPD's 'Overarching Design Principles' seem the most eligible principles to elaborate a revised Gaswork regeneration project that respects the Outstanding Universal Value of the both World Heritage properties, particularly:

- 'Scale and Proportion' (Where a larger scale is proposed, sufficient framing will be required to maintain human proportions),
- 'Visual Connectivity' (The redevelopment of the site must not reduce the visual connection to the natural landscape. In this regard, it must utilise the opportunity to bring the countryside into the city, giving the feeling of being able to reach out to the wider surrounding greenery, while still being able to enjoy the immediate green space),
- "Highest Design Quality" (Design proposals for BWR must respect the quiet, polite and harmonious architectural tradition and be well detailed, while embracing innovation and contemporary architecture),
- "Roofscape" (Located in a valley, the roofscape is the fifth elevation of the built form in Bath. The appearance of the roofscape is how most Bath residents will perceive the BWR),
- "Scale, height and massing" (Bath is a city founded on the principles of human scale and proportion; it has no tall buildings. The appropriate scale for the development of Western Riverside must respect the scale of the city. Respect for contextual scale will help protect views of the wider landscape).

2nd April 2024: Therefore, ICOMOS considers that the Proposed Development has introduced notable changes compared to the previous scheme, in accordance with the recommendation of ICOMOS Technical review (April 2023) and that it would not have a significant negative impact on the OUV and integrity of the World Heritage properties although it cannot be said to deliver landscape benefits.

LANDSCAPE:

10th November 2022: Objection, scope for revision. The regeneration of this site is welcome. There is potential for development here to become an important asset to the city, but the scheme as currently proposed will not achieve this. The aspiration to bring forward a landscape-led development is welcomed but it is a cause for serious concern that there are almost no specific landscape proposals as part of the application. It is essential that the application provides the same degree of certainty over landscape and

public realm design proposals as it does for architectural proposals, especially for a development that aspires to be 'landscape-led'.

Although the submitted assessment acknowledges that there would be some adverse impacts during the demolition and construction phase, it asserts that there be no adverse visual effects whatsoever at any of the selected viewpoints during the operational phase (i.e. on completion). This assertion is not credible and is not borne out by the evidence contained in the submitted baseline photographs and photomontages. In my view there would be numerous adverse visual effects including on the OUV of the World Heritage Site. Concerns over inadequate co-ordination and masterplanning and over aspects of public realm design are addressed in the urban design response dated 10 November 2022.

19th Jan 2024: The revised scheme, and in particular the reduced building heights and amended roofscape, addresses previous concerns relating to landscape and townscape impact and the response to both the immediate local environment and the city-wide context.

However, concerns relating to the co-ordination of this application with the proposals for the remaining part of the former gasworks site under the ownership of BANES have not been fully resolved. A plan showing clearly the co-ordinated design proposals for the north-south green street forming the boundary between this site and the adjoining BANES site should be provided.

Clarifications and additional details relating to play provision and hard and soft landscape design proposals can be secured via Condition. An updated Landscape and Ecological Management Plan (LEMP) or equivalent plan fulfilling the same purpose should be submitted for approval at the same time as final landscape design proposals, since it will need to cross-refer.

#### NATURAL ENGLAND:

28th September 2022: Further information required to determine impacts on designated sites. As submitted, the application could have potential significant effects on the Bath and Bradford on Avon Bats SAC. Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation. Without this information, Natural England may need to object to the proposal.

7th Dec 2023: requested further information from the applicant/minor changes to the scheme:

Further light modelling to demonstrate that the proposed lighting would not result in light spill onto the River Avon corridor about the thresholds outlined in the Waterspace Design Guidance. I have requested further modelling of vertical light spill including vertical planes that extend out over the river corridor perpendicular to the northern boundary of the site, and to increase the height of the vertical planes in order to model the full extent of light spill from the buildings. Currently, the vertical light modelling only models light spill at individual spots so does not give us a clear picture of the extent of light spill across the corridor. I have also requested that further light modelling includes the combined effects of

internal and external lighting as currently the information submitted models internal and external lighting separately so does not present a worst-case scenario.

Slight changes to the landscaping of the northern boundary. The revised scheme is an improvement on the original scheme submitted and will include more structural planting along the river corridor. I have requested that the planting under the proposed trees is changed from wildflower grass to woodland understorey planting and scrub as this will help to increase the structure of the vegetation along the commuting corridor as the trees mature and will provide a potential foraging habitat for horseshoe bats. I have also requested an additional tree planting to fill gaps in the tree planting proposed along the river corridor, such as the area in front of the amenity grassland in the north eastern part of the site.

19th March 2024: The Habitats Regulation Assessment for this application must be updated to reflect the further information and changes proposed to the development, Natural England must be consulted on any appropriate assessment your authority make.

29th April 2024: The appropriate assessment concludes that it can be ascertained that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.

#### PARKS DEPARTMENT:

7th October 2022: Scope for revision. The Local Plan Partial Update (LPPU) amended SB8 Policy indicates (through the concept diagram) that the full provision of green space under policy LCR6, LCR9 and the Planning Obligations SPD will not be expected to be provided on-site. A combination of on-site provision and off-site improvements will be necessary to meet resident's recreational needs. The scheme proposes a series of private spaces and publicly accessible green space. The scheme proposes an Ecological Park along the river frontage which is intended to function as the principal amenity space. Three further public spaces are proposed which are accessible to the public. These include The Square, Public Balcony and Public Garden. Within these public open spaces there are elements of play. The on-site public green space should be secured by condition/clause for the use by the wider public. Community and courtyard gardens are also proposed and provide community Amenity Space for the residents of the buildings.

The development will result in an increased demand that cannot be accommodated by the existing quantity or type of provision in this location. The remaining demand for greenspace typologies can be made acceptable in planning terms and compliant with Policy LCR6 through a financial contribution in scale with the development.

15th Dec 2023: There has been a reduction in the number of overall dwellings proposed from 616 to 611. A new green space demand assessment has been undertaken accounting for this. A combination of on-site provision and off-site enhancements will be necessary to meet resident's recreational needs. The applicant is encouraged to amend the Open Space Strategy within the Design and Access Statement, Open Space Assessment and General Arrangement plans to account for the comments below, ensuring consistency between them. It is unclear how the play areas relate to the

landscape and ecological proposals and the development will be expected to incorporate opportunities for informal food growing, wherever possible.

#### PLANNING POLICY:

9th November 2022: Objection, scope for revision. Concerns raised in regards to mix of uses, quantum of development, viability and affordable housing, comprehensiveness, design, building heights, landmark buildings, public realm, single aspect flats, use of materials, roofscape, sustainable construction, sustainable transport, transport assessment, pedestrian links and world heritage site.

30th Jan 2024: Scope for revision.

#### PUBLIC RIGHTS OF WAY:

5th September 2022: Scope for revision. The PROW Team has no objections to the proposed development as there is no effect to the existing public rights of way network. However, some aspects of the proposal are unclear in regards to the pedestrian and cycle route.

12th October 2023: Scope for revision. The Superseded Design and Access Statement (11 Aug 2022) showed the Proposed Pedestrian Access at Pages 150 and 151. A River Walk and Proposed Walking and Cycling Access Routes were shown in orange dashed lines and dark blue dashed lines respectively. The new Design and Access Statement (25 Sep 2023) shows the same information on Page 149. However, the plan no longer shows a River Walk or Shared Walking and Cycling Access Routes. Both are listed in the key but not represented in the map. Is this an error in drafting? The original proposal proposed more effective pedestrian and cycling links.

#### SECRETARY OF STATE:

24th August 2022: I confirm that we have no comment to make on the environmental statement

#### SUSTAINABLE CONSTRUCTION:

21st September 2022: Scope for revision.

1. The proposed development exceeds current policy SCR1 by achieving an average of ~45% CO2 reduction compared to the 19% reduction target for policy SCR1.
2. Emerging policies in the context of NPPF paragraph 48 are to be given increasing weight the more advanced it is to adoption. The new Local Plan Partial Update policies (notably SCR6, SCR7 & SCR8) have been subject to Examination in Public and are likely to be adopted in January. These policies therefore now hold significant weight.
3. The proposed development does currently comply with Policy SCR8. The proposed development achieves an embodied carbon value of 735 kgCO<sub>2</sub>e/m<sup>2</sup> against the Policy SCR8 target of 900 kgCO<sub>2</sub>e/m<sup>2</sup> for stages A1 - A5.
4. The proposed development does not currently comply with Policy SCR6. The total energy use of the proposed development (103kWh/m<sup>2</sup> /yr) does not match the requirement for SCR6 (40kWh/m<sup>2</sup> /yr). Space heating demand of the proposed development (45kWh/m<sup>2</sup> /yr) also does not meet the SCR6 target of 30kWh/m<sup>2</sup> /yr. Additionally, on-site



renewable energy generation (solar PV in this case) does not match the total energy consumption of the development.

5. Therefore, it is clear that the proposed development does not comply with emerging Policy SCR6. None of the three targets (total energy use, space heating demand and on-site renewable energy generation) set out for Policy SCR6 have been achieved.

11th Dec 2023: Scope for revision. The proposed development does comply with most of the requirements for BANES Policy SCR6, such as space heating demand and total energy use, however there is scope for revision of the renewable energy generation.

11th March 2024: No objection subject to conditions and financial contribution.

#### URBAN DESIGN:

10th November 2022: Objection, scope for revision.

Inadequate co-ordination with immediately adjoining site (BANES land)

Excessive height, scale, massing

Overdevelopment

Failure to strengthen sense of place and local distinctiveness

Does not take sufficiently take the opportunities to create and enhance townscape character

Poor response to context

Poor roofscape

Public realm proposals need further design development

Materials insufficiently related to context

19th Jan 2024: There has been a reduction in the number of overall dwellings proposed from 616 to 611. A new green space demand assessment has been undertaken accounting for this. A combination of on-site provision and off-site enhancements will be necessary to meet resident's recreational needs. The applicant is encouraged to amend the Open Space Strategy within the Design and Access Statement, Open Space Assessment and General Arrangement plans to account for the comments below, ensuring consistency between them. It is unclear how the play areas relate to the landscape and ecological proposals and the development will be expected to incorporate opportunities for informal food growing, wherever possible.

#### VIABILITY ASSESSORS:

4th August 2023: Objection, further information required. The overall approach to assessing the viability of the proposed development appears to be appropriate in our opinion. We consider many of the submitted assumptions to be within the range we would expect. However, there are a number of assumptions within the FVAR and appraisals which we have queried or where a difference of opinion exists. Further information is required on a number of points before a conclusion can be reached.

3rd April 2024: We have thoroughly tested the viability position based on present day costs and values. We disagree with the presented position of a £56 million deficit and effectively nil profit, and in our view the position is not as negative as presented by the applicant team. However, we agree that the scheme will not support any affordable housing. The applicant has stated that they are relying on an improvement from the

currently presented position, therefore it would be appropriate in our view to put a review mechanism in place that would ensure appropriate contributions are made if the viability position significantly improves.

WESSEX WATER:

30th January 2023: No objection subject to advisories.

REPRESENTATIONS RECEIVED :

26 contributions were received to this application, 7 representations, 21 objections and 3 comments of support, the following is a summary of the points raised.

BATH PRESERVATION TRUST:

21st Oct 2022: The development, by virtue of its excessive scale, height, and massing, would constitute overdevelopment of the site. The inappropriate form and appearance would fail to strengthen sense of place and local distinctiveness, nor significantly enhance the character and quality of place, and would not help to raise the standard of design more generally in the area. The excessive use of inappropriate brick materials, form, height variation, and roof articulation, would result in cumulative harm to Bath's townscape character, harm to the views in and across the World Heritage site, and would adversely affect the setting of the Bath conservation area. We therefore consider that the proposals would result in a degree of harm to the Outstanding Universal Value of the World Heritage Site. Proposals would include the unjustified total loss of a NDHA and its associated significance. The application it is current from does not demonstrate the sufficient benefits of well-designed placemaking, housing and sustainable development to outweigh this harm, and it is harm that can and should be mitigated by further modifications. This proposal is therefore considered contrary to the Planning (Listed Buildings and Conservation Areas) Act 1990, Section 16 of the NPPF (particularly paras 184, 185, 196, and 200), and Policies B1, B4, BD1, CP6, D1, D2, D3, D4, D5, HE1, and SB8 of the Core Strategy and Placemaking Plan, and should be refused or withdrawn. Noting that in accordance with the NPPF development which fails to reflect local design policies and Government guidance on design should be refused.

16th Dec 2022: Current proposals for the development of Bath Western Riverside would present 'ascertained danger' of the cultural property defined under the 1972 World Heritage Convention:

- o serious deterioration of architectural or town-planning coherence;
- o serious deterioration of urban or rural space, or the natural environment;
- o significant loss of historical authenticity

And 'potential danger':

- o threatening effects of regional planning projects;
- o threatening effects of town planning

We urge ICOMOS, Historic England, DCMS, DLHUC and UNESCO to engage directly with Bath NES Council about this matter. We urge Bath NES Council to use all available influence and policy to reject the current proposals and to insist upon a fully compliant development which does not harm the architectural or town-planning coherence of Bath

17th Oct 2023: BPT fully supports the regeneration of this site in principle and it recognises that the applicants have made an effort to take on board consultee comments. However, we maintain an objection to the proposed scheme, due to the excessive height and massing of the proposed blocks, which will have a cumulative harmful effect on the river valley setting of the World Heritage Site and the surrounding area, particularly in relation to the riverside setting and the Bath Conservation Area opposite.

BPT maintains its strong objection to the lack of affordable housing in the scheme, and to the suggested use of pale bricks over an extensive area of the most prominent frontages.

We conclude that for the following reasons the development proposals remain contrary to the NPPF, and contrary to the Core Strategy & Placemaking Policies B1, B4, DW1, BD1, SB8, CP6, D1, D2, D4, D6, HE1, and CP9.

#### BRISTOL ARCHAEOLOGICAL SOCIETY:

21st Oct 2022: I am writing on behalf of the Bristol Industrial Archaeological Society regarding the removal of two bridges crossing the river at the former Gas Works site at Upper Bristol Road Bath. BIAS wishes to oppose the removal of the two bridges, on the grounds of their historic value in the understanding of the riverside industrial development of Bath and in particular the construction and operation of one of the earliest gas producing sites in Bath in 1818. Whilst the river crossing bridge date from much later, they are interesting examples of bridges required for a chemical processing plant which operated on two sides of a river.

#### CLLR JUNE PLAYER:

Should you be minded to accept this application then I am requesting that it goes to Committee on the grounds it is contrary to the following planning policies of the Bath and North East Somerset Core Strategy (2014) and Placemaking Plan (2017):

D2: Local Character & Distinctiveness/Overdevelopment

D5: Building Design

LCR6/LCR9: Green Spaces

CP9: Affordable Housing

ST7 (4): Parking

#### ICOMOS (International Council on Monuments and Sites UK):

19th January 2023: ICOMOS-UK is writing to express strong concerns about the development proposals submitted for the former Gas works site of the Bath Western Riverside (BWR) project - application 22/03224/EFUL. In conclusion, we consider that the planning application, as submitted, should not be consented. We also consider that as a matter of urgency an overall Brief for the BWR needs to be defined and fully reviewed through an appropriate HIA for its impact on OUV, before further detailed designs are developed for both buildings and landscapes. The BWR should be seen as opportunity to demonstrate how development can meet the needs of residents and can reflect high standards of design (as part of phase 1 has done). It should also sit harmoniously within its landscape, and provide visually pleasing and environmentally beneficial green areas to maintain and complement the OUV of the City - none of which are met by the current monumental, oversized dense blocks of the current scheme.

## NHS PROPERTY SERVICES INTERGRATED CARE BOARD:

30th August 2023: Based on the latest data on primary care capacity within the Heart of Bath PCN, there is not sufficient existing primary healthcare capacity locally to accommodate the 1,417 residents calculated to be generated by the proposed development. Mitigation is therefore required in the form of a financial contribution of £657,984 towards the capital cost of delivering the additional primary care floorspace required to serve residents of the new development. Without this mitigation, the development would not comply with Policy CP13 of the BathNES Composite Plan, or paragraphs 55 to 58 of the NPPF and related Planning Practice Guidance on Planning Obligations.

## RIVERSIDE COMMUNITY VOICE:

Proper consideration of sustainability required, including solar panels, renewables and energy efficiency.

Lack of indoor community space

Traffic hotspots along Midland Road created, access queries

Possible shortfall in infant and primary provision

Destruction of trees and wildlife habitat by the river

## TRANSITION BATH:

10th Oct 2023: Significantly after the initial submission the developer submitted a viability statement to justify not including affordable homes on the development. The developers justification for delivering affordable homes was a land value of £7.835m (or £2.35m/hectare for 3.33 hectares) based on use for open storage. We would question the viability of the site for open storage, given the restricted access to the site in a dense urban residential location. We don't believe the site given local traffic restrictions could realistically be used for significant HGV traffic. We also don't believe there is demand for open storage in central Bath, and the developer in their viability study fails to demonstrate this local demand. We feel on this basis a realistic land value would be in the range £500K to £800K typical for brownfield sites, in this case the most realistic alternative, for small scale industrial facilities. We would suggest that any independent council funded assessment of viability focus on whether open storage is a suitable alternative use for the site, whether the site is suitable for this given its location and local traffic problems, and whether there would be any demonstrable demand for an open storage facility like this in this location, and whether planning permission would be granted for such a facility? If not then we would suggest a significantly lower land value should be used in the viability study calculation for affordable homes.

## WERA HOBHOUSE MP:

I would like to make the following comments as the MP for Bath: The government has legislated that the UK should reach Net Zero by 2050. About a third of carbon emissions come from our homes, the vast majority from heating. All future homes will need be powered by renewable or net zero electricity and there will be no role for fossil fuels in home heating. There should be no need for retrofitting at a later stage. I therefore hope

that the development will be built with electricity grid capacity and infrastructure sufficient for all current and future electricity use, including:

a) the charging of all vehicles parked on the development.

b) that the arrangements for heating will be specified to be able to be net zero without retrofitting or later costs on the property owners. (for example, if the Energy Centre is to be the supplier of hot water to the development, the power needed should be able to be 100% renewable electricity or otherwise carbon zero). I ask that the planners consider how renewable power can best and most extensively be generated on site, built at the same time as the development. I also hope that all the homes will be built to the highest energy efficiency specifications.

Declaration of interest - I am, with my husband, the owner of 11 Longmead Terrace, BA2 3WN

### THIRD PARTIES:

#### Objections:

Negative impact on character and appearance

Overdevelopment

Scale and density concerns

Heritage harm to world heritage site and conservation area

No reference to gas works

Materials not appropriate

More work required on design

Green space requires more thought

City views need consideration

Concerns with road layout

Lack of parking

Inadequate access arrangements

Road layout concerns

Traffic and congestion

Lack of affordable housing

Proposed height is harmful

Visual impact

Overbearing

Not the infrastructure for the development

Concern additional students will put pressure on city

Pollution concerns

Tree concerns

Ecology concerns including impact to protected species and habitats and biodiversity

Noise concerns

Demolition of pipe bridge unacceptable, is a non-designated heritage asset

Lack of access to health, GP and dentistry places

Lack of green space

Flood concerns

Active travel concerns

#### Support:

Additional housing needed

Social housing needed

Remediate a brownfield site

Minimal parking a positive  
Cycling provision

Comment:

Must consider sewage and water run off  
Mental wellbeing concerns  
Wind tunnels  
Energy consumption concerns

## **POLICIES/LEGISLATION**

The Development Plan for Bath and North East Somerset comprises:

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

## **CORE STRATEGY:**

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

B4: The World Heritage Site and its setting  
CP5: Flood risk management  
CP6: Environmental quality  
CP9: Affordable housing  
CP10: Housing mix  
CP13: Infrastructure provision  
SD1: Presumption in favour of sustainable development

## **PLACEMAKING PLAN:**

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

B1: Bath spatial strategy  
BD1: Bath design policy  
D1: General urban design principles  
D2: Local character and distinctiveness  
D3: Urban fabric  
D4: Streets and spaces  
D6: Amenity  
D9: Advertisement and outdoor street furniture  
D10: Public realm  
HE1: Historic environment  
LCR3A: Primary school capacity  
LCR4: Safeguarding land for cemeteries

LCR9: Increasing the provision of local food growing  
NE2A: Landscape setting of settlements  
NE4: Ecosystem services  
PCS1: Pollution and nuisance  
PCS2: Noise and vibration  
PCS3: Air quality  
PCS4: Hazardous substances  
PCS6: Unstable land  
PCS7: Water source protection zones  
PCS7A: Foul sewage infrastructure  
PCS8: Bath hot springs  
SCR2: Roof-mounted/ building integrated scale solar PV  
SCR5: Water efficiency  
SU1: Sustainable drainage policy

#### LOCAL PLAN PARTIAL UPDATE:

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

CP3: Renewable energy  
CP4: District heating  
CP7: Green infrastructure  
D5: Building design  
D8: Lighting  
NE1: Development and green infrastructure  
NE2: Conserving and enhancing the landscape and landscape character  
NE3: Sites, species, and habitats  
NE3a: Biodiversity net gain  
NE5: Ecological networks  
NE6: Trees and woodland conservation  
PC55: Contamination  
SCR6: Sustainable construction policy for new build residential development  
SCR7: Sustainable construction policy for new build non-residential buildings  
SCR8: Embodied carbon  
SCR9: Electric vehicles charging infrastructure  
ST3: Transport infrastructure  
ST5: Traffic management proposals  
ST7: Transport requirements for managing development

#### SUPPLEMENTARY PLANNING DOCUMENTS:

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

Bath City-wide Character Appraisal SPD 2005

Bath Western Riverside SPD 2008

Bath Building Heights Strategy 2010

Bath World Heritage Site Management Plan 2016 - 2022

Draft Brassmill Lane, Locksbrook and Western Riverside Character Appraisal 2015

Green Space Strategy 2015

Planning Obligations Supplementary Planning Document (January 2023)

Sustainable Construction Checklist Supplementary Planning Document (January 2023)

Transport and Development Supplementary Planning Document (January 2023)

The City of Bath World Heritage Site Setting Supplementary Planning Document (August 2021)

Water space Design Guidance 2018

West of England Sustainable Drainage Developer Guidance 2015

#### NATIONAL POLICY:

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

#### 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.'

#### CLIMATE AND ECOLOGICAL EMERGENCIES:

The Council declared a climate emergency in March 2019 and in July 2020 declared an Ecological Emergency. These matters are material considerations in the determination of this application.

#### 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 permission is sought for the demolition of existing buildings and decontamination/ remediation of the site to facilitate redevelopment for a residential-led mixed-use development, comprising residential dwellings (Class C3 Use) and provision of Class E floorspace (Class E(b) and (f) Uses), together with associated infrastructure, landscaping, and car and cycle parking, engineering works (on site and to associated areas) and access and works to the existing river wall, infrastructure and gasholder voids.

The main issues to consider are:

- Principle of Development
- Principle of Development in Flood Zone
- Affordable Housing
- Education
- Design, character and appearance
- Housing Accessibility
- Heritage
- Landscape
- Highways
- General Drainage and Flooding
- Ecology
- Trees
- Contaminated land
- Sustainable construction and renewable energy
- Other matters
- Planning balance
- Conclusion

### **PROCEDURAL MATTERS:**

The EIA Regulations state that the Council cannot grant planning permission in respect of an EIA application unless it has first taken the environmental information into consideration and must state in its decision that it has done so. The environmental information means the Environmental Statement (ES), any further or other information received, any representations made by any consultation bodies and any representations made by any other person about the environmental effects of the proposed development. In this case, further information has been submitted and the application readvertised in accordance with the 2017 EIA Regulations. The National Planning Casework Unit has also been duly notified.

The assessment of environmental effects and proposed mitigation form an integral part of the consideration of the proposed development set out in this report. To avoid repetition the findings of the ES are reported below as part of the assessment of the planning issues, together with responses to consultations and other representations received.

## PRINCIPLE OF DEVELOPMENT:

Policy DW1 sets out the spatial strategy for the district focussing new housing, jobs and community facilities in Bath. The policy seeks to prioritise the use of brownfield opportunities for new development in order to limit the need for development on greenfield sites. The proposal meets with the general aspirations of DW1 given the scheme will result in the use of a brownfield site for development in future within Bath.

Policy B1 (Bath Spatial Strategy) states that the strategy for Bath is to sustain and enhance the significance of the city's heritage assets, green infrastructure, and promote economic development. The strategy aims to enable the development of about 7,020 new homes, 3,300 of which through large sites in the Central Area and Enterprise Area. The policy seeks to regenerate and repair a number of areas within the Central Area and Enterprise Area to create new areas of attractive and productive townscape and a much-improved relationship between the city and its river, and further to Transform the Western Riverside area into a contemporary residential neighbourhood. The proposal is considered to meet with the general aspirations of B1, through the regeneration of a mainly derelict site, providing new homes in Bath towards the target, as well as opportunities to achieve the other elements of the policy.

The site forms part of the wider Bath Riverside site. Bath Riverside, on land formally occupied by Stothert & Pitt - 'Crane makers to the World' and various railway lines and associated infrastructure, has been transformed over the past ten years. The first phase of development on the main site has delivered over 800 new dwellings, provided new and refurbished bridges and enhanced public realm and open spaces.

Western Riverside was first allocated for residential led development in Policy GDS.1/B1 of the Bath and North East Somerset Local Plan (October 2007). This policy was supported by a Master Plan Supplementary Document (March 2008). The principles of GDS.1/B1 were rolled forward into Placemaking Policy SB8 in 2017, and the Master Plan Supplementary Planning Document continued to give further guidance in respect of the implementation of this policy. Adopted Site Allocation Policy SB8 has now been updated as part of the Local Plan Partial Update. The 2008 SPD continues to provide guidance on policy implementation.

Policy SB8 allocates the site for residential led mixed use development. It sets out a number of development requirements and design principles. These are each commented on in turn as follows.

1. Deliver high density residential development of around 1,750 dwellings across the whole site. Proposals for Purpose Built Student Accommodation shall not be permitted.

The proposal provides 611 residential units. This proposal will go a significant way towards meeting the target number of dwellings across the whole site.

2. Deliver an early years facility and a new community hub with communal facilities to promote healthy lifestyles and community cohesion.

The proposed development includes the provision of an early years facility in the form of a nursery, with associated dedicated outdoor space. This phase of the development does not proposed a community hub however the scheme will not prejudice a community hub coming forward on other later phases of delivery.

3. Provide a positive relationship with the adjacent public realm at ground floor level, and the number of main entrances into buildings must be maximised in order to create an active, human scale public realm. The provision of active building frontages, including building entrances and commercial activity is required on the elevations fronting Lower Bristol Road, Upper Bristol Road, Windsor Bridge Road, the continuation of Stothert Avenue.

This is discussed in detail in the character and appearance section below, it is considered this criteria is met.

4. Be required to provide a comprehensive Transport Assessment will be required to assess the transport requirements of development proposals. This will need to include a traffic impact assessment modelling the effects of additional transport demand on the Upper Bristol Road and Lower Bristol Road corridors and additional locations to be agreed with the Local Highways Authority. It will also need to investigate which specific infrastructure elements, such as integrating with emerging Metrobus/Mass Transit proposals and the options for crossing Windsor Bridge Road, are feasible solutions for the provision of sustainable transport. Development is to provide comprehensive on and off site transport infrastructure as found necessary through the Transport Assessment including, but not limited to:

- a. A clear hierarchy of pedestrian and cycling routes throughout the site, providing good permeability across the site as a whole, and linking individual sites with the surrounding context.
- b. An integrated transport system and clear route network linking individual sites to each other and to the surrounding context.
- c. Low car development will be supported and must be accompanied by high quality sustainable transport alternatives to car usage and ownership, including providing access to electric car club vehicles.
- d. Provide a level of car parking that has regard to the standards set out in the Council's Transport & Development SPD, with any departure from these standards robustly justified on the basis that proposals are an exemplar for sustainable travel.
- e. Deliver improvements to walking and cycling routes along and across Upper Bristol Road and Lower Bristol Road, connecting to existing infrastructure, and improving permeability through the development.
- f. Investigate and deliver opportunities to improve pedestrian and cycle facilities at the Windsor Bridge Road junctions with Upper Bristol Road and Lower Bristol Road.
- g. Deliver the Sustainable Transport Route from east to west across the site. This is required to:
  - i. be designed to a high quality in accordance with Cycle Infrastructure Design Guidance LTN 1/20, with cycle routes segregated from pedestrians.
  - ii. integrate high quality green infrastructure, as part of the Biodiversity Net Gain requirements.
  - iii. deliver a direct, well-aligned and high-quality pedestrian and cycle crossing of Windsor Bridge Road to connect to the former railway bridge over the river and to the Bath

Riverside Site. Modelling will be required to demonstrate the effects of interaction between the crossing and adjacent junctions.

iv. deliver an upgrade to the disused former railway bridge over the river to allow use by pedestrians and cyclists. This is needed to link the site and the Bristol to Bath Railway Path (BBRP) further west of Windsor Bridge Road. Proposals will need to demonstrate pedestrian and cycle linkages between the bridge and the crossing over Windsor Bridge Road

v. Accommodate bus services and be accompanied by a public transport routeing and service strategy which maximises available opportunities to provide bus priority and deliver attractive services for existing and future residents.

Highways matters are discussed in detail in the section below, but it is considered that this criterion is satisfied.

5. Retain and enhance green infrastructure and habitats along the riverside edge where possible, providing a biodiversity led approach towards the treatment of this area. Where vegetation clearance is necessitated for site preparation the vegetation shall be reinstated. Built form shall be set back from the retained or reinstated riverside habitat infrastructure by a buffer of at least 10 metres where feasible. This buffer could be used for informal public open space but must retain a habitat function, a light shielding function, and improved access to the river for maintenance purposes. Built form must respond appropriately to this habitat buffer.

This is further discussed in the tree and ecology sections below; it is considered that the guiding principles of this criterion are met.

6. Deliver biodiversity net gain of at least 10% in accordance with Policy NE3a. Opportunities to deliver 10% biodiversity net gain within the site curtilage should be fully explored and tested before any off-site measures are proposed. If any off-site provision of biodiversity net gain is required, this should be provided along the Sustainable Transport Route, if practicable.

Again, discussed further in the ecology section below, however a appropriate net gain has been achieved, the proposal is acceptable in line with this criterion.

7. Provide and implement a bird and bat enhancement in the form of integrated bird and bat boxes within new buildings, and/or as standalone features within the public realm, such as bat walls and swift towers. Additional features such as log piles, insect hotels, bee bricks, hedgehog connectivity measures and green and brown roofs / walls are also required.

See ecology section, criterion 7 passed.

8. Where appropriate to the layout of development blocks, seek to retain and enhance existing hedgerows throughout the site, providing a 10m protective buffer of new grassland habitat for all retained hedgerows. Any deviation from this buffer allowance must be appropriately justified. Provision of additional hedgerows is encouraged, to create a link across the site, where appropriate in terms of proposed site layout. Any loss of hedgerows must be offset.

See ecology section below where this is addressed. The proposal is acceptable in line with this criterion.

9. Ensure that lighting at this location is designed to safeguard the important ecological function of the river corridor, including the retention of a dark corridor for bats.

See ecology section below where this is addressed. The proposal is acceptable in line with this criterion.

10. Provide high quality public realm, building on the requirements 5-9 and structural 79 landscaping, designed to provide green infrastructure with a focus on nature recovery and nature-based solutions (visual amenity, health and well-being, green walking and cycling routes, air quality improvements and shading / cooling).

The character and appearance section covers these points. The proposal is acceptable in line with this criterion.

11. Be informed by a comprehensive understanding of the sensitive heritage and landscape context in which the area sits, including undertaking a detailed historic environment assessment to include assessment of the effects of development proposals on the wider City of Bath WHS, OUVs and Attributes and other heritage assets including the Georgian city, Bath CA, listed buildings, Royal Victoria Park, undesignated heritage assets and archaeology, and undertake detailed evaluation and assessment, in order to inform design and to identify and implement appropriate mitigation. Therefore, a heritage-led and contextual approach is strongly encouraged. A strong tree infrastructure will be required throughout the site using large growing species to provide both GI nature-based solutions and structural landscaping to break up extensive massing of buildings.

See heritage and landscape sections below, the scheme is now acceptable on these two grounds and this criterion is satisfied.

12. Not detract from important views over the site including, but not limited to, longer, sweeping views towards the Georgian City and views from historically important viewpoints as set out in the WHS Setting SPD; and should respond appropriately to the general characteristics of buildings heights within the city. An analysis is required to enable an appropriate response and to influence the height, massing and design of buildings. The Bath Building Heights Strategy (BBHS) should be used as part of the evidence base and the starting point for this analysis which must also include a detailed Landscape and Visual Impact Assessment (LVIA).

See heritage and landscape sections below, the scheme is now acceptable on these two grounds and this criterion is satisfied.

13. Be informed by a site-specific FRA, with site layouts designed using a sequential approach. As a minimum, floor levels must be raised at the appropriate level taking into account the vulnerability classification informed by the FRA.

See Flooding and Drainage section below. This criterion is passed.

Overall, it is considered that the proposal has appropriately addressed the requirements and design principles of policy SB8. The principle of development of a mix used residential led scheme in this location is considered acceptable, subject to other material considerations set out below.

#### PRINCIPLE OF DEVELOPMENT IN THE FLOOD ZONE:

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.

#### Sequential Test:

A large proportion of the site area is located within Flood Zone 1 (the lowest risk of flooding), however the northern part of Windsor Bridge Road is located within Flood Zone 3 (high probability of flooding).

The NPPF and NNPG set out that The Sequential Test for flooding should be applied to 'Major' and 'Non-major development' proposed in areas at risk of flooding, but it will not be required where 'The site has been allocated for development and subject to the test at the plan making stage (provided the proposed development is consistent with the use for which the site was allocated and provided there have been no significant changes to the known level of flood risk to the site, now or in the future which would have affected the outcome of the test)'.

As set out above the site is an allocated site, adopted through the Site Allocation Policy SB8 which has now been updated at the plan making stage as part of the Local Plan Partial Update.

#### Exceptions Test:

Where a development proposal is in accordance with an allocation made in a Plan following the application of the Sequential and Exception Tests, it should not be necessary to repeat aspects of the Exception Test unless circumstances have significantly changed since that time. In this instance given the nature and timing of the scheme further application of the exceptions test is not required.

In all cases, a suitable site-specific flood risk assessment (FRA) should be provided at application stage. WSP has prepared an FRA and Outline Drainage Strategy (ODS) for the Site which has been submitted with the application.

The findings of the FRA are that site currently sits outside of the flood zone, the exception to this is the flood conveyance channel which is within the flood extents but is considered to be water compatible. The purpose of this is to offset impacts on the floodplain elsewhere, as a result of the wider Bath Western Riverside masterplan development. The conveyance channel runs from the Midland Road Bridge at its upstream to Windsor Bridge at its downstream. The two bridges themselves are outside of the development site and the capacity beneath these structures is unchanged. The conveyance channel is approximately 5m in width and falls to around 17-18m AOD along the waterfront edge. According to the FRA there are no changes to upstream or downstream flood risk associated with the construction of the conveyance channel. This is attributed to the

limited length of the channel and the fact that downstream flow constrictions will remain following its construction.

Environment Agency matters:

Additionally, the Environment Agency have been consulted on this application.

The submitted Flood Risk Assessment (FRA) 'Bath Gasworks - Flood Risk Assessment and Outline Drainage Strategy', ref. 70087947-RP-001 Rev. 3 dated 25 July 2022 by WSP demonstrates that the proposed residential blocks are located on raised ground and remain within Flood Zone 1 and outside the extent of a 1 in 100 flood including the latest climate change allowances.

Operational access and maintenance both along the River Avon frontage and to the EA gauging station has been secured.

The Environment Agency now have no objection subject to the works taking place within 8m of the River Avon being secured via a suitable planning condition.

Principle of development in the flood zone conclusion:

Overall, the principle of development is acceptable in Flood zone 3 and complies with policy CP5 of the Core Strategy and NPPF.

#### GENERAL 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.

Policy SU1 states that for both major development ((as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015)) and for minor development in an area at risk of flooding (from any source up to and including the 1 in 100 year+ climate change event) Sustainable Urban Drainage Systems (SuDs) are to be employed for the management of water runoff.

The surface water drainage strategy proposes a maximum discharge of 157 l/s which represents betterment over the previously master planned rate which itself gave betterment compared to the existing brownfield discharge rate. This rate is acceptable.

It is proposed to discharge direct to the River via an existing public sewer which outfalls at the corner of the site, Wessex Water have confirmed that the proposed discharge rate and point of connection is acceptable to them providing they receive confirmation that the outfall pipe is

300mm or greater in diameter. A topographical survey included with the submission shows the outfall to be 450mm which is supported by the Flooding and Drainage Team river-view imagery.

An outline drainage strategy based on onsite attenuation and discharge to the River is submitted. SuDS has been included in the form of ponds, raingardens, permeable surfacing etc. Whilst calculations are included to demonstrate the required level of attenuation required (based on the latest 1in100+45% climate change requirement), detailed calculations showing the performance of the system are not included. As such a detailed drainage design based on the approved Flood Risk Assessment / Outline Drainage Strategy will be secured as a condition.

The surface water drainage design was approved in principle with a condition in Oct 2022 by the Drainage team. The recent re-submission did not include an updated FRA/Drainage strategy, as such the Drainage team requested a revised "Flood Risk Assessment and Outline Drainage Strategy" document to accommodate any proposed changes.

A full revised Flood Risk Assessment and Outline Drainage Strategy has not been provided but an updated Drainage Technical Note has been to summarise the changes to flood risk associated with the agreed outline drainage strategy.

As with the first iteration of the Flood Risk Assessment, the results show negligible changes in peak water levels associated with the conveyance channel in either the 1% AEP event plus 26% climate change and the 1% AEP event plus 39% climate change using either of the supplied models upstream or downstream of the site. Water levels are shown to reduce by less than 1mm upstream of the site. Downstream of the site there are no changes in peak water levels. The limited effect on flood risk is attributed to the fact that there are no changes to the channel or bridge downstream of the site. This in effect continues to control the flows downstream.

The findings of the final iteration of the Flood Risk Assessment will therefore be consistent with the first iteration of the Flood Risk Assessment.

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 part 14 of the NPPF.

#### AFFORDABLE HOUSING:

Policy CP9 has regard to affordable housing. It states that affordable housing will be required as on-site provision in developments of 10 dwellings or 0.5 hectare and above (the lower threshold applies). This proposal is for 611 dwellings, the site is located in an area where the policy requires a 30% target of affordable housing.

Policy CP9 goes on to say that the viability of the proposed development should be taken into account, including; Whether grant or other public subsidy is available; Whether there are exceptional build or other development costs; The achievement of other planning objectives; The tenure and size mix of the affordable housing to be provided.

A Viability Appraisal was submitted with the application. This was reviewed by the Council's Viability Assessors, Dixon Searle, in December 2022. Following initial objection from many consultees to the design of the scheme, revisions were put forward and an updated Viability Appraisal was submitted in January 2024. This has now also been assessed by Dixon Searle. The Dixon Searle Viability Assessment confirms that the



scheme is in significant deficit and that provision of any affordable housing is not viable. The Council therefore agree this position.

Nevertheless, the developer has been in discussion with Homes England to seek funding to help unlock the delivery of houses on this site. As such the developer is now proposing 12% (72 units) affordable housing on site through Homes England Affordable Grant Funding being invested into the scheme. This will be secured via the s106 agreement in phases as an intermediate tenure. Initially delivery will be secured during the later phase four, however the s106 will include a mechanism whereby if any market housing is delivered within phases 1, 2 or 3 and subsequently transferred to a registered provider, upon confirmation and providing evidence to the LPA, it will automatically be deducted from the total amount to be provided within Phase 4. Additionally, a viability review mechanism will be secured via the s106.

Overall, the proposal accords with policy CP9 of the Core Strategy.

#### EDUCATION:

Policy LCR3A has regard to Primary School Capacity. It states that 'residential development will only be acceptable where there is a school within a reasonable distance that has sufficient spare capacity or is able to be expanded to create additional capacity to accommodate the pupil needs arising from the development'.

The NPPF sets out that it is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement.

The Education Team have been consulted on this application.

The proposed development is calculated to generate the following children and pupils:

Early Years age 0-1 = 3.778  
Early Years age 2 = 3.305  
Early Years age 3-4 = 14.186  
Primary age pupils = 29.42  
Secondary age pupils = 0  
Sixth Form age pupils = 0  
Young people aged 13-19 = 0  
Primary:

Based on the latest births and resident population data and number on roll figures, there is currently projected to be sufficient existing primary school capacity available locally to accommodate the 29.42 primary age pupils calculated to be generated by the proposed development.

Early Years:

The Childcare Acts of 2006 and 2016 requires English Councils to measure and report on the sufficiency of available provision in each Council area. The legislation outlines that Childcare operates within a market in most instances, so the market will take the lead on both openings and closures.

This proposal is within the Moorlands area of Bath which has lower than average level of provision compared with other areas within the Council in the latest report. With the continued development of this area demand for places will rise further.

The proposal is for flats as follows:

611 flats:

180 no. 1 bed

376 no. 2 bed

55 no. 3 bed

Based on that breakdown of places the following number of children in early years cohort is anticipated by the Education team:

EY age 0-1 = 3.778

EY age 2 = 3.305

EY age 3-4 = 14.186

In addition, children who a primary aged in working families will be looking for before and after school provision along with holiday childcare. A nursery provider may offer this as part of their service to families.

The application contains a proposal for indoor and outdoor space which will be provided for a 48-place nursery over 2 levels with outside space on the mid terrace on the first level, possibly with some shared use for the premises as well. It shows the nursery on the site plans, provides broad information with regards to travel, DSMP and job creation within the nursery.

The nursery would not only be used by families from the new development but also from families who have moved into the area where redevelopment has already taken place and from the future sites yet to be developed.

The Early Years Education Officer requested further information on how the nursery would be set up and operated. The design and detail of the nursery will be secured via a detailed condition in accordance with the specification of an end user. It is understood that the applicant has been having initial discussions with operators to understand their requirements and will continue to have discussions once the scheme has secured consent. Access to the nursery is securely gained via a separate access on the ground floor as part of the Sidings Square. This is a separate access to that of the residential facility and the closest location to the parking and drop off location for parents and they are visually able to see their children enter and exit the nursery. The play space has been designed so that the first floor is consumed with all of the plant, stair cores and associated cycle parking for the block. Apartments located higher up could potentially overlook however due to the arrangement of the buildings and shallow depth of the play space it is considered that overlooking won't be an issue but, in any case, will be subject to further detailed design with operators.

Overall, the proposal accords with Policy LCR3A.

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.

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.

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.'

Consultees and stakeholders including the Conservation Officer, Policy Officer, Historic England and the Bath Preservation Trust raised concerns with the scheme as originally submitted, raising concerns around scale, massing, height, materials, roofscape form, design detail and quality, public realm and landscape, and the impact of all these would have on heritage.

Additionally, the application was recommended to the International Council on Monuments and Sites (ICOMOS), a non-governmental organisation who work for the conservation and protection of cultural heritage places. As a result of the analysis provided, ICOMOS considered that the original plans as submitted would have a highly negative and unacceptable impact on the Outstanding Universal Value of the properties and should not be approved.

As a result, revisions were submitted. These do not change the application site boundary and description of development. Although, the number of dwellings proposed has been reduced from 616 dwellings to 611 dwellings. The commercial floorspace has been amended from 881 sq m to 917 sq m.

The overall height of the scheme has been reduced, bringing the number of storeys above ground within the maximum allowed for by the Bath Western Riverside SPD's Spatial Masterplan. This has been achieved by relocating some accommodation to lower-ground-floor level, by removing storeys from some buildings, and by reducing floor-to ceiling heights across the board. Langton House (Block F), which under the 2022 scheme was to have been arranged over eight storeys, would now be arranged over six storeys above ground level (seven storeys including the new lower ground floor), and would serve as a 'landmark', providing a 'point of emphasis' at the bend in the river and the point of connection between the level of the public balcony and the riverside. The roof forms of the courtyard buildings (Holder Court (A), Moor Court (B1 and B2) and the avenue building (Junction House, Block G) have been much modified, with more steeply pitched mansards (finished in a slate grey colour) to better accord with Bath's dominant historic character. And, the roof profiles and materiality of the riverside buildings Smith, Palmer, Dodd, and Langton Houses (Blocks C, D, E and F) have been revised to better reference and reinforce the industrial history of the Site itself.

A revised Heritage Impact Assessment and relevant chapters of the ES have also been submitted. The revised plans and information form the basis of the below assessment.

Heritage context:

The site is part of the industrial hinterland to the Georgian City which emerged along the banks of the River Avon from the medieval period.

Bath Gasworks operated from the 1880s to 1980s and there were 3 gasholders on the site which appeared in views from the surrounding area. The gasholders have been removed but their circular footprints remain. The buildings and infrastructure associated with the gasworks have all been cleared, and the site is now partly vacant with some temporary commercial and storage uses.

The proposed development is within two World Heritage Sites: Bath World Heritage Site and The Great Spa Towns of Europe (Bath) and therefore consideration must be given to the effect the proposal might have on the settings of these World Heritage Sites. Bath Conservation Area is immediately north of the site; the conservation area includes the river in its boundary and extends north and north-east. There are surrounding nearby listed buildings and non-designated heritage assets to consider. The nearest listed buildings are the Grade II former gasworks offices (Kelso House) and superintendent's house (Kelso Villa) on the north bank of the river opposite the site. In addition, Victoria Bridge to the east of the site is Grade II\* listed, Royal Victoria Park is a Grade I Registered Park and Garden, the Royal Crescent is Grade I listed and there is a terrace of Grade II listed houses on the Lower Bristol Road. It is noted that the Pipe Bridge crossing the river adjacent to this site is a Non-Designated Heritage asset that has been granted permission for removal via application 23/03780/EFUL.

World Heritage Sites:

The site falls within two World Heritage Site designations: Bath World Heritage Site and The Great Spa Towns of Europe (Bath).

The Bath World Heritage Site is Designated for its Outstanding Universal Values (OUV). These can be summarised as 1. Roman Archaeology, 2. The Hot Springs, 3. Georgian Town Planning 4. Georgian architecture, 5. Green Setting of the City in a hollow in the hills, 6. Georgian architecture reflecting social ambitions (e.g., spa culture).

The Great Spa Towns of Europe (Bath) designation has regard to international European spa culture that developed from the early 18th century to the 1930s, leading to the emergence of grand international resorts that impacted urban typology. The OUV's that have potential to be affected are mineral springs, spa spatial ensemble, spa architecture and therapeutic spa landscape.

The application site does not contain mineral springs (although pilling affecting the Hot Springs is covered in the Hot spring Section of the report below), has not accommodated a spa spatial ensemble or any buildings associated with spa use. It is not considered that the proposal will impact on the city's spa architecture as this is located at a distance where there is no intervisibility or setting contribution.

The application site would not have formed part of the therapeutic spa landscape however the Heritage Statement identifies that there is some overlap here with the Green Setting

attribute which enhances the attractiveness of the spa destination. Initially the plans deviated from the Bath Western Riverside SPD's Spatial Masterplan in a way that would have challenged the uniformity of appearance of the city in longer views and intruded into landscape views, particularly into the green backdrop of Victoria Park, a Grade I registered park & garden.

The height of most of the blocks has been reduced, bringing the scheme within the maximum number of storeys above ground allowed for by the Bath Western Riverside SPD's Spatial Masterplan, and markedly reducing its impact on this key attribute of the WHS's OUV. In longer views, the reductions in height avoid the proposed development breaking the skyline in views from St Michael's Road and Cork Terrace. The development is now designed to sit beneath the ridge in key views which allows it to be more part of the place, when compared against the previous plans. The height reductions also address previous concerns about the potential impact of the proposals on the setting of Victoria Park from Kelston Rise. This along with the heritage statement and landscape assessment shows that whilst there will be the introduction of built form into some views, the views would be now maintained to a level of negligible impact. It is also noted that development and therefore built form on this site has long been expected and there were once large historic industrial structures on site.

The proposal site is not considered to harm the roman archaeology attribute (archaeology is discussed further below and will be conditioned). The Hot springs attribute overlaps with the mineral spring attribute discussed above and would not be harmed. In terms of Georgian town Planning the proposal site is set away from the main Georgian historic core of the city, now the proposed heights have been reduced the intervisibility between the site and the Georgian architecture setting is not considered harmed. The Green setting overlaps with the therapeutic spa landscape as discussed above and the impact on this attribute is now considered to be acceptable. Again, there is overlap with attribute 6 (Georgian architecture reflecting social ambitions) and the Great Spa Town Designation, for the reasons above this attribute is not considered to be directly harmed.

It is noted that the Conservation Officer (now the World Heritage Officer) has concluded that the harm to the WHS is negligible, and that Historic England have no objection stating they find 'no harm to the Outstanding Universal Value of the City of Bath and Great Spa Towns of Europe World Heritage Sites'.

Additionally, the International Council on Monuments and Sites (ICOMOS), a non-governmental international organisation dedicated to the conservation of the world's monuments and sites, were notified of the scheme. In their initial Technical Review, they found that whilst it was indisputable that the site needed redevelopment the scheme as initially proposed resulted in harm to the World Heritage Site. Following the submission of revised plans ICOMOS performed a second technical review and now conclude that the Proposed Development has introduced notable changes compared to the previous scheme, in accordance with the recommendation of ICOMOS Technical review (April 2023) and that it would not have a significant negative impact on the OUV and integrity of the World Heritage properties, they do note however that it cannot be said to deliver landscape benefits (landscape matters are discussed further separately below).

Overall officer's are satisfied that the proposal will no longer harm the OUV's of the World Heritage sites.

## Conservation Area:

Bath Conservation Area is immediately north of the site; the conservation area includes the river in its boundary and extends north and north-east. The conservation area covers most of the city but excludes the site and the land to the east south and west of the river immediately surrounding the site. The site therefore forms part of the setting of the conservation area.

The site was previously occupied by gas works buildings including the prominent gas holders. It is considered that these had a detrimental impact to the conservation area setting. These have now been removed for some time in anticipation of redevelopment of the site. The current derelict site is also not considered to contribute to the setting of the conservation area.

As set out above in the World Heritage Sites section the height of the development is now 5-6 storeys in height, with an articulated roofscape which better reflects the character of Bath's townscape, bringing the scheme within the maximum number of storeys above ground allowed for by the Bath Western Riverside SPD's Spatial Masterplan, this significantly reduces the impact on the setting of the conservation area also.

The buildings proposed along the riverfront, blocks of Smith, Palmer, Dodd, and Langton Houses (C, D, E and F), are in the closest proximity and most visible from the Conservation Area. These buildings have been revised to take cues from the Victorian gas works industrial character. These buildings are proposed to be finished in red brick. The proposed use of brick, rather than stone, is a departure from the masterplan. However, Officers, along with Historic England, consider that brick is an appropriate response to the industrial history of the site, and that Bath stone was not used for high density urban forms. It is also noted that when viewed from elevated long distance positions Bath stone facings would appear starker. Therefore, based on the historic cues and long views brick is considered appropriate here.

The Conservation Officer and Historic England now find no harm to the setting of the Conservation Area.

## Listed Buildings:

The nearest listed buildings are the Grade II former gasworks offices (Kelso House) and superintendent's house (Kelso Villa) on the north bank of the river opposite the site. In addition, Victoria Bridge to the east of the site is Grade II\* listed, Royal Victoria Park is a Grade I Registered Park and Garden, the Royal Crescent is Grade I listed and there is a terrace of Grade II listed houses on the Lower Bristol Road.

In most cases the Proposed Development's presence would be appreciable, its scale, architectural form and materiality would appear suitably recessive, and it would not have a dominating or detracting effect on the listed structures' significance.

Again, as above, the heights are now reduced to a scale appropriate to the Bath Western Riverside SPD's Spatial Masterplan and the design detail has responded to local cues and historic vernacular. This has resulted in the impact to the wider setting of important listed

buildings being reduced. The Heritage Statement has particularly looked into the Royal Crescent because it was designed expressly to afford views out beyond the city and finds that 'the Proposed Development would introduce new built form into the middle ground. However, as discussed above, the scheme's scale, architectural form and materiality would appear suitably recessive, and would not have a dominating or detracting effect on the Crescent's wider setting' of which officers are in agreement.

Once again, the Conservation Officer and Historic England have raised no objection to the scheme on listed building grounds and the proposal is found to preserve the setting and special interest of these heritage assets.

#### Non-Designated Heritage Assets:

The 'Pipe Bridge' to the north is identified as a 'non-designated heritage asset' (NDHA). The Pipe bridge has permission to be removed as part of the land remediation phase of the development. Under that application it was found that the total loss of the bridge would result in the lower end of less than substantial harm which was outweighed by a programme of Historic Building Recording along with other material considerations. The bridge has not been included within the redline of this application.

#### Archaeology:

The submitted Archaeological desk-based assessment recognises that the site does have potential for archaeology relating to the prehistoric and Roman periods. It also identifies that the site has been subject to disturbance from the construction and decommissioning of the 19th century gasworks.

The South West Heritage Trust have been consulted on the scheme and raised no objection subject to conditions on archaeological grounds. They consider that based on the information it would be appropriate that conditions should be attached to permission that ensures archaeological mitigation is carried out to ensure investigation and recording of any remains encountered during work associated with this proposal on the site.

#### Heritage Conclusions:

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

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 Core Strategy, policy HE1 of the Placemaking Plan and part 16 of the NPPF.

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. Here it is considered that the proposals are consistent with the aims and requirements of the primary legislation and planning policy and guidance. The proposals would not have an unacceptable impact on the listed building or its setting and would preserve the significance of the designated Heritage asset. The proposal accords with policy HE1 of the Placemaking Plan and part 16 of the NPPF.

Overall, the proposal is considered acceptable on heritage grounds.

#### 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. 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. In addition, policy SB8 has regard to design principles that include seeking provision of a high-quality public realm, active building frontages, etc.

#### Context:

The site comprises approximately 4.27 hectares of brownfield land and is bound by the River Avon to the north and Windsor Bridge Road to the west. The former Bath Gasworks site lies to the west of Bath City Centre. Currently, access is gained from Windsor Bridge Road. The site currently comprises several gas holder voids which are no longer in use and derelict buildings.

The proposed development comprises a new residential community including 611 new homes along with provision of commercial units (including a nursery/early years facility, micro coffee counter and riverside food and beverage space) associated infrastructure, biodiversity and landscape enhancements and demolition and remediation of existing structures. The residential dwellings will be distributed across seven blocks (Blocks A-G), with the food and beverage floorspace provided at the ground floor level within Blocks B and F. The nursery floorspace is provided within Block B.

As set out in the Heritage section above, significant concern was raised with regards to the design of the originally submitted scheme around scale, massing, height, materials, roofscape form, design detail and quality, and public realm as a result, revisions were submitted in order to address the concerns.

#### Layout:

Over the course of pre-applications, design reviews, and the current application the layout of the scheme has evolved. A 10m or more riverside landscape area is now proposed that incorporates footpaths and a riverside park called Longmead View helping achieve appropriate landscape space and setting between the river and built form.



There are four blocks then located adjacent to the riverside (Smith House, Palmer House, Dodd House and Langton Court). The blocks address the river rather than turn away from it. They also articulate the shape of the river by following the bend resulting in a natural legibility rather than a harsh straight line.

Central to the site is an S shaped block known as Holder Court. Moor Court is located to the west of the site but also centrally, which combines three blocks around an open space. Then junction House, a liner block, is located along the southern boundary. These three elements repeat the general urban grain of the larger central blocks and linear southern blocks within the existing Bath Western Riverside blocks. Again, the footprints of these blocks have been stepped or cranked to follow the natural edge of the site and add visual interest.

Two east-west routes connect to Windsor Bridge Road; the northern route continues the alignment and frontage of Elizabeth Parade while the southern route (Stothert Avenue) integrates the new east-west sustainable transport route. Two north-south landscaped neighbourhood streets connect these routes, one of which will be pedestrianised. Longmead Avenue, the non-pedestrian north-south street, will connect the riverside park (Longmead view) and another public space called siding Square. Along with the landscaping and footpath links, for example from the north west corner to Windsor Bridge, the layout achieves successful permeability.

The updated plans have also resulted in the introduction of lower ground floor accommodation on to the riverside to provide more natural surveillance and introduction of dwellings with individual front doors on to key streets to provide more activity.

The proposed layout is considered to fit comfortably within the site and integrates successfully with the surroundings.

#### Height and Scale:

As set out above, the heights of the proposed development have reduced significantly over the course of the application. Block A (Holder Court) and B (Moor Court) comprise of 5 storey buildings with an additional mansard storey set back from the main shoulder height. The riverside blocks are generally 6 storeys above ground level (a lower ground level is also incorporated), however block F (Langton House) is split level being part 5 and 6 storey above ground level. Block G (Junction House) is also split level, being 6 storeys to the east and 5 to the west.

The Bath Western Riverside SPD's Spatial Masterplan identifies the acceptable building heights across the site. Within this area 3-6 storeys are considered acceptable. The revisions bring the proposed heights into accordance with the Masterplan.

These heights now result in a more 'human' scale of development across the site and a scale that integrates with the surrounding built form of Bath Western Riverside.

#### Scale, Massing and Form:

Starting with the proposed riverside buildings, these have been redesigned with an industrial approach. The roof forms are now pitched, and gables are expressed to the river which will mimic the historic gas works buildings.

The symmetrical fenestration is set within a regular horizontal and vertical projecting brick 'frame'. balconies are incorporated within the roof. The scale and form of these buildings are considered successful in articulating the historic industrial influence and the simplicity of the roof form is now considered visually pleasing.

The design of the courtyard buildings, Holder Court and Moor Court, have also been simplified. The architectural design influence for these blocks is the wider context of Bath, with the rhythm and structure of the elevations and set back mansard roofs being of Georgian influence. Georgian buildings in Bath generally feature a well-defined base, middle and top expressed through simple bands. The ground floor appears as a plinth with 4 storeys above, the final storey is set into a mansard which has had its pitched steepened to successfully create a more Georgian influenced form. The roof is considered to integrate much more successfully with the building itself now rather than appearing as a complicated and odd vertical projecting feature. The fenestration placement and solid to void ratio is also much more harmonious.

Junction House in the south of the site has also been redesigned. Initially the building was flat roofed resulting in a harsh massing that was lacking in interest and wasn't grounded by local design context. The roof form has now been amended to provide pitched elements, and the choice of materials articulate this more successfully. Again, this building takes cues from the Georgian well-defined base, middle and top. The block is relatively simple in form being linear, it does have a stagger which provides a break in the building frontage necessary given its length and to respect the street layout.

Overall, the revised design results in an acceptable scale, massing and form to all of the blocks.

#### Design Detail:

The above scale, massing and form section has begun to touch on some of the design detail of the scheme. to expand further, the Riverside buildings (Langton, Dood, Palmer and Smith) will now be finished in red brick which is considered appropriate in line with the industrial influence of the design. Interest and detail will be added through the use of brickwork detailing including at the base of the building and brick header style detailing around balconies and windows. The metalwork of the building will be finished in a tone to complement the red brick to ensure homogeneity in appearance.

The Courtyard buildings (Moor and Holder) now both have improved in materiality. The brickwork used will be a daker multi buff brick to add warmth and interest, the metal work has been updated to a darker bronze to compliment, this will also add some depth to the design. The roof materials have been amended to grey colour which is considered more in keeping with the city roofscape. Again, brickwork detail will add visual interest and keep the buildings from being undifferentiated.

Finally, junction house also now employs the use of darker brick. A mix of dormer window styles and sizes is proposed through the modern mansard style roof form, this serves to

break up the roof massing and bring down the visual height. Balconies are proposed to the north and south elevations. Sample panels and materials will be secured by condition.

#### Public Realm:

The layout section above discusses how the buildings now address the public realm of the site. The scheme includes multiple external urban spaces that are either publicly or privately accessible. The scheme introduces an ecological buffer along the river Avon which, whilst including a pedestrian walk way will be most inaccessible being reserved for ecology. Also, at the riverside in the north west corner of the site is Longmead Park referred to in the submission as a 'river balcony' this area form one of two primary public spaces. A restaurant is proposed to the ground floor of Langton House which will compliment Longmead park helping to animate this area. Sidings Square provides the other area of public open space in the south of the site. Each space is situated either end of the main through route to traffic, Longmead Avenue, Hopsmead Walk will then provide a pedestrian north-south route in the east of the site. Individual blocks then have their own private amenity spaces. The sustainable travel route then runs along Stothert Avenue. Overall, the public space is well connected and located in pedestrian desire lines. The private amenity space is well concealed within the blocks and at the river edge blocks ensure the important gaps between each block aren't left as unused voids.

#### Character and Appearance Conclusion:

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 Core Strategy and policies D1, D2, D3, D4 and D5 of the Placemaking Plan and part 12 of the NPPF.

#### HOUSING MIX:

Policy CP10 of the Development Plan states that new housing development, both market and affordable must provide for a variety of housing types, tenure and size to accommodate a range of different households.

The proposal incorporates 180 x one bed dwellings, 376 x two bed dwellings and 55 x three bed dwellings. This is alongside a nursery/early years facility, non-residential uses, a sustainable transport route, and landscaping and public realm. This development will provide a mix of dwellings and associated land uses that should result in a well-balanced local community over time.

Overall, the proposal accords with policy CP10 of the Core Strategy.

#### HOUSING ACCESSIBILITY:

Local Plan Partial Update policy H7 requires 5.6% of dwellings to be built to Building Regulation M4(3)(2a) standard (wheelchair adaptable housing). Therefore, 34 of the 611 proposed dwellings must meet enhanced accessibility standards. This can be conditioned.

The policy also states that 48% of the remainder of housing, after the M4(3)(2a) figure has been accounted for, must meet the M4(2) accessible and adaptable dwellings standard. Therefore, 277 of the remaining 577 proposed dwellings must meet enhanced accessibility standards. The submitted Housing Accessibility Statement sets out that all of the dwellings meet with M4(2).

The proposal complies with policy H7.

#### LANDSCAPE:

Local Plan Partial Update policy NE2 has regard to conserving and enhancing the landscape and landscape character. The policy notes a number of criteria which should be met in order for the development to be considered acceptable in landscape, including conserving the local landscape character and conserving. The policy also states that development should seek to avoid or should adequately mitigate any adverse impacts on the landscape. Proposals with the potential to impact on the landscape/townscape character of an area or on views should be accompanied by a Landscape and Visual Impact Assessment undertaken by a qualified practitioner to inform the design and location of any new development.

The site is located in the valley floor of the city, adjacent to the Conservation area and within the two world heritage sites. This forms the townscape context of the development site. The site is visible in wider views across the city given its valley location.

As set out in the Heritage and Character Sections above, initially there was significant concerns with the height of the proposal, this was also true in landscape and townscape impact terms. The revised scheme, and in particular the reduced building heights and amended roofscape, addresses previous concerns relating to landscape and townscape impact and the response to both the immediate local environment and the city-wide context. The landscape officer has been consulted and no longer raises an objection on these grounds.

The concept of designing the greenspace closest to the riverside as primary for ecology with a gradual shift towards amenity and recreational benefits moving away from the river is welcomed. More general onsite landscaping is discussed further in the public realm section above. The onsite provision is generally accepted.

However, the landscape officer has raised concerns with the importance of the north-south Green Street (in the centre of the wider site) to the quality of the public realm and to the success of the scheme as a whole and considers it not acceptable for it to be shown as only half a street. This part of the site is where the boundary joins with the BaNES scheme, which is currently stalled. Whilst the usual landscape conditions will be required, in this instance a further condition will be added requiring the submission of the interim details of the green street and details of the final design at a later date.

In addition, clarifications and additional details relating to play provision and hard and soft landscape design proposals can be secured via condition. An updated Landscape and Ecological Management Plan (LEMP) should be submitted for approval at the same time as final landscape design proposals, since it will need to cross-refer, this can be at condition stage.

Overall, the proposal is considered to comply with policy NE2 of the Local Plan Partial Update, policy NE2A of the Placemaking Plan and part 15 of the NPPF.

#### HIGHWAYS MATTERS:

Multiple policies set the scene in terms of highways matters. The most pertinent ones are listed below.

Policy ST1 has regard to Promoting Sustainable Travel, it requires a number of principles are addressed in order to ensure the delivery of well-connected places, accessible by sustainable means of transport. These principles include reducing car dependency, providing sustainable travel connections, mitigation of traffic impacts, enhanced facilities for pedestrians, cyclists and disabled people, and more.

Policy ST2 refers to Sustainable Travel Routes (STR), it states 'Development which prejudices the use of former railway land for sustainable transport purposes as shown on the Policies Map will not be permitted'. The Green Park Station to Newbridge Road STR runs along the south of the site. Policy ST2A also confirms that development will not be permitted which adversely affects Active Travel Routes.

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

Policy SB8 allocates the site for residential led mixed use development. It sets out a number of development requirements and design principles. In particular criterion 4 relates to highways matters. It states that the proposal must provide a comprehensive Transport Assessment. This will need to include a traffic impact assessment. Development is to provide comprehensive on and off- site transport infrastructure. See full policy text in the section above.

#### Highways Context:

The Highways Development Team have been consulted on the application. This is an allocated site with a presumption in favour of development in a sustainable part of our District. The assessment below considers the detail of the application through that lens looking at the current baseline transport conditions.

The site is located in close proximity to some of the main roads serving the city, the Upper Bristol Road (A4) to the north and the Lower Bristol Road (A36 to the South) Windsor Bridge Road (A3604) bounds the site to the west and Midland Road to the east. A number of bus stops are located around the site I walking distance with Oldfield Park Railway Station around 650m away and Bath Spa Station is around a 20-minute walk (in the city centre). A well-used footpath along the river is to the north of the site, this is also a designated national cycle route.

#### Access:

Vehicular access to the site will be taken from Midland Road. This will be in part a two-way route, ending part way down the north-south road, at which point the vehicle route will become one way joining onto the new STR provided with the development, leading eastbound back out of the site (exit only) into the wider BWR area. New pedestrian / cycle accesses will be provided at all four corners of the site, with various routes through the site.

The land required to provide access to the development is not contained within the applicants ownership or control. However, this land is within the control/ownership of the Council as part of the adjoining development currently under consideration 23/01762/ERE03. There is a separate legal agreement between the Developer and the Council in its role as Developer of the adjoining site which provides for either party to construct the access.

The red line boundary has been updated so it now includes the full length to the STR and connects to the public highways, as requested by the highways team.

Upper Bristol Road/Midland Road is a priority junction with minimal pedestrian and cycle facilities. This junction needs upgrading in order to accommodate the cycle/pedestrian needs of the development, to tie into the recently introduced active travel scheme on Upper Bristol Road and provide access in line with current policy which requires maximisation of active travel options. The proposals submitted for this junction to introduce a toucan crossing to the west of the junction is not adequate and represents a fragmented and compromised offer. The junction should be signalised, incorporating dedicated walking and cycling provision both east/west and from Midland Road. The signalization is to provide a suitable level of pedestrian/cycle priority not to address any traffic capacity issues. A contribution has been secured towards these highways works through the section 106 agreement.

Southern site egress point onto Midland Road can only achieve a 2m x 12.4m visibility splay to the north and 27m to the south. The Developers have confirmed agreement to fund ANPR to resolve the visibility/speed issue.

The internal vehicle route has been designed with a minimum width of 4.5m along its one-way section and therefore, is sufficient to provide access for a fire tender to travel through the Site and set down and operate. Emergency access will be provided to each building core from the internal street network.

Trips/ vehicular impact:

The submitted Transport Assessment identifies that the development would result in the addition of 97 two-way vehicle trips in the AM peak and 100 two-way vehicle trips in the PM peak with 1061 two-way vehicle trips anticipated over the course of a 12hr day.

Junction modelling taken place at both site access junctions and the junction of Upper Bristol Road/ Midland Road. The modelling demonstrated that all junctions would operate with ample capacity with minimal queues and delays.

In addition, as a result of introducing a new Toucan Crossing on Windsor Bridge Road a detailed modelling assessment of Windsor Bridge Road has been undertaken which includes the junctions of Windsor Bridge Road / Upper Bristol Road and Windsor Bridge Road / Lower Bristol Road. The modelling above demonstrates that in both the 2021 core scenario and the 2029 cumulative scenario that the Proposed Development has a negligible impact on the Windsor Bridge Road Corridor. It is therefore concluded that the provision of an at-grade Toucan crossing would not create a severe impact on the Windsor Bridge Road corridor.

The highways Team have confirmed that based on the modelling assessment it is not considered that the impact to the wider road network would be severe cumulative impact.

#### Active Travel/ Walking and Cycling:

'Active Travel' is a term used to describe walking and cycling for purposeful journeys. Whilst walking and cycling are in themselves healthy activities that are to be encouraged, it is when they displace car journeys that they deliver significant benefits for the health and well-being for individuals and to local communities.

The submission states that the aim of the proposals is to prioritise pedestrians and cyclists above other site users.

The proposal now maintains the Green Park Station to Newbridge Road STR in the south of the site running from east to west, along the proposed Stothert Avenue. This will form part of a longer traffic-free and low traffic east/west route into the City Centre for pedestrians and cyclists, away from the busier Lower Bristol Road which is welcomed. The western end is largely free of traffic except for occasional emergency access while the central and eastern sections also provide access for a small amount of vehicular traffic but designed at a slow speed (20mph).

A pedestrian cycle route (car free) also runs north to south through the site adjacent to the BaNES site. A pedestrian only route will run along the river front an link with Windsor bridge road through ramped and steeped access, following pedestrian desire lines.

Both the Highways team and Active Travel England have identified that the development must go further in promoting sustainable development and healthy streets. As contribution towards sustainable travel has now also been agreed and will be secured via the s106 agreement. See further details in the Offsite Improvements below.

#### Parking Standards:

Beginning with car parking, the site sits within Zone B, Outer Bath which requires the following maximum car parking:

1bed = 1 space

2bed = 1.25 space

3bed = 1.5 space

Based on this the maximum number of spaces required is as follows:

180 no. 1 bed units x 1 space = 180 spaces max

376 no. 2 bed units x 1.25 spaces = 470 spaces max

55 no. 3 bed units x 1.5 spaces = 82.5 spaces max  
Total maximum allowed = 732.5

It is proposed to provide parking for residents at ground and first floor level. A total of 218 residential car parking spaces will be provided, equating to a parking ratio of circa 0.33 spaces per dwelling. Therefore, the proposed parking is one third of the maximum parking ratio for this area. In addition, the café proposed on-site is to serve the future community of Bath Gasworks and support any passby walking trips. In this respect, the café on-site would not attract trips from further afield. On this basis no additional car parking is being proposed. For the nursery, an operator has not been secured and therefore it is unknown how many staff will be employed. Once an operator is secured and the quantum known future provision can be made within the undercroft parking of Block B, given the size of the nursery, the likelihood of walking drop offs this is considered acceptable as only staff parking will be required.

The adopted SPD requires that any reduction in maximum standards by  $\geq 15\%$  is significant and should be accompanied by an Accessibility Assessment.

The risk of under-provision, potentially resulting in over-spill parking and associated issues, is addressed within an Accessibility Assessment approach (set out in the SPD) by ensuring that standards are appropriate to the local context. The standards allow for low car development but establishes conditions where that is appropriate to address the associated risks, including good accessibility, availability of car clubs, controls on overspill parking, and efficiency of parking management arrangements.

An accessibility assessment has been submitted with the application at appendix P. Whilst the assessment of the routes and facilities is thorough the highways team do not agree with the scoring given and therefore the final outcome that a reduction of up to 100% would be appropriate. However, in this instance a 100% reduction is not proposed in any case; a 66% reduction is. This is accepted, however given the quality of the infrastructure significant off-site upgrades are required to support the level of parking proposed, this is discussed further below in Offsite Improvements.

Details on how parking will be managed on site from first occupation until such time as highway adoption/introduction of appropriate TRO's is essential to avoid overspill parking/obstruction issue and to prevent habit forming from the start and to ease the TRO process. This will be covered by condition/S106.

It is proposed that three on-street car club parking spaces will be provided along the internal vehicle route through the Site. These will be located at the north of Block A outside of the residential facilities. This is welcomed. A financial contribution will be secured for ongoing monitoring.

In terms of cycle parking the following standards are required:

180 x one-bed dwellings = 360 spaces

376 x two-bed dwellings = 752 spaces

55 x three-bed dwellings = 165 spaces

This would equate to a total of 1,277 residential cycle parking spaces. In this instance 1,296 spaces are being provided across the site.



Cycle parking will be accommodated across ground and first floor levels assisted by lift access which will be designed to accommodate bicycles. It will be a mix of two-tier racks and Sheffield stands and larger spaces for cargo bikes/accessible bikes/tricycles etc. Additional spaces to support the other uses (nursery, café) will be provided at each of the units.

Overall, the provision exceeds policy requirements with a further commitment to keep the demand under review through the Travel Plan and increase provision should it be required.

#### EV Charging:

All spaces will be fitted with active charging infrastructure. As such the proposal will be compliant with SPD requirements, this will be covered by condition.

#### Travel Plan:

The Developers have confirmed acceptance of a financial contribution as set out in the SPD. As the Developers are delivering the Travel Plan themselves the monitoring fee is £4,775.00 with a bond of £479,069.00 based on the relevant calculations.

#### Waste:

Refuse collection will take place on-site from the internal street network. Four loading bays are provided within the Site for the collection vehicle to stop. It is noted that one of the fourteen bin stores is located outside of the maximum 12m drag distance permitted. In this instance the estate management team will be responsible for moving the bins to an appropriate location for collection and then will return the empty bins to the refuse stores. This can be secured by condition for a waste management agreement.

#### Offsite Improvements:

In order to address the shortfalls in the development and improve active travel in line with Policy SB8, some of the proposed offsite improvements included as part of this application are:

- Windsor Bridge Road footway: it is proposed to upgrade the footway along the entire Site frontage on Windsor Bridge Road. The footway will be widened, resurfaced and existing crossovers will be removed, and the footways reinstated at these points.
- Sustainable Transport Route: the delivery of the Sustainable Transport Route (STR) between Windsor Bridge Road and Midland Road cannot be delivered without the redevelopment of this site and will create an important part of a longer traffic-free and low traffic east/west route into the City Centre for pedestrians and cyclists.
- Windsor Bridge Road Toucan Crossing: in order to safely continue the STR across Windsor Bridge Road a Toucan crossing will be installed, allowing both pedestrians and cyclists to cross the carriageway with ease.
- Relocation of Windsor Bridge Road Northbound Bus Stop: the existing bus stop located opposite the site on Windsor Bridge Road will be relocated circa 50 - 60m to the north. This is to ensure the path of the STR is unobstructed and to ensure the Toucan

crossing can be provided at the most appropriate position, reflecting future pedestrian and cycle desire lines

- Tactile paving currently provided on crossings at the Upper Bristol Road / Windsor Bridge Road junction is in a poor state of repair. It is proposed to replace the tactile paving and ensure any dropped kerbs are entirely flush in order to improve the pedestrian environment for existing and future residents

It is the view of the Highways Team that these proposals, whilst welcomed, do not go far enough in addressing the significant shortfalls in promoting sustainable development and healthy streets. A comprehensive package of improvement to the existing walking, cycling and public transport infrastructure which will promote significant modal shift to more sustainable forms of transport, is required in accordance with Policy ST1 of the emerging LPPU.

There are a number of opportunities to support existing unfunded/partially funded schemes that would benefit the site and move the application towards a policy compliant position.

Therefore, a financial contribution towards the above is considered acceptable as mitigation in order to make the development policy compliant. The final mitigations required are:

- Pro rata contribution to list of transport works necessary to support the development of £169,787.08
- £60,000.00 towards ANPR, safety and enforcement at Southern egress
- A sustainable transport payment of £992.78 per unit, total contribution of £606,588.45 towards two strategic projects which will directly benefit users of the site.
- Traffic Signal upgrade at Windsor Bridge/ Upper Bristol Rd of £191,106.51
- Travel Plan bond of £479,069.00 along with £4,775.00 monitoring fee

Highways conclusion:

Based on the above technical detail, and along with the proposed highways contributions, the proposal accords with policy ST7 of the Local Plan Partial Update, the Transport and Development Supplementary Planning Document, and part 9 of the NPPF.

**CONTAMINATED LAND:**

Local Plan Partial update policy PCS5 has regard to Contamination.

Most recently, the Site has been part vacant, and part tenanted by various commercial / industrial uses (car parking and car maintenance, foundations of former buildings, temporary offices, redundant gas works infrastructure). The surrounding area is mixed residential, commercial, and industrial. The Site has a long history of use, first as a chemical works, then as part of the Bath Gas Works. It was historically raised above original levels with unknown imported fill resulting in the presence of Made Ground (frequently ashy) along with underground obstructions, with some localised hydrocarbon and gasworks impacted ground. There are a number of potential point sources of contamination associated with the specific gas works related activities that took place on site.

A Remediation Strategy has been submitted with this application, Bath Western Riverside Gaslands. Remediation Strategy. Buro Happold Limited. Ref: 0044315. 22 September 2023. Rev. P07, along with Environmental Statement Chapter 8 Ground Conditions and Contamination (Supplementary Information 2023). A comprehensive assessment of the effects relating to ground conditions and contamination are set out in Chapter 8 of the ES. The Outline Remediation Strategy forms a technical appendix to this.

Given the complex nature of this scheme and the time it has taken to bring forward the remediation phase was separated out and the remediation works have already been granted under planning permission 23/03780/EFUL. The overall aim of the remediation is to sever the pathway or reduce the potential risks from land contamination at this Site to people and the natural and built environments, through the application of physical remediation activities and other appropriate mitigation measures.

A preferred remedial scheme has been identified which comprised a combination of remedial treatment actions to:

- manage and treat contaminated soils.
- manage and treat contaminated water.
- reduce / remove the pollutant linkages to the river Avon and future site users.

Application 23/03780/EFUL requires the final details of remedial methodology such as stabilisation, solidification and bioremediation following treatment trials, to be developed prior to commencing on-site works via condition.

This scheme still includes reference to the remediation works and they could take place under this development, should application 23/03780/EFUL not be implemented it is considered necessary to secure the same details and conditions as part of this application. These conditions can easily be discharged if the remediation application is implemented in advance of this scheme being granted permission.

The Contaminated Land officer has been consulted on this application. In relation to risks to human health, the Contaminated Land Officer has confirmed that they are satisfied with the Remedial Strategy. Taking account of the Remediation Strategy submitted, the site investigation and risk assessment reports, findings and recommendations, the requirement for further assessment and the comments from the Environment Agency in relation to Controlled Waters, no objection is raised subject to the full set of contaminated land conditions pertaining to risk assessment, verification and unexpected contaminated being attached to a permission.

#### HOT SPRINGS:

The County of Avon Act gives Bath and North East Somerset Council (B&NES) powers to protect the natural thermal springs that arise under artesian pressure in the centre of Bath, from damage that could result from excavations, piling operations or boreholes in the Bath area.

The areas of protection form three concentric zones. Within these zones consent from the Council is required for excavations of depths below the surface of the natural ground, exceeding 5m in the central zone around the Hot Springs, 15m in the zone along the river valley, and 50m in the outer zone as shown on the County of Avon Act map on the

B&NES Council Website. These are labelled as zones A, B & C respectively on the Avon Act map.

The Site is located in the second zone (Zone B). The Hot Springs officer has been consulted. At this stage the applicant may not know what the depth of excavation for investigation or piling is, or the details of the site investigation or piling methods proposed. Should the applicant wish to excavate, drill or pile to depths below 15 m in Zone B, they will need to apply for a separate consent as part of the Avon Act. As such an informative will be added to the decision notice reminding the applicant of this application process.

#### 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.

The site forms the western end of the bath Western Riverside Development Area. To the north of the site is the river Avon and beyond that an undeveloped parcel of land forming part of the BWR area. East of the site is the council BWR scheme pending planning permission and further east still are the already built out development of BWR. South of the site are recently permitted and part built mixed use schemes that include residential and student accommodation. West of the site is Windsor bridge road which is a change in level and further west is the industrial estate known as Stable Yard.

The main considerations in residential amenity terms are to those units to the east and south along with within the site itself.

It is noted that there is around a 22m distance maintained from Junction House and the buildings to the south. There is also a 22m gap maintained between Holder Court and the proposed Council scheme buildings to the east. This is considered an acceptable distance to maintain residential amenity, with 18m being the industry norm. Between the proposed blocks themselves distances of between 16m at the narrowest to 18m is maintained between blocks. A level of overlooking is expected in residential areas and it is not considered that the proposed scheme would result in undesirable levels to warrant refusal. Window placement has been offset in most locations to ensure no direct visibility between blocks.

The surrounding existing, partly constructed and proposed blocks are similar in height and scale to the proposed development and given this character along with the separation distances it is not consider that the proposal will result in an overbearing or significant overshadowing impact on existing or future residents.

Noise and air quality matters are considered in the pollution section below.

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.

The proposal accords with policy D6 of the Placemaking Plan and part 12 of the NPPF.

## POLLUTION:

### Air quality:

Potential air quality impacts have been assessed as part of the accompanying EIA, within the Environmental Statement- Chapter 06- Air Quality (Tracked Changed) report, dated September 2023. The environmental monitoring team have been consulted on the application.

A 2021 baseline has been used for Air quality monitoring. The 2022 data was not available at that time of the assessment which is accepted by the environmental monitoring team.

It is noted that emissions from the car park ventilation have not been considered as they are still subject to detailed design. As the car park ventilation will be close to residential properties an assessment should be made before development commences to ensure there are no adverse effects of receptors, as recommended in the Land-Use Planning and Development Control: Planning for Air Quality Guidance (Environmental Protection UK (EPUK) and the Institute of Air Quality Management (IAQM) 2017). As such this will be conditioned.

The construction dust assessment (Appendix 6.2), states that the risk of dust and PM10 without mitigation is high and that a dust management plan is required. Again, this can be conditioned as part of the Construction Environmental Management Plan.

The environmental monitoring team have raised no objection to the scheme in regard to air quality matters.

### Noise/ Disturbance:

Noise impact has been considered in respect of the construction and operational stages of the proposed development, this topic is assessed as part of the EIA and associated technical information is included at Chapter 7 of the ES.

The Environmental Protection Team have been consulted on the scheme and raise no objection subject to condition. they note that the impact of noise from road traffic on sensitive facades has been identified with minimum sound insulation performance requirements. A condition will therefore be attached to ensure that the following levels shall be achieved: Maximum internal noise levels of 35dBLAeq,16hr and 30dBLAeq,8hr for living rooms and bedrooms during the daytime and night time respectively. For bedrooms at night individual noise events (measured with F time-weighting) shall not (normally) exceed 45dBLAmax.

Additionally, plant noise associated with the operational phase of the development has been assessed and appropriate limits have been proposed which will be secured by condition.

Finally, a Construction Management Plan will be secured by condition in order to protect neighbouring residents from the impacts of construction

It is noted that the Gull Officer has objected due to lack of a Gull management plan being submitted with the scheme. To ensure that the amenities of future occupiers are protected, the applicant is required to submit a Gull Management Plan, this can be secured by condition.

## TREES:

Local Plan Partial Update policy NE6 has regard to trees and woodland consecration. Development should seek to avoid adverse impacts on trees and woodlands of wildlife, landscape, historic, amenity and productive or cultural value, as well as appropriately retaining trees and providing new tree planting. Development will only be permitted where it can be demonstrated that adverse impacts on trees are unavoidable to allow for development and that compensatory provision will be made in accordance with guidance within the Planning Obligations Supplementary Planning Document (2023). Development proposals which directly or indirectly affect ancient woodland and ancient or veteran trees will not be permitted.

It is also noted that site allocation policy SB8 has regard to trees and vegetation seeking to retain vegetation along the riverside edge and reinstating any required clearance vegetation.

The site contains a mixture of trees, some of which were planted and some that were naturally self-set. Along the riverbank is a collection of mixed broadleaves, including the taller hybrid poplar and sycamore, alder and cherry. Within the site, predominantly along the main access road, is a mixture of what appear to be planted trees, including silver birch, cherry and Norway maple. Throughout the site is a collection of self-set saplings that are predominantly alder with some goat willow and silver birch. Areas of the site are dominated by mixed shrubs, consisting primarily of buddleia.

The trees are not located within the Conservation Area, none are TPO'd nor are any veteran trees.

As part of the on-site remediation removal of contaminated soils and hard surface at the surface of the site is required including in those areas that contain trees adjacent to the river bank. Required excavation to circa 750mm below existing ground level will either remove the majority of roots or expose them significantly to the elements. Loss of roots to this degree has a harmful effect on trees whereby it reduces their health and vitality and would ultimately lead to their death. Removal of material from around the base of the tree(s) would also lead to destabilisation of the trees. The outcome of the proposed remediation works, despite exploration of alternatives to enable more tree retention, is therefore loss of trees from the site.

The Flood Mitigation Report sets out the outcome of consultation with the Environment Agency in respect of flood compensation. As set out in the WSP report, studies have revealed that the flood compensation can be achieved by the provision of a 5m wide flood conveyancing strip alongside the river. Leaving aside the impact from the remediation works (loss of all trees on site), if the conveyancing strip is brought forward in isolation this would result in the loss of trees alongside the river.

The Tree Officer has been consulted and they are satisfied that the Tree Survey and Impact Assessment explains why the proposed flood remediation works and land decontamination and remediation works would result in the need to remove all existing trees.

Additionally, the loss of the trees has been found acceptable under application 23/03780/EFUL for the remediation works which is a material consideration.

The distances between the buildings and river edge vary between 10.5m- 17m based on the Illustrative Landscape Masterplan (drawing 1611/014 Rev N). This meets the buffer requirement of policy SB8 and a 5m easement is required to provide vehicular access for maintenance purposes for the Environment Agency and to provide a flood conveyancing strip. The Environment Agency have now confirmed they are satisfied with the arrangements for the purposes of access and maintenance of the flood conveyancing strip and their equipment.

The Tree Officer has raised concerns that a 20% canopy spread will not be achieved across the site, however this recommendation is not enshrined within either policy NE6 or SB8. A comprehensive scheme of new and replacement tree planting is provided as part of the detailed landscape proposals for the river bank and within the layout of the development.

Overall, the proposal is considered to comply with policy NE6 of the Local Plan Partial Update regarding trees.

#### ECOLOGY:

Policy NE3 of the Local Plan Partial Update has regard to Sites, Species and Habitats and states that development which results in significant harm to biodiversity will not be permitted. For all developments, any harm to the nature conservation value of the site should be avoided where possible, before mitigation and/or compensation is considered.

#### Sites, Species and Habitats:

This development site supports a number of habitats and features of ecological value, despite its former industrial use and the presence of substantial areas of hardstanding with limited ecological value. The site's riverside location is adjacent to the River Avon, which is a designated Site of Nature Conservation Interest (SNCI).

Ecology Solutions was originally commissioned on behalf of St William Homes LLP to undertake a suite of ecological survey and assessment work. The application is supported by an Environmental Statement (ES), including a Chapter relating to ecology and nature conservation (Chapter 10).

Initially the Council Ecologist raised concerns with the size of the vegetated riverside zone in the north of the site. The development proposals were amended in 2023 to increase the size of the riverside corridor, moving the buildings towards the south. In addition, the proposed footpath was also moved much further towards the south, in an alignment much

closer to the proposed buildings and separated from the river by a dense and broad band of native and species rich vegetation including woodland, trees and scrub.

A number of trees are being removed along the riverside due to the remediation requirements of the site. Under the amended proposals, significant new tree, woodland and scrub planting is proposed within the riverside park, specifically to mitigate for the loss of these features.

Further technical surveys were also requested for bats, badgers, breeding birds and aquatic ecology. Information was provided throughout 2023. The Council ecologist has raised no further concerns, and it is noted that Natural England do not object to the scheme either. Conditions will be secured for a Wildlife Protection and Enhancement Scheme, an Ecological Method Statement and ecological compliance along with other ecology conditions mentioned below.

HRA:

A shadow Habitats Regulation Assessment has been submitted with the application.

The appropriate assessment concludes that it can be ascertained that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England concurs with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.

The council ecologist has confirmed adoption of the shadow HRA.

The key mitigation measures are sensitive lighting, and proposed replacement planting and habitat provision adjacent to the River Avon.

Adherence to all the necessary measures and future maintenance requirements will be secured by condition.

A condition to secure proposed minimum timescales for re-instatement of riverside habitat is also included to ensure replacement riverside planting and habitat of value to bats is in place without delay and as soon as possible following its removal, to avoid any risk of extended delays to reinstatement of riverside habitat should there be delays to other aspects or phases of development.

Lighting:

The revised lighting report (Light Bureau Rev A, 5th Jan 2024) shows carefully considered lighting design, and predicted light spill levels that fall within acceptable thresholds on the vertical and horizontal planes over and adjacent to the River Avon. Additional light spill reduction/ mitigation measures are also recommended, which should be adhered to and will be secured by condition.

BNG:



In addition, Policy NE3a of the Local Plan Partial Update relates to Biodiversity Net Gain (BNG). In the case of major developments, a BNG of a minimum of 10% must be demonstrated using the latest DEFRA metric (or agreed equivalent), by a suitably qualified and/or experienced ecologist. BNG will be secured in perpetuity (at least 30 years) and a management plan will be required detailing how the post-development biodiversity values of the site will be secured, managed and monitored in perpetuity.

The submitted BNG Technical Note provides additional information and also a calculation and baseline habitat map using 2020 baseline. The BNG calculation to the 2020 baseline is welcome and accepted.

The BNG metric shows that the on-site baseline habitat units amount to 6.93 units. the on-site post intervention habitat units are 9.47 units, this is an increase of 2.54 units, or 36.63%. There are no hedgerow units on site.

Additional information has now been submitted for the watercourse baseline assessment, which is now required and welcome and accepted, however additional detail of methodology / condition assessment for the watercourse module has also been requested by the ecologist and this also can be secured by condition.

The trading rules element of the metric is not yet fully satisfied for mixed scrub and woodland (classed as medium distinctiveness habitats) within the new Riverside Park on the basis that new provision is not within the 'same broad habitat type'. The loss of existing scrub and woodland on the River Avon is unavoidable due to the remediation requirements of the scheme. Given the trading rules cannot be met on site and therefore off-site provision is necessary and will be conditioned.

Overall, the proposal is considered to comply with policy NE3 and NE3a of the Local Plan Partial Update regarding ecology matters.

#### OPEN SPACE:

Policy LCR6 states that where new development generates a need for additional recreational open space and facilities which cannot be met on-site or by existing provision, the developer will be required to either provide for, or to contribute to the provision of accessible sport and recreational open space and/or facilities to meet the need arising from the new development in accordance with the standards set out in the Green Space Strategy, and Planning Obligations SPD or successor documents.

Over the course of the application there has been a reduction in the number of overall dwellings proposed from 616 to 611. The Parks team have been consulted and undertaken a new green space demand assessment accounting for this.

This quantum of development can be estimated to be occupied by 1405 residents. These new residents will generate demand (m2) for the following quantities of green space:

Allotments = 4215.9

Amenity Green Space = 4215.9

Parks and Recreation Grounds = 18268.9

Play Space (Children) = 702.65

Play Space (Youth) = 421.59

Natural Green Space = 18268.9

The total demand for green space equates to 46,093.84m<sup>2</sup>

The LPPU amended SB8 Policy indicates (through the concept diagram) that the full provision of public open space under policy LCR6, LCR9 and the Planning Obligations SPD will not be expected to be provided on site. A combination of on-site provision and off-site enhancements will be necessary to meet resident's recreational needs. The on-site public open space will need to be secured by condition / clause for use by the wider public. Offsite enhancements will be achieved in the form of financial contribution.

The parks team initially requested a contribution of £1.7million, this was based on overall demand and did not take into full account the provision of open space on site. Over the course of the application additional information has been submitted on the quantum of open space typologies provided on site. The proposal meets with the requirements for play space. There is a deficit of allotments although the applicants intend to introduce informal planting areas within the podium courtyards as part of the detailed landscaping scheme. there is also a deficit of natural/ amenity green space and parks and recreation. Although it is noted that there is some provision of both typologies on site, including a new Riverside Park.

The applicants will be committed to spending approximately £3-4 million on providing the on-site landscaping, the majority of which is centred around the Riverside Park. The Planning Obligations SPD does set out that when it comes to obligations, in making a judgment, Planning Officers will have regard to the financial viability of the proposals if necessary. This open space contribution has to be viewed in tandem with the significant deficit shown in the viability assessment.

The CIL Regulations requires that S106 contributions are used for an identified project directly related to the development. The development site is in the vicinity of a parks and recreation green space enhancement project (Bath Riverside) that with funding would contribute towards the remaining demands and make the development acceptable in planning terms and compliant with policy LCR6. There is no allotment project at this stage, however the Parks team have identified that the money can be used for a feasibility and site selection project. There are also currently no natural/ amenity green space site projects within the vicinity of the site and as such no contribution can be requested for this element.

As such a revised financial contribution of £707,709 has been agreed by the developer taking account of the above, and therefore the scheme is considered acceptable in line with policy LCR6.

In addition, 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.). The plans show that beds and planters have been incorporated into the scheme that can provide local food growing opportunities for residents.

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

Policy SCR6 of the Local Plan Partial Update has regard to Sustainable Construction for New Build Residential Development. The policy requires new residential development to

achieve zero operational emissions by reducing heat and power demand then supplying all energy demand through onsite renewables and that a sustainable construction checklist (SCC) is submitted with application evidencing that the prescribed standards have been met.

The space heating demand (6.2kWh/m<sup>2</sup>/annum) is considerably lower than policy requirement (30kWh/m<sup>2</sup>/annum) and total energy use (36.1 kWh/m<sup>2</sup>/annum) is lower than policy requirement (40 kWh/m<sup>2</sup>/annum), indicating the use of various measures to improve the efficiency of the proposed development including the use of MVHR with heat recovery efficiencies of around 90%, and most U-values and the air permeability being equal to or better than Best Practice values.

Passive measures, specific shading and peak looping units for overheating have been incorporated into the proposed development - full Part O (dynamic method TM59) compliant overheating assessment was conducted as recommended in BANES Sustainable Construction Checklist SPD.

SCR6 requires on site renewable energy generation to match the total energy use. The submission demonstrates that 71% of total energy use will be matched with generation from PV panels. As such the on-site generation does not meet with the total energy use and a carbon offsetting contribution has been offered. The Climate Officer initially requested a review of other on-site renewable options (aside from roof mounted solar PVs) before a contribution could be accepted. A review was undertaken, and it was found that ground and wall mounted PV use would conflict with heritage and design requirements as well as ecology, biodiversity and landscape requirements.

In the case of major developments, where the on-site renewable energy generation to match the total energy consumption is demonstrated to be not technically feasible; the residual on-site renewable energy generation must be offset by a financial contribution paid into the Council's Carbon Offset Fund.

The residual on-site renewable energy generation/carbon from the policy target is to be calculated using the formula set out in the Planning Obligations and Sustainable Construction SPD'. In this instance the amount to be offset is £944,746.52.

The applicants however have proposed a contribution of £225,310. This is due to a number of reasons.

They consider the councils formula as set out in the SPD's should use a diminishing carbon factor over the 30-year period rather than a static figure as there is a clear grid decarbonisation strategy, and simply maintaining current emissions levels in the calculations would not reflect the scenarios found in future years. Additionally, whilst SCR6 only allows the inclusion of PV's as renewable energy sources, the proposal does incorporate other renewable energy generation, including all of the proposed heating and hot water demands being met from Air Source Heat Pumps. This would result in 95% of the development's energy demands matched by renewables if included, therefore the offset would only be 5% instead of the 29%.

Additionally, viability issues of the site are noted as described in the Affordable Housing section of this report. The Planning Obligations SPD does set out that when it comes to

obligations, in making a judgment, Planning Officers will have regard to the financial viability of the proposals if necessary.

The proposed contribution of £225,310 would not be directly compliant with policy SCR6, however when taking account of the material planning considerations as outlined above and the development plan as a whole, the level of contribution is, in this instance, considered acceptable, and will be secured by legal agreement.

Policy SCR8 of the Local Plan Partial Update relates only to large scale new-build development (a minimum of 50 dwellings or a minimum of 5000m<sup>2</sup> of commercial floor space). Such developments are required to submit an Embodied Carbon Assessment, having regard to the SCC SPD, which demonstrates a score of less than 900kgCO<sub>2</sub>e/m<sup>2</sup> can be achieved within the development for the substructure, superstructure and finished.

An Embodied Carbon Assessment has been submitted and shows the proposed development does comply with BANES Policy SCR8. The proposed development achieves an embodied carbon value of 774 kgCO<sub>2</sub>e/m<sup>2</sup>, against the policy target of 900kgCO<sub>2</sub>e/m<sup>2</sup> for stages A1 - A5.

Policy SCR5 of the 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). The proposed development incorporates rainwater harvesting methods and meets the requirement for water efficiency of 110 litres per person per day at 109.9 litres.

#### PLANNING OBLIGATIONS/ COMMUNITY INFRASTRUCTURE LEVY:

Along with those matters raised in the above report, the site would generate Planning Obligation requirements in line with the Council's Planning Obligations SPD (Jan 2023) as follows:

- Fire hydrants contribution - £6,000 (4 x hydrants)
- Targeted Recruitment and Training in Construction Contribution - £40,000
- Monitoring fee (£444 per obligation, capped to £10,000)
- Sustainable construction - £225,310
- Open space - £707,709
- Highways - £1,032,257.04 (not including bond)

NHS Property Services Intergrated Care Board have commented that there is not sufficient existing primary healthcare capacity locally to accommodate the 1,417 residents calculated to be generated by the proposed development. They suggest that mitigation is therefore required in the form of a financial contribution of £657,984 towards the capital cost of delivering the additional primary care floorspace required to serve residents of the new development and that without this mitigation, the development would not comply with Policy CP13 of the BathNES Composite Plan.

Policy CP13 states that new development must be supported by the timely delivery of the required infrastructure to provide balanced and more self-contained communities. This also states that Council's will work in partnership with relevant agencies and providers to ensure that social infrastructure is retained and improved for communities.

The applicant's consultants have questioned the validity of this request and highlighted several factors.

The ICB sets out that the Heart of Bath Primary Care Network (PCN) is most likely to be impacted by the proposed development. However, the PCN includes one GP practice with three surgery locations: the main general medical practice Oldfield Surgery in Upper Oldfield Park, and two branch surgeries (St James's and Junction Road). These are clearly within very close proximity of the site. The ICB response states that the Heart of Bath practices currently operate with an overall space deficit, and that to properly mitigate the impact of the proposed development a planning obligation will be required to create the full amount of additional primary care floorspace needed to serve the new residents.

However, it is noted that this PCN is still accepting new patients and furthermore, there does not appear to be any capital expenditure programmes proposals to expand their facilities. Both Oldfield Surgery and St James's have 'excellent facilities'.

Importantly, it is noted that the practice boundaries for both Oldfield Surgery and St James Surgery effectively cover the population of the whole of Bath and beyond and not just the geographic area of the application site, as alluded to in the ICB response. That is a significant area of potential draw for new patients and ignores the existence of all other surgeries in the city. From an initial review there are at least 12 further doctors surgeries that cover the same geographic area of Bath yet no information regarding their capacity of the appropriateness of catchment areas has been provided by the ICB (these include Batheaston Medical Centre; Combe Down Surgery; University Medical Centre; Rush Hill Surgery; Fairfield Park Health Centre; Newbridge Surgery; Grosvenor Place Surgery; The Pulteney Practice; Widcombe Surgery; St Michael's Surgery; Monmouth Surgery; Heart of Bath).

It appears that even if the Heart of Bath practices were under pressure, then there are other possible practices that could meet future demand. The ICB have failed to consider this possibility in their response, nor give any details on capacity of the named PCN, or availability elsewhere in the vicinity. There are no capital schemes identified for the PCN and no certainty that the monies would be spent where suggested, particularly noting the tight nature of the sites and the likely limited ability to expand.

Additionally, there have two relatively recent High Court rulings on the issue of securing secondary healthcare contributions as part of s106 agreements. Both cases have raised questions about whether this is a suitable approach that would comply with the CIL regulation 122 tests.

Policy CP13 also relates to the provision of infrastructure rather than as a means to support the general service costs of the National Health Service.

Given the above, it is considered that the proposed contribution for the RUH towards secondary healthcare does not meet the CIL regulation 122 tests and cannot be requested as an obligation.

#### **OTHER MATTERS:**

It is noted that third parties raised concerns of wind tunnelling effects. The accompanying Wind Microclimate report assesses any potential impact on pedestrian safety as a result of the proposed development. It concludes that the scheme is not expected to have any significant impact on pedestrian level wind conditions regarding pedestrian safety.

#### **PUBLIC SECTOR EQUALITIES DUTY:**

The Public Sector Equalities Duty requires public authorities to have regard to section 149 of the Equality Act 2010. The proposal does not raise any particular concern in respect of those people with protected characteristics.

#### **CONCLUSION:**

The site forms part of Bath Western Riverside, a development site which has a long history, first being allocated for development in the Bath and North East Somerset Local Plan in October 2007. This policy was supported by a Master Plan Supplementary Document (March 2008). The allocation has continued to roll over in some form in superseding policy since. The site is a brownfield site in need of redevelopment and regeneration, sitting derelict for some time, the last remaining gasholder was demolished in 2016. The existing site can be described as an blemish and an inefficient use of a central city site. This application has been subject to pre-application advice and since being submitted in 2022 has gone through rounds of revision with input from stakeholders including the Environment Agency and ICOMOS.

The revised scheme no longer results in harm to the World Heritage Sites, nor any of the cities other heritage assets. The landscape impacts have been minimised and are found to be neutral or acceptable on balance. The character and appearance of the design now draws appropriate cues from the industrial heritage of this part of the site as well as including nods to Georgian Bath and typical Bathonian typology architecture without being pastiche.

The scheme deliveries on the policy allocation requirement of 1750 dwellings, by providing 611 units of various mix. Whilst being found to have significant viability issues the scheme still provides 13% affordable housing units on site, along with a host of other financial contributions that have been agreed in order to mitigate the impacts of the development, including contributions to sustainable transport infrastructure, public realm and open space and sustainable construction. The proposal also sees the provision of an early year's facility. The scheme provides biodiversity net gain and ecological enhancements.

The scheme is therefore considered to comply with the relevant planning policies as outlined above and the development plan as a whole, and the proposal is recommended for approval.

#### **RECOMMENDATION**

Delegate to PERMIT

## CONDITIONS

0 A). Authorise the Head of Legal and Democratic Services to complete a Legal Agreement to secure:

1. The provision of 12% affordable housing and suitable viability review mechanism
2. A contribution of £6,000 towards fire hydrants (£1,500 per hydrant)
3. Highways and transport obligations/contributions
  - a. A sustainable transport payment of £606,588.45 (£992.72 per unit)
  - b. A traffic signal upgrade contribution for Windsor Bridge Road / Upper Bristol Road junction of £191,106.51
  - c. Delivery of new at grade toucan crossing on Windsor Bridge Road to include upgrade the eastern footway of Windsor Bridge Road and relocation of bus stop
  - d. A contribution of £169,707.08 towards transport works on Midland Road / Upper Bristol Road
  - e. Delivery of a new site access junction and supporting highways infrastructure
  - f. Replacement of tactile paving at the Upper Bristol Road/Windsor Bridge Road junction
  - g. Construct the Sustainable Transport Route (STR) to base course level prior to 50th occupation and complete it prior to 150th occupation
  - h. Agree and delivery a travel plan, including travel plan coordinator appointed prior to 1st occupation, secured with a bond of £479,069.66
  - i. A contribution of £60,000 towards the enforcement of the 'no entry from the junction of Midland Road/Stothert Aveue junction south towards Lower Bristol Road
  - j. Agree and deliver a strategy for car club provision for the development
4. Landscape and ecological management plan to include, inter alia:
  - a. Summary of proposed biodiversity net gains
  - b. A schedule of actions to achieve enhancements proposed and the maintenance proposed to maintain quality for a minimum period of 30 years
  - c. A schedule of ecological monitoring for the 30 year period
  - d. A methodology to ensure the submission of monitoring reports, by a suitably qualified and/or experience ecologist, in years 2, 5, 10, 15, 20, 25 and 30 from commencement
  - e. Monitoring fee will be required of up to £3,000 (up to 7 monitoring visits over 30 years).
5. Delivery and marketing of the proposed nursery use
6. Parks and Open Space Contribution of £707,709
7. Sustainable construction contribution towards carbon offset fund of £225,310
  - a. Mechanism for adjusting contribution if energy strategy changes
8. Targeted recruitment and training in contribution obligation
  - a. Apprenticeship starts on site
  - b. New jobs created on site advertised through the Department of Work & Pensions (DWP) and filled by DWP clients.
  - c. £40,150 contribution to support the above

9. Monitoring fee  
a. £400 per obligation

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

**1 Standard Time Limit (Compliance)**

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

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

**2 Arboriculture - Replacement Trees (Compliance)**

All replacement tree planting works shall be carried out in accordance with the approved details contained within the submitted arboricultural documents. The works shall be carried out during the next available planting season following completion.

Any trees or plants indicated on the approved scheme which, within a period of ten years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure replacement trees are provided and to provide an appropriate landscape setting for the development in accordance with Policy NE6 of the Bath and North East Somerset Local Plan Partial Update.

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

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

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - o human health,
  - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - o adjoining land,
  - o groundwaters and surface waters,
  - o ecological systems,
  - o archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

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

The development shall be carried out in general accordance with the Remediation Strategy (ref. 0044315-BHE-XX-XX-RP-YG-0005 Dated 22 September 2023 Revision P07) and/or its revision or detailed method statement following additional ground investigation to define the gas regime, gas protection system and verification methodology and detailed specification of remedial methodology such as stabilisation, solidification and bioremediation, following treatment trials to be submitted and approved in writing by the Local Planning Authority, unless otherwise agreed in writing by the Local Planning Authority.

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

Planning Policy Framework. This is a pre-commencement condition because the initial works comprising the development have the potential to uncover harmful contamination.

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

No occupation shall commence until a verification report (that demonstrates the effectiveness of the remediation carried out) has been submitted to and approved in writing by the Local Planning Authority. The verification report shall be submitted within a three-month period after the completion of works set out in the remediation strategy (ref. 0044315-BHE-XX-XX-RPYG- 0005 Dated 22 September 2023 Revision P07 or its approved revision/detailed method statements). The verification report demonstrating the completion of works and the effectiveness of the remediation shall be submitted to, and approved

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

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

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

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

### **9 Materials - Submission of Schedule and Samples (Bespoke Trigger)**

Prior to the construction of the external walls of each phase of the development (Blocks C, D E and F - Phase 1, Block G - Phase 2, and Blocks A and B - Phase 3), a schedule of materials and finishes for that phase, and samples of the materials to be used in the construction of the external surfaces, including roofs, shall be submitted to and approved in writing by the Local Planning Authority. The schedule(s) shall include:

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

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

A sample panel of external walling materials to be used shall be erected on site, as approved in writing by the Local Planning Authority, and kept on site for reference until the development is completed.

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

#### **10 Detailed Drainage Design (Pre-Commencement)**

No development shall commence, except ground investigations, associated infrastructure and enabling works (including remediation), until a detailed drainage design based on the approved Flood Risk Assessment / Outline Drainage Strategy (demonstrating that that surface water will be managed within the site using sustainable drainage principles so as to prevent any increase in onsite or offsite flood risk) has been submitted to the Local Planning Authority and given written approval. The design is to include plans, structure details and calculations demonstrating performance of the system at the critical 1:1, 1:30 and 1:100+45% climate change events. The submission also needs to include operation and maintenance details to demonstrate how the proposed drainage system will be maintained to perform to the design standard for the life 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.

#### **11 Ecological Method Statement (EMS) (Pre-commencement)**

No commencement of works, ground preparation, removal of vegetation, or demolition works shall take place until an Ecological Method Statement (EMS) has been submitted to and agreed in writing by the Local Planning Authority. The EMS shall be produced by a suitably experienced professional ecologist and shall include:

- details of update / pre-commencement surveys and inspection of structures and features on site, and proposed reporting of findings of these to the LPA;
- details including roles and responsibilities, and timing and frequency of visits, of an ecological watch brief and ecological supervision of works
- Details of responsible persons and lines of communication
- details of practical measures (both physical measures and sensitive working practices) to avoid or reduce ecological impacts and harm to wildlife and sensitive features during construction, including measures to avoid harm to nesting birds, badger, reptiles, bats, otter, and small mammals such as hedgehog; and protection of the River Avon and aquatic ecology.

The approved EMS shall be adhered to and implemented throughout the period of works strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: to avoid harm to existing and retained habitats and species during site preparation and construction works

#### **12 Biodiversity Net Gain Plan (Pre-commencement)**

No development shall commence until full details of a Biodiversity Gain Plan applicable for a minimum 30 year period and achieving a minimum of 10% measurable biodiversity net gain, and a Habitat Management Plan for all on-site habitats and biodiversity measures, have been submitted to and approved in writing by the Local Planning Authority. The

Plans shall in accordance with current best practice guidelines and standards and shall be in accordance with the approved Biodiversity Net Gain Assessment and calculation, using the 2020 baseline, and shall include the following:

1. Pre and post development biodiversity values including a completed metric calculation tool using the DEFRA Biodiversity Metric 3.0 or any successor, to include, as applicable: completed metric calculations; completed watercourse module and completed area habitat and river condition assessments and accompanying information demonstrating details of methods used and details of evidence for area habitats and river module baseline condition assessments.
2. A BNG habitat map for on-site proposed habitats
3. Information about the steps taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat;
4. Details and evidence of any registered off-site biodiversity gain units allocated to the development and any biodiversity credits purchased for the development;
5. Long term aims and objectives and targets for habitats; proposed management prescriptions and operations; timing, frequency, durations and methods of operations; specialist expertise, specialist tools/machinery or equipment and personnel where required to meet the stated aims and objectives;
6. Annual work schedule for at least a 30 year period
7. A list of activities and operations that shall not take place and shall not be permitted within the Habitat Management Plan (HMP) area (for example use of herbicides; on-site disposal of grass cuttings or other vegetation waste; routine cutting of ivy where there is no specific arboricultural justification; inappropriate maintenance methods, storage of materials; inappropriate machine or vehicle access).
8. Detailed monitoring strategy for habitats and species, and methods of measuring progress towards and achievement of stated objectives.
9. Details of proposed reporting to the Local Planning Authority, and proposed review and remediation mechanism.
10. Proposed costs and resourcing, and legal responsibilities.

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

Reason: To protect and enhance ecological interests and to ensure delivery of Biodiversity Net Gain in accordance with Bath and North East Somerset Placemaking Plan policies NE3, NE3a, NE5 and D5e and the Environment Act

### **13 Wildlife Protection and Enhancement Scheme (Pre-commencement)**

No development shall take place until full details of a Wildlife Mitigation and Enhancement Scheme, produced by a suitably experienced professional ecologist, have been submitted to and approved in writing by the local planning authority. These details shall be in accordance with (but not limited to) proposed ecological measures and features to benefit wildlife, such as integral bird and bat box features (built into the fabric of buildings), as described in the approved Ecology reports and Ecology sections of the approved Environmental Statement, including "Figure 10.4: Indicative Ecological Enhancement Plan" (Rev A Jul 2022); and shall include proposed details of specifications; models; materials; design and dimensions; fixings (as applicable); and proposed numbers, heights and positions of ecological features. Specifications for fencing and boundary treatments shall include provision of gaps or wildlife access points at intervals, to allow movement of

wildlife. All details shall be fully incorporated into the scheme and accurately shown on all relevant plans and drawings. 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, and retained and maintained thereafter for the purposes of wildlife conservation.

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

#### **14 External & Internal Lighting (Bespoke Trigger - requires approval of details prior to installation of new lighting)**

No new external or internal lighting shall be installed without full details of proposed lighting design being first submitted to and approved in writing by the Local Planning Authority. These details shall be in accordance with the approved Lighting Report by Light Bureau Rev A dated 5th Jan 2024, and shall include:

1. proposed lamps and lamp models, with manufacturer's specifications; proposed lamp positions; numbers and heights, with details also to be shown on a plan;
2. Light spill modelling, in accordance with the standards and best practice guidelines as described in ILP Guidance Note 08/23 "Bats and artificial lighting in the UK", including details of predicted light spill and lux levels (which shall not exceed levels predicted within the approved Lighting Report Rev A dated 5th Jan 2024 by Light Bureau), within and beyond site boundaries, onto and above adjacent land and the River Avon and onto boundary vegetation and all ecological habitats and sensitive features within and adjacent to the site, on both vertical and horizontal planes, with details of predicted light levels to also be shown on a plan, and at heights, using sections and drawings;
3. details of lighting controls; proposed hours, frequency and duration of use; and details of all measures and features to contain light spill, and to prevent upward light spill and light spill onto trees and boundary vegetation, adjacent land and the River Avon; and to limit use of lights when not required; and to avoid harm to bat activity and other wildlife.
4. Details of a proposed Lighting Compliance Scheme to demonstrate operation of lighting across the site is in accordance with approved details, and that operational light spill levels fall within or below the approved and predicted thresholds. The scheme shall be produced by a suitably qualified and experienced lighting professional and shall include: proposed details of monitoring, reporting and remediation measures for lighting; details of compliance with external lighting operations and lighting controls; details of compliance with predicted light spill levels; with particular attention to light spill levels onto and above the River Avon and adjacent habitats, on both horizontal and vertical planes and at a range of heights above ground level. The Scheme must include proposed details of frequency, timing, duration / number of years of monitoring events and required standards and credentials of monitoring personnel; proposed reporting to the LPA.

The lighting shall be installed, maintained and operated thereafter, and Lighting Compliance Scheme implemented thereafter, only 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 Partial Update

#### **15 Details of project phasing and habitat replacement timescales (Bespoke Trigger)**

Within three months of commencement of works, details of a scheme of proposed timescales of works for planting and provision of replacement habitats alongside the River

Avon shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide commitment to a minimum timeframe for riverside habitats to be in place and maintained, and demonstrate the ability of the scheme to deliver completion of riverside planting and landscaping within an acceptable timescale that shall be the minimum possible to achieve and which shall not be dependent on progress or completion first of other areas of development of the wider site.

Reason: to ensure reinstatement of bankside habitats to the River Avon in a timely manner to avoid harm to ecology associated with the River Avon including bats associated with the Bath & Bradford on Avon Bats Special Area of Conservation

#### **16 Ecological Compliance Statement (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 a suitably experienced professional ecologist) confirming and demonstrating, using photographs, adherence to the Ecological Method Statement and completion of the Wildlife Mitigation and Enhancement Scheme in accordance with approved details, has been submitted to and approved in writing by the Local Planning Authority.

Reason: To demonstrate compliance with all approved and required ecological measures, to prevent ecological harm and to provide biodiversity gain in accordance with NPPF and policies NE3 NE3A; NE5 and D5e of the Bath and North East Somerset Local Plan Partial Update.

#### **17 Works within 8m of the River Avon (Bespoke Trigger)**

All works within 8m, including the conveyance strip, 5m access path, works to the gauging station, fencing, new steps, tree and vegetation planting shall be submitted to, and approved in writing by, the Local Planning Authority in consultation with the Environment Agency prior to works taking place within 8m of the River Avon.

Reason: To reduce the impact of flooding on the proposed development and to ensure that operational access is retained to our gauging station and along the River Avon frontage

#### **18 Infiltration of surface water (Bespoke Trigger)**

No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.

Reason: To protect the water environment and to ensure that the development does not contribute to and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

#### **19 Piling and Foundations (Bespoke Trigger)**

Piling and other foundation methodologies using penetrative methods shall not be carried out other than with the written consent of the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To protect the water environment and to ensure that the development does not contribute to and is not put at unacceptable risk from or adversely affected by unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

### **20 Car Park Ventilation System (Pre-Commencement)**

Prior to the commencement of Block A and Block B, further design details of the car park ventilation system (including product specification, scaled schematic plans, location of manual/automatic controls, design flow rate, inlets and outlets points and distance from nearest sensitive receptor, any details on air quality monitoring sensors fitted, cleaning and maintenance of the system, emergency procedures etc) shall be submit to and approved in writing by the Local Planning Authority.

An air quality assessment of the car park ventilation system in connection to the ventilation design will be required to identify the emissions and effects of the car park ventilation on sensitive receptors. The applicant is required to provide further details on air quality pollutant monitoring and mitigation measures to be installed.

The development shall thereafter be constructed in accordance with the approved details and this shall be retained in perpetuity.

Reason: To protect the amenities of the occupants of residential properties in accordance with Policies D6 and PCS3 of the Bath and North East Somerset Placemaking Plan.

### **21 Internal Noise limits for Residential Properties (Prior to Occupation)**

On completion of each building on the development, but prior to any occupation of that building on the approved development, the applicant shall submit to and have approved in writing by the Local Planning Authority, an assessment from a competent person to demonstrate that each building on the development has been constructed to provide sound attenuation against external noise. The following levels shall be achieved: Maximum internal noise levels of 35dBLAeq,16hr and 30dBLAeq,8hr for living rooms and bedrooms during the daytime and night time respectively. For bedrooms at night individual noise events (measured with F timeweighting) shall not (normally) exceed 45dBLAmax.

Reason: To protect future occupants of the development from exposure to road traffic noise in accordance with policy D6 of the Bath and North East Somerset Local Plan Partial Update.

### **22 Noise from Plant (Compliance)**

Cumulative plant noise emissions associated with the development shall comply with the limits detailed in Table 7.7; Receptor Noise Limits for Proposed Fixed Plant in Chapter 7. Noise and Vibration of Environmental Statement, dated August 2023.

Reason: To protect future occupants of the development from exposure to plant noise in accordance with policy D6 of the Bath and North East Somerset Local Plan Partial Update.

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

No development shall take place until a site specific Construction/Demolition Environmental Management Plan has been submitted to and been approved in writing by the Council. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The plan should include, but not be limited to:

- Procedures for maintaining good public relations including complaint management, public consultation and liaison
- Arrangements for liaison with the Council's Environmental Protection Team
- All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours:
  - 08 00 Hours and 18 00 Hours on Mondays to Fridays and 08 00 and 13 00 Hours on Saturdays and; at no time on Sundays and Bank Holidays.
  - Deliveries to (including storage arrangements) and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
  - Mitigation measures as defined in BS 5528: Parts 1 and 2 : 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.
  - Procedures for emergency deviation of the agreed working hours.
  - Identification of the steps and procedures that will be implemented to minimise the creation and impact of dust from site preparation, groundworks and construction phases of the development and manage heavy goods vehicles (HGV) access to and from the site due to neighbouring Air Quality Management Area (AQMA). The applicant should have regard to BRE Code of Practice on the control of dust from construction and demolition activities.
  - Control measures for other air-borne pollutants. This must also take into account the need to protect any local resident who may have a particular susceptibility to air-borne pollutants.
  - Measures for controlling the use of site lighting whether required for safe working or for security purposes.
  - Contractor parking and traffic management
  - Site compound arrangements and wheel wash facilities

The development shall thereafter be carried out in accordance with the approved Construction Environmental Management Plan at all times, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To protect neighbouring residents from potential nuisance associated with construction in accordance with policy D6 of the Bath and North East Somerset Local Plan Partial Update.

### **24 Gull Management Plan (Pre-occupation)**

Prior to the occupation of the development a Gull management plan shall be submitted to an approved in writing by the local planning authority. Thereafter the development shall take place in accordance with the approved details.



Reason: in the interest of residential amenity of future occupiers in accordance with policy D6 of the Bath and North East Somerset Local Plan Partial Update.

### **25 Parking (Compliance)**

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

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

### **26 Bicycle Storage (Pre-occupation)**

Prior to the occupation of each block within the development, secure, covered bicycle storage for at least 1,296 bicycles shall be provided in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. The bicycle storage shall be retained permanently thereafter.

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

### **27 Green Street Details (Bespoke Trigger)**

Prior to the commencement of any construction above slab level, details shall be submitted to and approved in writing by the local planning authority of the interim arrangements for the landscaping of the north south green street (referred to as Hopsmead Walk) as it will appear prior to the full implementation of the street in conjunction with the adjacent land (shown indicatively on plan 25 Sep 2023, W305-Int-Xx-Xx-Dr-810-L-001, Illustrative Masterplan And 19 Apr 2024, W305-INT-XX-XX-DR-L-810-001, Red Line Boundary), alongside details of the final configuration when the adjacent land is brought forward for 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 and D2 of the Bath and North East Somerset Placemaking Plan, and policy NE2 of the Bath and North East Somerset Local Plan Partial Update.

### **28 Landscape Design Proposals (Bespoke Trigger)**

No development beyond slab level shall take place until full details of both hard and soft landscape proposals and programme of implementation have been submitted to and approved by the Local Planning Authority. These details shall include, as appropriate:

1. Proposed finished levels or contours
2. Means of enclosure
3. Car parking layouts
4. Other vehicle and pedestrian access and circulation areas
5. Hard surfacing materials

6. Minor artefacts and structures (eg outdoor furniture, play equipment, refuse or other storage units, signs, lighting)
  7. Proposed and existing functional services above and below ground (eg drainage, power, communication cables, pipelines, etc, indicating lines, manholes, supports etc)
  8. Retained historic landscape features and proposals for restoration, where relevant
- Soft landscape details shall be consistent with the Biodiversity Net Gain Assessment/ Biodiversity Gain Plan/ Ecological Report/ Bat Mitigation and shall include:
1. Planting plans
  2. Written specifications (including cultivation and other operations associated with plant and grass establishment)
  3. Schedules of plants, noting species, planting sizes and proposed numbers / densities

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

### **29 Landscape Ecological Management Plan (LEMP) (Pre-occupation)**

A landscape ecological management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved by the local planning authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.

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 and D2 of the Bath and North East Somerset Placemaking Plan, and policy NE2 of the Bath and North East Somerset Local Plan Partial Update.

### **30 SCR6 Residential Properties (Pre-occupation)**

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

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

Minor Residential Development:

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

Major (or larger) Residential Development:

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

All Residential Development:

3. Table 5 (updated)
4. Building Regulations Part L post-completion documents for renewables;

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

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

### **31 SCR8 Embodied Carbon (Pre-occupation)**

Prior to the occupation of each phase of the development (Blocks C, D E and F - Phase 1, Block G - Phase 2, and Blocks A and B - Phase 3) by individual residents, the following tables (as set out in the Council's Sustainable Construction Checklist Supplementary Planning Document) shall be completed in respect of each completed phase of development and submitted for approval to the local planning authority together with the further documentation listed below. The development must comply with the requirements of SCR8.

Post-Completion Stage (using as-built values)

- o Table 6
- o Table 7
  - o Site energy (including fuel) use record
  - o Contractor confirmation of as-built material quantities and specifications
  - o Record of material delivery including distance travelled and transportation mode
  - o Waste transportation record including waste quantity, distance travelled and transportation mode
  - o List of product-specific EPDs for the installed products and materials

Reason: To ensure that the approved development complies with Policy SCR8 of the Local Plan Partial Update

### **32 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.

### **33 Water Efficiency (Compliance)**

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

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

### **34 Housing Accessibility (Compliance)**

34 of the dwellings hereby approved shall meet the technical standards M4(3)(2a) in the Building Regulations Approved Document M and the 277 of the dwellings hereby approved shall meet optional technical standards 4(2) in the Building Regulations Approved Document M.

Reason: To ensure that the optional technical standards for accessibility for market housing in accordance with policy H7 of the Bath and North East Somerset Council Local Plan Partial Update.

### **35 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 occupation of any part of the development or in accordance with the programme of implementation agreed in writing with the Local Planning Authority.

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

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

### **36 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 The decision relates to the following plans:

A01 1002	P3	EIA Site Boundary
W305-INT-XX-XX-DR-L-810-002 -		Redline boundary
BGW-GRM-SIT-ZZ-DR-A-A01 0000	P2	Location Plan
BGW-GRM-SIT-ZZ-DR-A-A01 1000	P2	Existing Site Plan
BGW-GRM-SIT-ZZ-DR-A-A07 0100	P3	Masterplan Sections
BGW-GRM-A-A02 1000	P2	Site Plan -01
BGW-GRM-SIT-00-DR-A-A02 1001	P4	Site Plan 00
BGW-GRM-SIT-01-DR-A-A02 1002	P4	Site Plan 01
BGW-GRM-SIT-02-DR-A-A02 1003	P5	Site Plan 02
BGW-GRM-SIT-03-DR-A-A02 1004	P4	Site Plan 03
BGW-GRM-SIT-04-DR-A-A02 1005	P4	Site Plan 04
BGW-GRM-SIT-05-DR-A-A02 1006	P5	Site Plan 05
BGW-GRM-SIT-06-DR-A-A02 1007	P4	Site Plan Roof
BGW-GRM-SIT-ZZ-DR-A-A07 1000	P4	North-South Site Sections
BGW-GRM-SIT-ZZ-DR-A-A07 1001	P3	North-South Site Sections
W305-GRI07-SW-Zz-Dr-A-A191 222	P4	North-South Site Sections
BGW-GRM-SIT-ZZ-DR-A-A07 1003	P4	North-South Site Sections

BGW-GRM-SIT-ZZ-DR-A-A07 1010	P4	East-West Site Sections
BGW-GRM-SIT-ZZ-DR-A-A07 1011	P4	East-West Site Sections
BGW-GRM-BLA-00-DR-A-A03 1000	P05	Block A GA Floor Plan 00
BGW-GRM-BLA-02-DR-A-A03 1001	P05	Block A GA Floor Plans 01 & 02
BGW-GRM-BLA-04-DR-A-A03 1002	P05	Block A GA Floor Plans 03 & 04
BGW-GRM-BLA-06-DR-A-A03 1003	P05	Block A GA Floor Plans 05 & Roof Plan
BGW-GRM-BLA-ZZ-DR-A-A06 1000	P05	Block A East & West Elevations
BGW-GRM-BLA-ZZ-DR-A-A06 1001	P05	Block A North & South Elevations
BGW-GRM-BLA-ZZ-DR-A-A06 1002	P05	Block A Northern Courtyard Elevations
BGW-GRM-BLA-ZZ-DR-A-A06 1003	P05	Block A Southern Courtyard Elevations
BGW-GRM-BLA-ZZ-DR-A-A07 1000	P05	Block A GA Sections
BGW-GRM-BLA-ZZ-DR-A-A09 1000	P03	Block A Bay Elevations Courtyard Type 2
BGW-GRM-BLB-00-DR-A-A03 1000	P05	Block B GA Floor Plans 00
BGW-GRM-BLB-02-DR-A-A03 1001	P05	Block B GA Floor Plans 01-02
BGW-GRM-BLB-04-DR-A-A03 1002	P05	Block B GA Floor Plans 03-04
BGW-GRM-BLB-06-DR-A-A03 1003	P05	Block B GA Floor Plans 05-RF
BGW-GRM-BLB-00-DR-A-A06 1000	P05	Block B GA Elevations -East & West
BGW-GRM-BLB-00-DR-A-A06 1001	P05	Block B GA Elevations -North & South
BGW-GRM-BLB-00-DR-A-A06 1002	P05	Block B GA Elevations -Courtyard Elevations
BGW-GRM-BLB-ZZ-DR-A-A07 1000	P05	Block B GA Sections
BGW-GRM-BLB-ZZ-DR-A-A09 1000	P04	Block B Bay Elevations -Courtyard Type 1
BGW-GRM-BLC-ZZ-DR-A-A03 1000	P04	Block C GA Floor Plans
BGW-GRM-BLC-ZZ-DR-A-A06 1000	P04	Block C GA Elevations
BGW-GRM-BLC-ZZ-DR-A-A07 1000	P04	Block C GA Sections
BGW-GRM-BLD-ZZ-DR-A-A03 1000	P05	Block D GA Floor Plans
BGW-GRM-BLD-ZZ-DR-A-A06 1000	P05	Block D GA Elevations
BGW-GRM-BLD-ZZ-DR-A-A07 1000	P05	Block D GA Sections
BGW-GRM-BLD-ZZ-DR-A-A09 1000	P04	Block D Bay Elevations - Riverside
BGW-GRM-BLE-ZZ-DR-A-A03 1000	P04	Block E GA Floor Plans
BGW-GRM-BLE-ZZ-DR-A-A06 1000	P04	Block E GA Elevations
BGW-GRM-BLE-ZZ-DR-A-A07 1000	P04	Block E GA Sections
BGW-GRM-BLF-ZZ-DR-A-A03 1000	P05	Block F GA Floor Plans (-01-04)
BGW-GRM-BLF-ZZ-DR-A-A03 1001	P04	Block F GA Floor Plans (05-RF)
BGW-GRM-BLF-ZZ-DR-A-A06 1001	P05	Block F GA Elevations
BGW-GRM-BLF-ZZ-DR-A-A07 1000	P05	Block F GA Sections
BGW-GRM-BLF-ZZ-DR-A-A09 1000	P04	Block F Bay Elevations -Riverside Café
BGW-GRM-BLG-ZZ-DR-A-A03 1000	P05	Block G GA Floor Plans (00-03)
BGW-GRM-BLG-ZZ-DR-A-A03 1001	P05	Block G GA Floor Plans (04-RF)
BGW-GRM-BLG-ZZ-DR-A-A06 1000	P05	Block G GA Elevations
BGW-GRM-BLG-ZZ-DR-A-A07 1000	P05	Block G GA Sections
BGW-GRM-BLG-ZZ-DR-A-A09 1005	P04	Block G Bay Elevations - Avenue
W305-INT-XX-XX-DR-810-L-001 /		Illustrative Masterplan
W305-BRA12-XX-XX-DR-L-810-001	J	Overall General Arrangement
W305-BRA12-XX-XX-DR-L-810-101	J	Detailed General Arrangement
W305-BRA12-XX-XX-DR-L-810-102	H	Detailed General Arrangement
W305-BRA12-XX-XX-DR-L-810-103	H	Detailed General Arrangement
W305-BRA12-XX-XX-DR-L-810-104	G	Detailed General Arrangement
W305-BRA12-XX-XX-DR-L-810-105	E	Block B Podium GA
W305-BRA12-XX-XX-DR-L-810-106	E	Block A Podium GA

W305-BRA12-XX-XX-DR-L-810-107	/	Detailed General Arrangement
W305-BRA12-XX-XX-DR-L-810-108	/	Detailed General Arrangement
W305-BRA12-XX-XX-DR-L-810-201	B	Landscape Sections
W305-BRA12-XX-XX-DR-L-810-202	B	Landscape Sections
W305-BRA12-XX-XX-DR-L-810-301	F	Planting Plans
W305-BRA12-XX-XX-DR-L-810-302	E	Planting Plans
W305-BRA12-XX-XX-DR-L-810-303	D	Planting Plans
W305-BRA12-XX-XX-DR-L-810-304	D	Planting Plans
W305-BRA12-XX-XX-DR-L-810-305	C	Block B Podium Planting Plan
W305-BRA12-XX-XX-DR-L-810-306	C	Block A Podium Planting Plan
W305-BRA12-XX-XX-DR-L-810-307	/	Planting Plans
W305-BRA12-XX-XX-DR-L-810-308	/	Planting Plans
W305-BRA12-XX-XX-DR-L-810-601	A	Typical Soft Landscape Details
W305-BRA12-XX-XX-DR-L-810-602	A	Typical Soft Landscape Details
W305-BRA12-XX-XX-DR-L-810-603	B	Typical Soft Landscape Details
LB_1130_LL_00	-	Ground Level Lighting Layout
LB_1130_LL_01	-	Podium Level Lighting Layout
LB_1130_LL_02	-	Light Levels: Isolux Plan
W305-BRA12-XX-XX-SPC-L-810-001B		NBS Soft Landscape Specification
W305-BRA12-XX-XX-SPC-L-810-002B		Landscape Maintenance and Management Plan
W305-BRA12-XX-XX-SPC-L-810-003B		Planting Schedule
O305-INT-XX-XX-DR-Z-005-008 /		Bath Riverside Swept Path Analysis

## 2 Informative - EIA Statement

BATH & NORTH EAST SOMERSET COUNCIL  
TOWN AND COUNTRY PLANNING ACT 1990  
THE TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT)  
REGULATIONS 2017  
REGULATION 30 STATEMENT  
APPLICATION REF: 22/03224/EFUL

DEVELOPMENT PERMITTED: Demolition of existing buildings and decontamination/remediation of the site to facilitate redevelopment for a residential-led mixed-use development, comprising residential dwellings (Class C3 Use) and provision of Class E floorspace (Class E(b) and (f) Uses), together with associated infrastructure, landscaping, and car and cycle parking, engineering works (on site and to associated areas) and access and works to the existing river wall, infrastructure and gasholder voids.

APPROVAL DECISION ISSUED ON: 5th June 2024

This statement is made pursuant to Regulation 30(1)(c) of The Town and County Planning (Environmental Impact Assessment) Regulations 2011 and contains-

- (i) details of the matters referred to in regulation 29(2);
- (ii) the main reasons and considerations on which the decision is based including, if relevant, information about the participation of the public; and
- (iii) a summary of the results of the consultations undertaken, and information gathered, in respect of the application and how those results (in particular, in circumstances where regulation 58 applies, the comments received from an EEA State pursuant to consultation under that regulation) have been incorporated or otherwise addressed

(i) This decision can be challenged by way of bringing a claim in judicial review. Any person wishing to do so must bring a claim within six weeks of the date of the decision notice.

This statement is made available for public inspection at the place where the planning register is kept.

The proposals have been the subject of an Environmental Impact Assessment at application stage (ref. 22/03224/EFUL). The following subject areas were assessed: Air quality, noise and vibration, Ground Conditions and contamination, transport and access, built heritage, town scape and visual impact, socio economics and human health, daylight and sunlight, climate change, biodiversity, and cumulative effects. After due consideration of the Environmental Statement and the proposed mitigation measures it was considered that the proposals would not have a significant effect upon any of the above matters, and was recommended for permission by delegated authority.

(ii) Following consideration of the submitted environmental information the application for planning permission was permitted. The full extent of the considerations, including representations from members of the public and external organisations are set out in the delegated report dated 30th August 2024 which is available to view on the Council's website: [www.bathnes.gov.uk](http://www.bathnes.gov.uk).

(iii) A summary of the consultation responses received and considered and the information gathered is provided with the delegated report referred to above. The delegated report sets out how these comments have been incorporated into the proposal or otherwise addressed.

### **3 Informative - Canal and river trust**

The applicant is advised to contact [enquiries.tpwsouth@canalrivertrust.org.uk](mailto:enquiries.tpwsouth@canalrivertrust.org.uk) to ensure that the proposed works comply with the Trust's Code of Practice for works affecting the Canal and River Trust.

### **4 Informative - Environmental permit - advice to applicant**

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- o on or within 8 metres of a main river (16 metres if tidal)
- o on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- o involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- o in the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits> or contact our National Customer Contact Centre on 03708 506 506.

### **5 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.

## **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.

## **7 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**

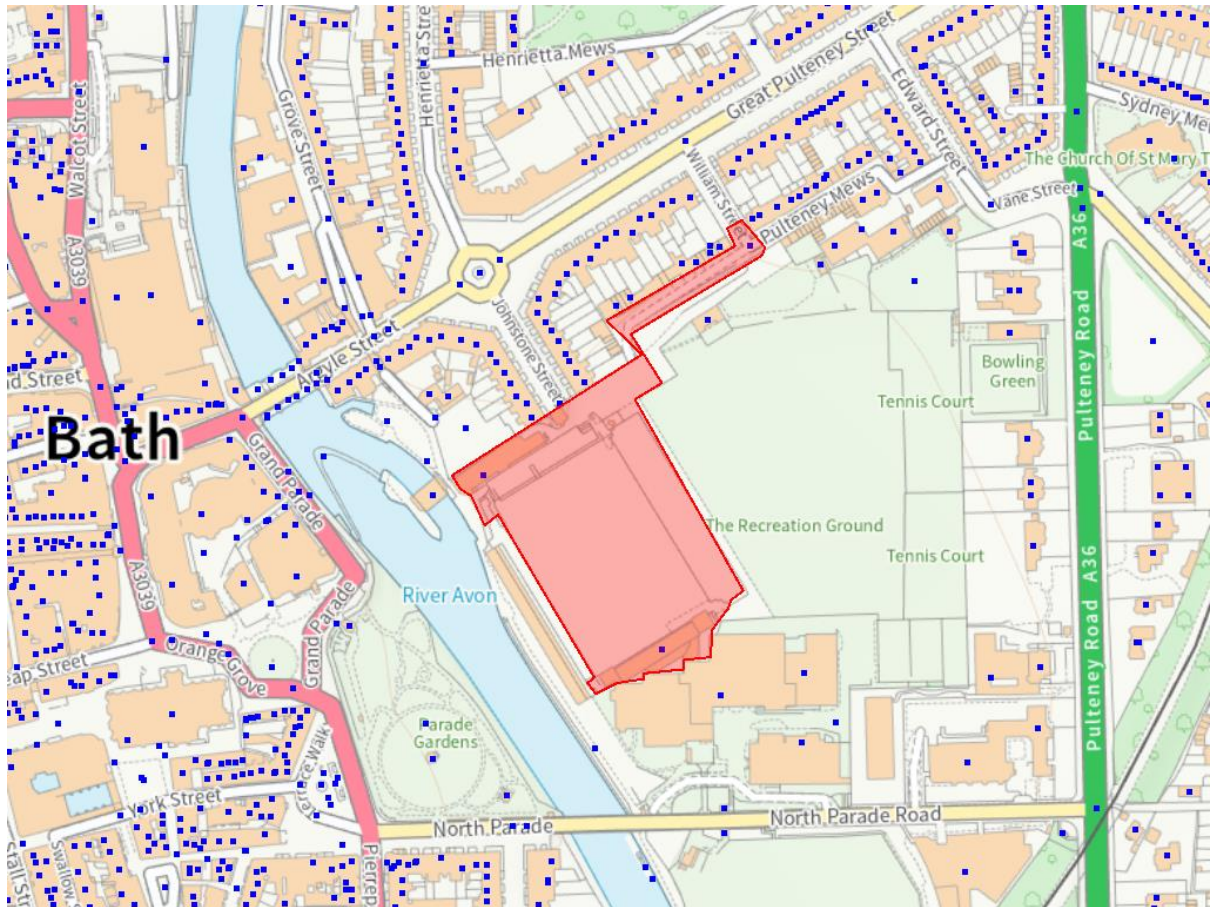
The CIL regulations are non-discretionary in respect of exemption claims. If you are intending to claim a relief or exemption from CIL (such as a "self-build relief") it is important that you understand and follow the correct procedure **before commencing any**



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)

**Item No:** 02  
**Application No:** 24/01261/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 Manda Rigby      Councillor Toby Simon  
**Application Type:** Application for Variation of Condition

**Proposal:** Variation of condition 2 of application 21/05530/VAR (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, Colerne Airfield Buffer, Agric Land Class 3b,4,5, Policy B2 Bath Central Area, Policy B4 WHS - Indicative Extent, Policy B4 WHS -

Boundary, Conservation Area, Contaminated Land, Policy CP9 Affordable Housing, Flood Zone 2, Flood Zone 3, LLFA - Flood Risk Management, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, Policy NE2A Landscapes and the green set, Policy NE3 SNCI 200m Buffer, Ecological Networks Policy NE5, NRN Wetland Strategic Network Policy NE5, Placemaking Plan Allocated Sites, All Public Rights of Way Records, River Avon and Kennet & Avon Canal, SSSI - Impact Risk Zones,

**Applicant:** Turley

**Expiry Date:** 5th July 2024

**Case Officer:** Gary Collins

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

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

Councillor Simon has requested that this application is heard by the planning committee 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:

The East Stand is a long running legacy and whilst Bath Rugby should still be complying with their conditions and may have justified retention in previous years, it is a material consideration that there is now a full planning application before the Local Planning Authority to seek to secure a permanent solution for the rugby club and the stadium, which will be considered on its planning merits when that application is ready to be determined.

However, the Committee should be given the opportunity to hear and read representations on this specific application and debate whether the retention of the stand until the next official rugby season is going to be of harm to the World Heritage Site during the summer months only and whether it is in the wider public, amenity and environmental interest to enable it to stay in situ and enable community use and events over that period, unless it is refused and enforcement action is taken.

## **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.

Over subsequent years a number of variations have been made to the temporary stand permissions which have had the effect of enabling the east stand to remain with conditions that require removal of the stands out of the playing season.

Condition 2 of application 21/05530/VAR which this application seeks to vary states that :- 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.

## **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.

The most relevant history to this application is :-

20/00135/VAR - application to allow for the East Stand to remain in situ during the summer of 2020 due to the exceptional circumstances of the Covid pandemic. Permitted.

21/00962/VAR - application to delete Condition 2 and allow for the East Stand to remain in situ permanently. Withdrawn.

It should be noted that in 2021 the Club failed to comply with Condition 2 and the East Stand remained in situ during the summer of that year. No enforcement action taken.

## **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**

### **REPRESENTATIONS**

The application has been publicised through letters sent to neighbours and also through the display of a site notice and publication of a press notice. The consultation period expired on 14th May. The following comments have been received:

Pulteney Estate Residents Association

PERA OBJECTS to the application and requests REFUSAL:

- o Allowing the amendment proposed in the current application would be contrary to planning policy.
- o Bath Rugby attempt to link the present application with a proposal for permanent development. The permanent stadium application is undetermined and irrelevant, it is not a material consideration for this application.
- o It is clear that leaving the East Stand in situ would result in harm, and the applicant has provided no clear and convincing justification to outweigh that harm.
- o The applicant's assertion that the impact on heritage and views is comparable with the other three stands at the Rec is clearly incorrect - the East Stand is demonstrably shown herein to be far more prominent in heritage views (including acknowledged WHS OUV views) than the other stands entirely justifying the different treatment of the East Stand by Planning Officers and the Planning Committee in previous Decisions.
- o The application seeks to vary the Condition to leave the stand in situ in entirely unexceptional circumstances and as such should clearly be refused.

Friends of the Recreation Ground

Object on the following grounds:

The requirement for removal was for clearly established and documented reasons which have not changed. There is no material reason for this to be considered.

The application was submitted too late as a suspected timing tactic and should be decided before 8th June.

There are no planning or material reasons to justify the application, whose success would result only in significant financial benefit to the club whilst the neighbourhood, amenity use of the recreational and heritage setting all suffer significant harm from its continued retention. There are no public benefits that outweigh these harms.

The retention of the stand would cause significant harm to the character and setting of the conservation area, World Heritage Site UOVs and Grade 1 listed buildings.

Noise and disturbance - a few days of disruption whilst the stand is demolished and re-erected months later are welcomed in return for the visual and usage benefits from its removal.

Local Residents and interested parties:

49 representations objecting to the application have been received. Comments made include:

Impact on heritage views and the World Heritage Site

In the summer months the public should be able to access as much of this green space as possible

The absence of the stand during the summer months is something to look forward to and the brief period of noise and upheaval is well worth it

There is no reason to make an exception to this longstanding restriction

The plans for a permanent stadium are not relevant to this application

The removal of the stand enables the full range of summer sports and recreation

The application is contrary to planning policies

The stand is a visual eyesore and has no function over the summer

5 representations in support of the application have been received. Comments made include:

The dismantling of the stand causes a huge amount of hassle due to the large lorries invading the area

The rugby ground is an integral part of the city

Until the application for the permanent stadium is decided the disruption and environmental cost caused by removing and reconstructing the stand for such a short window outweighs any benefit

Leaving the stand up does not have an impact on traffic or residents' enjoyment of the green areas around the stand

The full text of all representations is available online

## **POLICIES/LEGISLATION**

### **POLICY**

The Development Plan for Bath and North East Somerset comprises:

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

### **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  
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.'

#### LOW CARBON AND SUSTAINABLE CREDENTIALS

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

## **OFFICER ASSESSMENT**

### **OFFICER ASSESSMENT**

#### Background

This application seeks approval, through a variation of Condition 2 of planning permission 21/05530/VAR, to retain the East stand during the summer of 2024 instead of dismantling it for that period.

Currently Condition 2 would require the East stand to be entirely removed from the site not later than 3 weeks after the last home game of the rugby Premiership season. Due to the team reaching the Premiership semi-finals this season and having a home game (on 1st June) the deadline for this is 22nd June.

Condition 2 says that construction of the East stand cannot commence more than 4 weeks before the first home Premiership game. The fixtures for the 24/25 season have yet to be released, but it is possible that a home fixture will take place on the weekend of 21st September. Therefore, the proposal is for the East stand to remain in situ for 9 or 10 weeks longer than would otherwise be permitted.

Temporary permissions for the East stand have been in place since 2005 and have always included a requirement to dismantle the stand over the summer period. Aside from the permission that was granted as part of the extension of the temporary approval until May 22 (20/00135/VAR) which allowed the stand to remain in situ during summer 2020, due to the exceptional circumstances of the Covid-19 pandemic, this is the first time that the local planning authority will have formally considered whether the requirement to dismantle the East stand is necessary and warrants the refusal of the request to retain it.

#### The case made by the applicants

The applicants have made the following points in support of removing the requirement for the East stand to come down, and officers' comments in response to these are set out below:

A four-sided permanent stadium is proposed and there is no policy requirement for the East stand to remain temporary. If the permanent stadium is granted permission, 2024 will be the final summer covered by a temporary consent.

Officer response: the current application for a permanent stadium (23/03558/EFUL) remains undetermined and under consideration. Until a decision is made on the application it cannot be given significant weight and the consideration of the proposal to retain the East stand during summer 2024 must not give rise to any pre-determination of



the application. Whilst local planning policies B1:8 and SB2 make reference to the development of a "permanent sporting, cultural and leisure stadium", in the absence of a permission for this, these policies in themselves should not be seen as the endorsement of the existing temporary East stand remaining in situ all year round.

The timescale for a decision on the application and also implementation any permission is not fixed and the Council as local planning authority would still be duty bound to consider any necessary request to further extend the existing temporary consent.

Retaining the East stand will reduce the impacts that dismantling and then re-erecting the stand have on local residents.

Officer response: It is inevitable that the activity of dismantling the East stand and then re-erecting it would cause noise and disturbance to local residents. However, this has to be weighed with the amenity benefits of the East stand structure not being at the site for a period of time.

The NPPF, PPG and case law demonstrates that Condition 2 does not meet the tests for such conditions and is therefore unnecessary, unreasonable and presumably imposed for an ulterior reason. The condition is therefore not necessary for the development (the East stand) to be acceptable in planning terms.

Officer response: A condition to dismantle the East stand and re-erect it in time for the new season has been in place across numerous temporary permissions over a several years. The condition has not been challenged or appealed against by the applicants and so remains in place as an enforceable limitation on the development.

Aside from the introduction of a request to retain the East stand in situ during the summer of 2020, as part of the application that had already been made in January 2020, in response to the exceptional circumstances of the pandemic, this application is the first opportunity that the local planning authority have been given to formally determine whether the condition is required in order to make the development acceptable. Officers consider that this is a matter of planning judgement rather than there being a technical reason why the condition should be removed. The condition was attached for specific reasons and the early consideration of the temporary East stand (eg. 15/05237/FUL - temporary permission until May 2020) made reference to the benefits of the period when the stand wasn't there.

Whilst originally controlled in the same way, the north, south and west stands are permitted to remain in situ over the summer and so the East stand should be treated in the same way.

Officer response: The temporary East stand is significantly larger than the other temporary elements and also occupies a sensitive location between the recreation ground and the Abbey. Therefore, the specific impacts of retaining the East stand have to be considered on their individual merits as part of this application, and permissions given for other stands should not be given significant weight.

The visual impact of retaining the stand is of a negligible level

Officer response: this point is addressed later in this report.

The temporary removal of the East stand does not increase the amount of open space available to the general public or other users

Officer response: There is merit in the argument that some of the original reasoning behind the condition requiring the East stand to be dismantled has changed over time. For example, the Recreation Ground held the annual Bath Cricket Festival during the summer where Somerset County Cricket Club would host a first class fixture. These fixtures were hosted at the Rec from 1897 until 2012 when, like many county cricket clubs in recent years, Somerset ended festival cricket (where a County hosts games away from their normal home). The retention of the East stand would have impacted upon the hosting of this annual cricket match, however this is no longer a consideration.

The applicants also point out that whilst technically the land occupied by the East stand is returned to public use, because of the requirement to reinstate the grass, the land is fenced off from public access before being occupied again by the re-erected stand. The benefit of the removal of the East stand with regard to recreational use is considered by officers to be very minor and limited to one of temporarily enhancing the setting and openness of the remainder of the Rec.

There are a number of events over the summer that would benefit from the retention of the East stand

Officer response: the applicants have set out that there are a number of events taking place at the site during the summer that would benefit from the East stand being retained. The stand has toilets and refreshment facilities that could be used for these events, instead of the East stand being removed and such facilities having to be brought to the site again before being removed and then replaced by a re-erected East stand a few weeks later.

This point could be challenged on the basis that such facilities do not need to be part of a relatively large spectator stand in order to service these important summer events. However, officers do have regard to, and give weight to, the fact that these facilities are already present at the site and could usefully support these events without the disruption and use of additional resources involved in removing them from the site, bringing in new facilities for the events before removing them in time for the East stand and facilities to be re-erected a few weeks later.

## Planning Balance and Conclusion

This is a very focussed proposal - to retain the East stand for an additional 9 or 10 weeks during the summer of 2024. Whilst the condition currently requires the stand to be dismantled and removed for this period, the harms and benefits of retaining the stand have to be considered afresh in determining this application.

The East stand is functional in appearance due to its temporary nature, although there are elements that do mitigate visual impact such as the green coloured seating and the extensive wrap / cover at the rear of the stand that masks the structure of the stand.

The impact of the stand on heritage assets (including the character and appearance of the conservation area, the setting of listed buildings, and the outstanding universal values of both World Heritage Sites) and landscape character has previously been categorised as "less than substantial harm" that is outweighed by the public benefits of the role that the stand plays in supporting the activities of the rugby club. That degree of harm would normally be mitigated by the removal of the stand for a period of 9 to 10 weeks in 2024, ie approximately 20% of the year. Officers consider that retaining the stand, and the associated degree of harm for a further 20% of the year would still be outweighed by the public benefits of the proposal and can therefore be supported.

The overriding public benefit in this case is the rugby club and they have made a request to retain the stand over the summer period. The limited mitigation provided by the short period when it is not in situ, the unnecessary use of resources to remove the stand and then re-erect it, and the unnecessary carbon emissions (although not quantified) associated with this activity, all lead officers to conclude that the harm would still be outweighed by the public benefits of the proposal.

Therefore, the officer recommendation is to support the proposal and grant planning permission.

## **RECOMMENDATION**

PERMIT

## **CONDITIONS**

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

This permission shall expire on 30th May 2025 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. With the exception of summer 2024, 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 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 Permit/Consent Decision Making Statement**

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

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

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

**Item No:** 03  
**Application No:** 24/00662/FUL  
**Site Location:** 26 - 28 Orchard Vale Midsomer Norton Bath And North East Somerset



**Ward:** Midsomer Norton Redfield      **Parish:** Midsomer Norton      **LB Grade:** N/A

**Ward Members:** Councillor Sarah Evans      Councillor Tim Warren

**Application Type:** Full Application

**Proposal:** Demolition of no. 26 and 28 Orchard Vale and development of 54 new homes with open space, landscaping and all associated infrastructure (Cross Boundary Application with Somerset).

**Constraints:** Agric Land Class 1,2,3a, Agric Land Class 3b,4,5, Coal - Standing Advice Area, Policy CP9 Affordable Housing, Housing Development Boundary, Policy LCR5 Safeguarded existg sport & R, LLFA - Flood Risk Management, Policy M1 Minerals Safeguarding Area, SSSI - Impact Risk Zones,

**Applicant:** Curo Enterprise Ltd

**Expiry Date:** 31st July 2024

**Case Officer:** Isabel Daone

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

## **REPORT**

### **REASON FOR COMMITTEE:**

As a result of objections/call in requests received from Local Ward Councillors and Town/Parish Councils and in accordance with the Planning Scheme of Delegation, the application was referred to the Chair and Vice Chair of the Planning Committee. Both have decided that the application should be debated and decided at Planning Committee and their comments are as follows:

#### **CHAIR:**

"This application is complex and raises some significant cross boundary issues in respect of the decision of Somerset Council to be minded to grant planning permission for 54 new homes on the edge of the urban area of Midsomer Norton, which is dependent upon an access being formed within the boundary of Bath and North East Somerset. This development could impact significantly upon the infrastructure and communities of Midsomer Norton and Westfield.

The committee must be given the opportunity to read and hear representations, debate and consider the planning balance of determining an application that is contrary to some B&NES development plan policies, which other than some Section 106 contributions but with the net loss of one dwelling may not necessarily bring any benefits to Bath and North East Somerset"

#### **VICE CHAIR:**

"This complex application is a resubmission of a previously refused scheme submitted to both B&NES and Somerset Councils in 2022. Additional information has arisen in the form of a s106 agreement and the recent granting of permission for the development by Somerset planning authority, giving rise to a reassessment of the planning balance.

Given the objections raised by Midsomer Norton Parish Council, concerns of Westfield Parish Council and level of public interest, in relation to a number of planning policy matters, potential impact on local infrastructure and services, and departure from the development plan, I recommend that this application is determined in public by the Planning Committee."

#### *Details of location and context:*

This application is a cross boundary application, with the majority of the application site being located within the Somerset Authority boundary. The site is located on the western edge of Midsomer Norton, which is within B&NES. To the east of the site is Underhill Farm, within Somerset and to the south is the Orchard Community Hall (B&NES).

To the north of the site is Underhill Wood, which is classified as a Local Wildlife Site by the Somerset Environmental Records Centre; it is subject to a blanket Tree Preservation Order (TPO), reference M1156. The site itself is classified as Grade 3 agricultural land.

26 and 28 Orchard Vale are a pair of 3-bedroom social rent, semi-detached dwellings located within B&NES which are owned by Curo.



Planning permission is sought for the demolition two existing dwellings (nos. 26 and 28 Orchard Vale) and the erection of 54 dwellings with open space, landscaping and all associated infrastructure.

It is proposed that the demolished dwellings will be replaced by one new dwelling within B&NES and a further new dwelling within the Somerset boundary.

National guidance cautions against determining cross-boundary applications without joint working, as it does not promote a coordinated approach to development management. Such an approach would risk inconsistent decision making between each Local Planning Authority. As such, B&NES have been in discussions with Somerset officers throughout the lifetime of the application. A concurrent application has been submitted to Somerset (2024/0315/FUL) and this was debated at the Somerset East Planning Committee on 7th May 2024. The committee resolved to permit the application in accordance with the officer recommendation. This application is subject to a S106 agreement and therefore, the decision notice has not been issued, as the S106 needs to be completed prior to this.

### *Procedural Clarifications*

The application site was previously allocated for housing within the Mendip (now Somerset) Local Plan Part 2 (LPP2), under the site allocation MN2 for around 60 dwellings. Following a successful legal challenge of the LLP2, the associated Order (December 2022) instructed that the allocated sites MN1, MN2, MN3, NSP1 and BK1 of LLP2, and their supporting text and other related text, tables and diagrams should be remitted to the Council. The remitted parts of LPP2 should be treated as not having been adopted as part of the development plan and have no weight in the planning balance.

As such, the previous allocation for this site (MN2) is no longer in place. The site should therefore be considered as unallocated. Somerset Council's committee report details that the development within their boundary should be considered as open countryside and the application was advertised as a departure from the Somerset Development Plan.

The removal of the allocation within LPP2 does not preclude the site coming forward as a development site, and there is no legal issue with the application being assessed and considered by both Local Planning Authorities. This is a matter which has been raised by numerous third parties, but this planning application must be determined in accordance with the relevant development plans and national framework.

The development within B&NES is within the urban area of Midsomer North, inside the Housing Development Boundary. The parts of the development within B&NES are therefore not considered to be within the open countryside.

B&NES Council must assess the application as a whole, however it should be noted that it only has control over the elements of the scheme which are within its boundary. The elements of the scheme within Somerset are a material planning consideration which must form part of the overall planning balance and assessment.

Upon submission of this application, the applicant served Certificate B in order to demonstrate that the applicant believes that they have served notice upon all relevant

landowners. During the course of the application, the applicant also served Certificate C which is served when the applicant is unsure whether they have served notice on all owners and tenants of the land covered by the application. This was the Certificate served under the previously refused scheme at the site.

#### *Relevant Planning History:*

The current application is a resubmission of a previously refused scheme, submitted to both B&NES (22/02932/FUL) and Somerset (2022/1427/FUL). Given that the proposal is an identical resubmission, with some additional information, a number of consultees have not been reconsulted. However, their comments on the previous scheme are still relevant and therefore, have been included within the report.

The previous application within Somerset was refused at the Somerset Planning Committee for the following reason:

*'The site is located outside of the housing development limit and is therefore contrary to the District's settlement strategy, as outlined in Policies CP1, CP2 and CP4 of the Mendip District Local Plan Part I. As the Council cannot currently demonstrate a 5-year housing land supply, the presumption in favour of sustainable development applies, as outlined in the National Planning Policy Framework. Although the site is adjacent to Midsomer Norton, the harm of the proposal due to travel distances to services and facilities, in particular the senior school and doctor's surgery, would significantly and demonstrably outweigh the benefits. As such, the proposal is not considered to constitute sustainable development and is contrary to Policies CP1, CP2 and CP4 of the Mendip District Local Plan Part I and the National Planning Policy Framework.'*

The application within B&NES was subsequently refused under delegated powers for the following reasons:

#### *'1 Principle of development*

*The principle of residential development in this location will worsen the imbalance between employment and housing within the Somer Valley. Whilst the main housing development is proposed within Somerset, the provision of an access within B&NES will enable and facilitate the housing development. The development is therefore considered to be contrary to policy DW1 of the Bath and North East Somerset Local Plan Partial Update and policy SV1 of the Bath and North East Somerset Placemaking Plan.*

#### *2 Loss of housing stock*

*The development will result in a net loss of residential accommodation with the B&NES Authority area. Alternative provision within Somerset has not been secured. Page 44 Planning Board Report 7th May 2024 The development does not demonstrate substantial conservation, economic, social or environmental benefits that outweigh this harm and therefore is contrary to policy H5 of the Bath and North East Somerset Local Plan Partial Update.*

#### *3 Sustainable construction*

*The application is not accompanied by a Sustainable Construction Checklist which demonstrates that zero operational emissions can be achieved. The development is*

*therefore contrary to policy SCR6 of the Bath and North East Somerset Local Plan Partial Update.*

#### *4 Lack of a S106 agreement*

*The application has failed to secure the required planning obligations to the Council's satisfaction, including highway works and contributions, off-site green space contributions and an additional affordable home within Somerset. The development is therefore contrary to policies H5, ST1 and ST7 of the Bath and North East Somerset Local Plan Partial Update.'*

The current application is the same as the previous scheme, but additional information has been submitted in order to try and address the previous reasons for refusal. Paragraph 1.5 of the submitted Planning Statement summarises the additional information which has been provided:

'- Additional information has been provided to demonstrate the proximity of the site to services and facilities; confirmation has been provided in regard to the proximity of secondary schools and a commitment to funding of transportation in the scenario that no places exist at a closer school; and confirmation has been provided that future residents could access their local GP surgery in Midsomer Norton, just 0.5 miles away.

- A full draft s106 will be submitted to provide certainty on the obligations and financial contributions that would be delivered by the developer.

- An updated Sustainability Statement is submitted alongside this application that outlines how the proposals would greatly exceed policy requirements in respect of sustainable construction standards for the properties within Somerset. These homes would be highly fabric efficient and supplied with Air Source Heat Pumps and Solar Panels offering a circa 70% improvement over current 2021 Building Regulations standards.

- A Sustainable Construction Checklist is also submitted alongside this application which demonstrates that Plot 1 in B&NES would be built to standards necessary to comply with adopted policy SCR6.'

A number of third parties have queried whether the application should be considered by the relevant Local Planning Authorities in light of the recent refusals. They have raised that the scheme has not been changed. It is the responsibility of the Local Planning Authority to assess submitted planning applications and in this case, additional information has been submitted in order to try and overcome reasons for refusals which have previously been given. Whilst the S106 draft reference above has not been provided, the applicant has agreed to the Heads of Terms put forward by each Local Authority. As such, there is no reasons to refuse to consider and determine the planning application before the Local Planning Authority.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

### **CONSULTATION RESPONSES:**

**COUNCILLOR MICHAEL AUTON:**

I wish to object to the planning application submitted under the above reference (Somerset application number 2024/0315/FUL).

My reasons are as follows:-

1. The Town will not benefit from the proposed development, which although built on the boundary to Bath & North East Somerset Council is actually located within Somerset and does not offer social/affordable housing to Midsomer Norton's needs. Any council tax paid by residents will be for Somerset and not BANES.
2. There is absolutely no financial benefit to the residents of Midsomer Norton as council tax will be payable to Somerset, yet we will suffer with an already overstretched infrastructure / services.
3. Curo stated 167 jobs will be created. There is no guarantee these would be for local people and the jobs would only last for the duration of the development. They are not long term jobs so of no benefit to the community in Midsomer Norton.
4. Curo stated that the NHS has confirmed that the doctors and dentists within the locality has capacity for the incumbents of the proposed development. I have seen no written evidence of this from each of the doctors' surgeries within the community. Waiting times to see local doctors is already stretched so development it will be a nightmare to get the appointment we need and should expect from our local service
5. If the development proceeds the additional vehicles will create even more delays in the area due to the narrow roads and serious parking issues, causing more gridlocks. The amenities located there, care home, play area and community hall will be severely impacted.
6. Residents in the area of the proposed development state that there is an abundance of wildlife in the field which will be lost to the area forever.
7. Residents in the area are concerned about the existing flooding risk and whilst Curo state a retention bowl is part of the proposed development no mention was made of who would maintain this and for how long.
8. The proposed solution regarding transportation for school travel is ridiculous as it isn't sustainable and yet no long term plan has been given.

For the above reasons, and as a local Ward Councillor for one of the two Midsomer Norton Wards, I strongly object to this planning application.

COUNCILLOR SHAUN HUGHES:

On behalf of the residents of Midsomer Norton it is important to understand the huge amount of frustration and anger and a feeling that Curo are completely ignoring local opinion and we are helpless to object or prevent unwanted developments in our own neighbourhood, it is unfair to residents to be subjected to a constant uncertainty of repetitive applications.

There is not sufficient change in this application from the previous application (22/02932/FUL) to justify a new application. In fact the planning statement provided by Curo states that "this application is a duplicate of the original submission" and certainly there are no significant material changes from the previously refused application.

It should be taken into account that there were more than 150 written objections to the development on this site lodged against the previous application number. Most frustratingly these have now been removed from the B&NES planning portal and as you

are aware I have requested that they are reinstated as a matter of urgency or at least acknowledged as a material consideration as the application is a duplicate of the previous submission.

This site was removed from the Somerset (previously Mendip) local plan by a high court judge during a successful judicial review actioned by Norton St Philip Parish Council. Therefore, is currently not allocated within the Somerset local plan and the current update from the Somerset Local Plan Review indicates that Underhill Lane is no longer proposed to be allocated.

The Curo planning statement draws heavily on the lack of a 5 year land supply within Somerset Council, (but mentions nowhere that it is not now part of the Somerset Local Plan Review), B&NES 5 year land supply is up-to-date and therefore this is not a consideration.

### Services

This development although located in Somerset will draw heavily on the already overstretched infrastructure and services in Midsomer Norton, and as council tax will be paid to Somerset Council B&NES will receive no financial contribution or support therefore this proposed development offers nothing to our community.

The application states that residents of this development would be able to access a local GP surgery 0.5 miles away. Just to be absolutely clear our surgeries are already oversubscribed and for the majority of residents access to GP other than for emergency's is almost impossible.

The report identifies the solution for school places as providing funding transportation for school travel for a short period however does not make this development sustainable in fact quite the opposite it simply highlights the issue of an 11-mile commute to school, the funding proposed is insufficient and there is no mention of what happens when the funding expires.

Of the 54 houses only 18 will be social/affordable housing and no additional social/affordable homes have been offered to support Midsomer Norton housing needs. Only the replacement of the 2 demolished social houses currently located in B&NES.

### Employment

Curo's planning statement makes a ridiculous unsubstantiated claim that this development would create 167 new jobs this is clearly wrong, and our area does not have the additional jobs to support this level of Somerset housing, it is therefore likely to increase the serious commuting issues that we are trying to address between Midsomer Norton, Bath and Bristol. It will have a negative impact on our ability to achieve our climate emergency objectives. It is contrary to B&NES Core strategy and Placemaking Plan and importantly our climate emergency net zero targets.

### Flood risk

There are also serious concerns regarding the site suitability including measures to control flooding on the site. The flood risk report identifies that the proposed retention bowl will require significant levels of monthly maintenance and inspection to avoid flooding (who will do this? And for what time period?), we are witnessing ever increasing rainfall levels due to climate change and the report lacks evidence of the ability to cope with future levels.

There is also concern regarding the proximity of buildings to the water course and the location of works to trees protected by TPOs.

#### Roads, access and public safety

The adjacent roads network including Orchard Vale, Underhill Lane, High Meadow, Orchard Avenue, Pine Wood Avenue and the wider area are already struggling with access issues and serious parking problems, with narrow through access due to lack of off-street parking provision, this infrastructure is not able to support this level of additional vehicles and will pose a serious risk to emergency service access.

This proposed site entrance has a children's play area a nursing home and a busy community hall used for numerous daily community activities including Age UK, an access point at this location would add an unacceptable level of increased danger to public safety and access routes

to the site will not provide improvements for pedestrians, cyclists and those with a mobility impairment therefore the current proposal does not comply with B&NES policy ST7.

The additional homes and traffic will cause a loss of amenity for existing residents particularly those living closest in Orchard Vale, the planning statement (para 5.7) highlights concern for noise issues for number 24 Orchard Vale, however it seems to indicate that these residents should consider more than 640 vehicle movements along the side of their home acceptable? Clearly this will impact severely on the peaceful enjoyment of their home.

#### Ecology

This field is home to a wide variety of wildlife and residents report various species of deer, bat and species of newt and although an ecological report has been submitted to date Natural England have not been invited to comment and I feel this would add to a more balanced view.

In summary, this application does not resolve the previous reasons for refusal, Midsomer Norton does not have the infrastructure, jobs or services to support this development, it is contrary to our climate emergency policies, the site is wholly unsuitable as our roads around Orchard Vale

cannot support the access or traffic increase, there are serious concerns regarding flooding not to mention the irreplaceable destruction of habitat for our wildlife including more than 10 species of bat several of which are protected species.

#### MIDSOMER NORTON TOWN COUNCIL:

- Recommend refusal
- Traffic concerns; lack of transport facilities and safe/amenable walking and cycling options
- Ecological impacts; loss of green space and light pollution
- Affordable housing only available for Somerset residents
- Essential services in MSN are insufficient
- Development should fall within B&NES boundary
- Will not received CIL contributions or S106

#### WESTFIELD PARISH COUNCIL:

Comments made, and concerns raised with regard to traffic impact.

EDUCATION SERVICES:

No objection subject to conditions.

AVON AND SOMERSET FIRE & RESCUE:

Fire hydrant contribution required.

HOUSING:

No objection subject to conditions

PARKS AND GREEN SPACES:

Scope for revision

DRAINAGE AND FLOODING:

Scope for revision

ARBORICULTURE:

Scope for revision

HIGHWAYS:

No objection subject to conditions and obligations

CONSULTEE COMMENTS TAKEN FROM PREVIOUS IDENTICAL APPLICATION:

AVON AND SOMERSET POLICE:

27th July 2022

From the B&NES perspective I have no objections to the proposals but would encourage the applicant to seek Secured by Design accreditation for the development from the Mendip CPDA

4th July 2023

No additional comments.

HOUSING:

3rd August 2022

Objection

9th June 2023

No objection subject to conditions

ARBORICULTURE:

11th August 2022

Object

13th June 2023

Scope for revision

DRAINAGE AND FLOODING:

10th August 2022

Scope for revision

6th June 2023

No objection

EDUCATION:

11th August 2023

No objection subject to conditions

ECOLOGY:

16th August 2023

Scope for revision

12th October 2023 - Comments provided by Somerset Council's Ecologist

No objection subject to conditions

PLANNING POLICY:

24th August 2022

- Development is contrary to B&NES Spatial Strategy

- Contributions should be secured to mitigate development if Mendip were to approved the scheme

PARKS AND GREEN SPACES:

30th August 2022

Scope for revision

16th June 2023

Scope for revision - clarification RE adoptable areas required

LANDSCAPE:

10th September 2022

Scope for revision

14th July 2023



Scope for revision

HIGHWAYS:

29th September 2022

Scope for revision

22nd June 2023

Scope for revision

16th August 2023

No objection subject to conditions/planning obligations

WOODLAND TRUST:

22nd June 2023

Holding objection

NATURAL ENGLAND:

7th July 2023

No objection

MIDSOMER NORTON TOWN COUNCIL:

Object for the following reasons -

Traffic, Ecology, Local Authority Housing, Services, Local residents, Boundary, Orchard Hall

Further comments made 23rd June 2023 -

- Underhill Lane should not be included in any developments following JR of LPP2
- B&NES have a 5 year housing land supply
- Reduction in the attenuation basin size by 50% removing protection against future increases in flood risk
- Site does not achieve required biodiversity net gains; off-site provision is unacceptable
- Access to the site is not suitable within the current highway infrastructure
- Increase in traffic
- Loss of amenity for existing residents, including the care home
- Loss of habitat

WESTFIELD PARISH COUNCIL:

13th June 2023

Object

- Highway implications will be severe
- Extra pressure on local services

COUNCILLOR SHAUN HUGHES:

- Should you be minded to permit this application, request it is referred to planning committee
- Lack of consideration of local residents
- Overstretched local infrastructure
- No additional affordable housing in B&NES
- Insufficient jobs to support Mendip housing
- Commuting issues
- Unable to achieve our climate objectives
- Flood risk issues
- Impact to trees protected by TPO
- Highway related concerns
- Increased danger to public safety due to traffic increase
- Ecological impacts

Additional comments received 21st June 2023:

I wish to add the following objections to my existing objection as there have been significant changes to the application since the application was originally submitted more than 1 year ago.

One of the most significant changes is the Judicial Review in which a high court judge instructed Mendip (now Somerset) to remove 5 sites including this one from their local plan as the process used to allocate the site was flawed.

I appreciate that Curo have sadly chosen to ignore the result of the judicial review and attempt to push the application through on the basis that Somerset do not have the protection of a 5 year land supply within their local plan, however I would note that BANES do have a fully compliant local plan and should not permit a development that does not exist within any democratically agreed local plans.

I believe on this point there is not a duty to cooperate in conflict with the judge's decision, however as a council we do have a duty of care to the existing residents including the adjacent care home and their loss of amenity, the additional burden this development will place on our already full doctors and dental practices. These are all issues that Curo are fully aware of as a service provider to B&NES and I'm very disappointed at the approach being taken by a company that tell us that they pride themselves in being part of and listening to the community, clearly this is not the case in this instance.

The revised plans do little if anything to improve the development and potentially create more flood risk with the reduction of the attenuation basin removing protection against a constantly increasing flood risk due to climate change.

The site will not achieve the required biodiversity net gains and will need to be met off-site, how ridiculous to destroy a habitat rich in wildlife including several species of protected bat and claim it can be replaced elsewhere, once it's lost it's gone forever.

For all other points please refer to my earlier objection as all of the issues raised are still valid and have not been addressed in the revised plans.

This development offers absolutely nothing to B&NES and most importantly its residents and I would urge you to refuse this application.

### THIRD PARTY REPRESENTATIONS:

140 objections and 1 comment of support have been received. Due to the high number of representations, the comments have not been included verbatim and a summary of the main points is provided. Full comments can be viewed on the Council's website.

The previous identical scheme attracted 165 objections and 1 comment of support.

#### Support:

TRANSITION BATH: We support plot 1's compliance with B&NES policy SCR6, and the use of heat pumps and solar PV on the remaining plots in Somerset, however we feel it a pity that the significantly higher SCR6 standards, including better insulation and Mechanical Ventilation and Heat Recovery were not also applied to the plots in Somerset?

#### Objections:

- Increase in traffic
- Increase in parking pressures to the surrounding streets
- Highway safety concerns
- Roads are unsuitable for site traffic
- Traffic study used is out of date
- Cause difficulties for children walking to school
- Insufficient healthcare services
- Schools in the locality are at full capacity
- No changes from the previous application (22/02932/FUL)
- Council tax will be paid to Somerset
- No financial contribution or support to B&NES
- Flooding concerns
- Will cause ecological harm
- Negative impact to wildlife
- Loss of habitat and biodiversity
- Greenfield land
- Will not benefit local people
- Removed from Local Plan allocation by the High Court
- More appropriate sites in Somerset
- Will put pressure on services in Midsomer Norton
- Demolition of two family homes does not benefit the wider area
- No gain for B&NES residents
- Lack of employment in the area
- Development will not create local jobs
- Insufficient doctors capacity
- Property values will be affected

### **POLICIES/LEGISLATION**

The Development Plan for Bath and North East Somerset comprises:

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

#### CORE STRATEGY:

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

- CP5: Flood Risk Management
- CP6: Environmental Quality
- CP9: Affordable Housing
- CP10: Housing Mix
- CP13: Infrastructure provision
- 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:

- SV1: Somer Valley Spatial Strategy
- D1: General urban design principles
- D2: Local character and distinctiveness
- D3: Urban fabric
- D4: Streets and spaces
- D6: Amenity
- D7: Infill and backland development
- LCR9: Increasing the provision of local food growing
- PCS1: Pollution and nuisance
- PCS2: Noise and vibration
- SCR2: Roof-mounted/ building integrated scale solar PV
- SCR5: Water efficiency
- SU1: Sustainable drainage policy

#### LOCAL PLAN PARTIAL UPDATE:

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

- DW1: District Wide Spatial Strategy
- CP3: Renewable Energy
- CP4: District Heating

CP7: Green infrastructure  
D5: Building design  
D8: Lighting  
H5: Retention of existing housing stock  
NE1: Development and green infrastructure  
NE2: Conserving and enhancing the landscape and landscape character  
NE3: Sites, species, and habitats  
NE3a: Biodiversity Net Gain  
NE5: Ecological networks  
NE6: Trees and woodland conservation  
PCS5: Contamination  
SCR6: Sustainable Construction Policy for New Build Residential Development  
SCR8: Embodied Carbon  
ST1: Promoting Sustainable Travel  
ST7: Transport requirements for managing development

#### SUPPLEMENTARY PLANNING DOCUMENTS:

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

Sustainable Construction Checklist Supplementary Planning Document (January 2023)

Transport and Development Supplementary Planning Document (January 2023)

Planning Obligations Supplementary Planning Document (January 2023)

#### NATIONAL POLICY:

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

#### LOW CARBON AND SUSTAINABLE CREDENTIALS:

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

#### LOW CARBON AND SUSTAINABLE CREDENTIALS

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

## OFFICER ASSESSMENT

The main issues to consider are:

1. Principle of development
2. Affordable housing
3. Character and appearance
4. Trees and landscaping
5. Residential amenity
6. Highway safety and parking
7. Flooding and drainage
8. Renewable energy and sustainable construction
9. Educations
10. Parks and green spaces
11. Coal Mining
12. Healthcare
13. Targeted Training and Recruitment
14. Other Matters
15. Public Sector Equality Duty
16. Planning Balance
17. Conclusion

### 1. PRINCIPLE OF DEVELOPMENT:

The application is a cross boundary application. The scheme is split across B&NES and Somerset Authority boundaries as follows:

#### *B&NES:*

The demolition of 2no. dwellings is proposed within B&NES to enable the creation of a vehicular, cycle and pedestrian access into the development site. The provision of 1no. dwelling is proposed within the B&NES Authority boundary.

#### *Somerset:*

The provision of 53no. dwellings within the Somerset Authority boundary, with associated works and infrastructure.

The submitted site location plan shows the extent of each Authority's boundary.

The development within B&NES Authority boundary pertains, as aforementioned, to the demolition of a pair of semi-detached, affordable dwellings and their replacement with a single, detached, affordable dwellinghouse and an access.

The proposed access has no other function than to provide vehicular, cycle and pedestrian access to the proposed wider housing development within Somerset Authority's boundary. The principles of the "Bridge to Nowhere" Court of Appeal planning case are relevant to the determination of this application. R (Ashchurch Rural Parish Council) v Tewkesbury Borough Council [2023] EWCA 101 was a challenge to a planning permission granted by Tewkesbury Borough Council for a bridge solely to enable further development as part of the Tewkesbury Garden Town, but which itself had no transport links to or over it and served no current development. When considering the proposal for the bridge, the planning committee were advised that the bridge alone would have an

adverse impact on the setting of nearby listed buildings; therefore, it needed to be determined whether there were benefits which outweighed the heritage harm. In advising the committee, the officer's report made several references to the benefits of the masterplan of the future Garden Town but at the same time, informed members that they could not take into account any of the harms of the future town and that these would be assessed as part of future applications. The challenge succeeded on the basis of irrationality and determined that it was unlawful to take into account the benefits of the future development but ignore any harms which would also arise.

Additionally, when undertaking its EIA screening opinion and determine whether the development for the bridge was likely to "have a significant effect on the environment", Tewkesbury Borough Council disregarded any future development and considered the bridge as a standalone project. There was no reference within their decision making documents there was no discussion as to whether the bridge was "functionally independent" or an "integral part" of the wider masterplan. The Court determined that an assessment of the bridge and masterplan should have been undertaken for EIA purposes, acknowledging that there were uncertainties in regard to some of the garden town elements. The project should be viewed as a whole when considering the EIA regulations.

Taking into account the "Bridge to Nowhere Case", the case officer considers that the wider development proposed here (i.e., the parts of the development within Somerset) should be taken into account and are material to the consideration. Materiality is a matter for the decision maker to determine and if something is capable of being regarded as relevant to the decision on a planning application and the Local Planning Authority fails to consider it, a decision is challengeable on the basis of irrationality; this has been established through *Derbyshire Dales District Council v Secretary of State for Communities and Local Government* [2009] EWHC 1729 (Admin), [2010] 1 P& CR 19. Given that the proposed access within B&NES has the sole purpose of provided access to a proposed housing development, it is considered that the principle of the housing development itself, whilst outside of the B&NES boundary should be considered. Similarly, in the planning balance section of this report, both the benefits and harms of the project as a whole will be taken into account, in accordance with the principles set out in the "Bridge to Nowhere" case.

As such, the principle of the development has a whole is considered.

Turning first to the elements of the scheme within B&NES, policy H5 of the Local Plan Partial Update relates to the retention of existing housing stock. It makes clear the development which would result in the net loss of existing residential units will not be permitted unless, there are benefits that outweigh any harm, such as:

- i) Demonstrable and substantial conservation benefits
- ii) Demonstrable and substantial economic, social, or environmental benefits
- iii) Benefits in terms of providing visitor accommodation

The proposal will result in the net loss of 1no. dwellinghouse within the B&NES Authority boundary. A second "replacement" dwelling is proposed within the Somerset Authority boundary, which will be an affordable unit secured by way of Section 106 agreement. However, in terms of overall housing numbers within B&NES, there is a loss of a unit.

It must therefore be considered whether parts i, ii or iii in policy H5 can be said to be met. As the development does not facilitate the creation of visitor accommodation H5(iii) is not relevant in this case. Whether demonstrable benefits, as defined by the policy, can be said to outweigh the harm to the loss of a housing unit is assessed within the planning balance section of this report.

The principle of the elements of the scheme within Somerset must also be considered, given that the sole purpose of the site access is to provide access to a site for housing.

Policy DW1 sets out the overarching spatial strategy for the district and promotes sustainable development by seeking to focus new housing development within the Bath, Keynsham, and the Somer Valley. Policy SV1 sets out the spatial strategy for the Somer Valley specifically, within which Midsomer Norton is located. Whilst the development site is outside of Midsomer Norton, given the strong functional link between the access, which is within Midsomer Norton, and the proposed housing, it is considered reasonable that the development is considered against the B&NES spatial strategy.

One of the key strategic issues that the Local Plan Partial Update seeks to address within policy SV1 is an imbalance between jobs and homes resulting from the recent incremental housing development and a decline in the manufacturing sector, as a high degree of out-commuting. The B&NES development plan facilitates more employment including allocating the Somer Valley Enterprise Zone and only facilitates some additional housing, primarily reflecting committed sites (either permitted or allocated through previous iterations of the development plan).

The proposal for housing within this location is contrary to the overall aims of the Somer Valley Spatial Strategy (SV1). The development will worsen the imbalance between homes and jobs, which will in turn likely result in an increase in out commuting and additional pressure on the services and facilities within Midsomer Norton. Additionally, as the site is outside of any defined housing development boundary (either in B&NES or Somerset), which is contrary to policy DW1 and SV1, the district wide spatial strategy. The principle of development, having regard to the B&NES spatial strategy is therefore not supported in this location.

The majority of the project as a whole being within the open countryside is a material planning consideration within the consideration for B&NES, given the aforementioned functional link between the access (B&NES) and housing (Somerset). The Mendip Local Plan Part 1 makes clear through policy CP4 that development outside of development limits should only be permitted where it benefits economic activity or extend the range of facilities available to local communities. The committee report written by Somerset officers acknowledges that the principle of development in this location is not supported.

It is also material that Somerset Council do not have a 5-year housing land supply and thus, the tilted balance is engaged for the development within Somerset (i.e., the main housing element of the scheme).

The NPPF makes clear that where a Local Planning Authority cannot demonstrate a 5YHLS, the presumption in favour of development (paragraph 11(d)) applies. This sets out that there are no relevant development plan policies, or the policies which are most



important for determining the planning application are out of date planning permission should be granted unless either of the following applies:

- i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole

It is noted that during their May planning committee meeting, Somerset Council (East) resolved to permit the application, and this is a significant material planning consideration which must be given weight in the planning balance. This will also be undertaken within the planning balance section of this report.

It is therefore concluded that the principle of development is not supported in this location and the principle of development is unacceptable. However, the case officer notes that there are other material planning considerations which must be taken into account. This will be dealt with in the planning balance section of this report. The development is considered to be contrary to policies DW1, SV1 and H5 of the B&NES Local Plan in so far as they relate to the principle of development.

## 2. AFFORDABLE HOUSING:

Two affordable units are proposed to be demolished within B&NES to accommodate the provision of the access to the wider site. One replacement affordable unit is proposed within the B&NES boundary, and a second replacement affordable dwelling is proposed within Somerset with nomination rights given to B&NES so that people who are on the B&NES Housing Register could occupy these dwellings. There is no objection to this in principle from the B&NES Housing Team and the justification for the unit being proposed within Somerset has regard to the design of the scheme which is assessed further below. The justification is accepted by officers, although the loss of an affordable unit within the district itself is somewhat unfortunate. In regard to policy CP9 of the Core Strategy, it is not considered that this approach conflicts. However, in regard to policy H5, there is still the loss of a physical dwellinghouse, and this will be dealt with in the planning balance.

The affordable dwelling with nomination rights will need to be secured by way of a S106 agreement, and this has been agreed by the applicant.

### *Additionality*

Paragraph 3.1 of the Planning Statement proposes the option of additionality. This is the provision of 2 additional new 4-bedroom affordable homes within Somerset to be given nomination rights to B&NES, in addition to the two units proposed above. Additionality cannot be secured via the S106 agreement because grant funding is proposed to be used for their delivery. Grant funding by Homes England, through the Affordable Homes Programme can only be provided on units which sit outside a Section 106 agreement. Therefore, it is not proposed that these units are secured via the S106 agreement, although they are shown on the planning layout drawing denoted with a yellow dot. Given that they cannot be secured via a S106 agreement in order for the developer to obtain grant funding, the weighting they are attributed in the balance will need to be given accordingly.

### 3. DESIGN AND IMPACT TO LOCAL CHARACTER:

26-28 Orchard Vale are a pair of post-war, semi-detached dwellings, which are characteristic of the locality. The immediate locality is dominated by such semi-detached pairs, with hipped roofs and render to the external facades. There are numerous examples of alterations to dwellings within the locality, through the provision of extension and driveways. The residential grain along Orchard Vale is interrupted by Orchard Community Hall and the community play area located to the immediate south of nos. 26 and 28. Continuing south, a residential care home dominates the local context and is characterised by render and reconstituted stone. Whilst there are a mix of building forms and typologies in this location, the material palette is relatively consistent, and this can therefore be said to form a strong part of the local character.

The proposal seeks to demolish these two dwellings, replacing them with an access and a residential unit which will be located on the proposed access. In regard to character and appearance, it is considered that the provision of an access in this location is acceptable, given that the residential grain of development in this location is interrupted by the community centre and play area. The proposed access will be located between the community centre and a dwellinghouse (no.24 Orchard Vale). It will consist of a slightly curved primary access road for the residential properties proposed within the Somerset boundary. Soft landscaping is proposed on either side of the access, and this is supported, as it will introduce additional green landscaping into the locality; something which is currently lacking along this particular stretch of Orchard Vale.

The previously refused scheme originally proposed to have two replacement dwellings within B&NES so as to ensure that there was no net loss of housing stock in accordance with policy H5. However, both B&NES and Somerset planning officers considered that this arrangement led to a cramped and contrived form of development, whereby the garden areas in particular would be a worsening of the existing housing stock and the levels of amenity facing onto an access road would not be acceptable. Following discussion, the current scheme shows only a single dwelling on the access road within the B&NES boundary. As set out in the sections above, in order to overcome the loss of a dwelling within B&NES, the applicant has proposed an additional dwelling within Somerset to be provided with nomination rights to B&NES. This approach was accepted in principle by B&NES officers, subject to securing nomination rights through a S106 agreement. This is revisited in detail in the planning balance, but it is necessary to understand the context for the revised design.

The proposed dwelling will be located on the access, orientated with its entrance facing east towards Orchard Vale. The dwelling is sufficiently set back from the entrance to the site which allows for meaningful soft landscaping to be provided. During the previous application, the B&NES Landscape Officer commented that the omission of both dwellings along the entrance would significantly improve the "arrival experience". Whilst the case officer agrees that this would be a more favourable design solution, it is considered that on balance the provision of a single dwelling in this location is acceptable. The proposed dwelling will be the Kensington typology and will be finished largely in render to reflect the surrounding developments. Whilst the roof will have a gable rather than a hip, given that this dwelling forms the entrance into a new housing estate, it is important that this dwelling

reflects the character of the proposals as well as the existing built form. The use of materials takes cues from the locality. A condition could secure a materials schedule.

Overall, it is considered that the design of the access and the proposed dwelling within B&NES are reflective of the local character and the development is considered to comply with policy CP6, D1, D2, D3, D4 and D5 of the B&NES development plan.

In regard to the Somerset element of the scheme, this would constitute backland development, which if being assessed in accordance with the B&NES development plan would be assessed primarily under policy D7 which states that backland development could be supported where:

- a. it is not contrary to the character of the area
- b. it is well related and no inappropriate in height, scale, mass and form to the frontage buildings
- c. there is no adverse impact to the character and appearance, safety or amenity of the frontage development
- d. it is not harmful to residential amenity as outlined in policy D6

In their committee report, the Somerset Case Officer has concluded the following:

"In conclusion on this matter, the proposal by reason of its design, detailing, 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 Policies DP1 and DP7 of the adopted Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework."

A number of third parties have commented on the loss of an existing green space and it is acknowledged that the proposal will change the character of the locality somewhat, as a result of the housing on the site. The main part of the housing development lies within Somerset and has been granted permission by their committee. B&NES planning officers consider that the design of the scheme will maintain the character and appearance of the surrounding area, with regard to the elements outside of the B&NES boundary and when taking the project as a whole.

#### 4. TREES AND LANDSCAPING:

Local Plan Partial Update policy NE6 has regard to trees and woodland conservation. Development should seek to avoid adverse impacts on trees and woodlands of wildlife, landscape, historic, amenity and productive or cultural value, as well as appropriately retaining trees and providing new tree planting. Development will only be permitted where it can be demonstrated that adverse impacts on trees are unavoidable to allow for development and that compensatory provision will be made in accordance with guidance within the Planning Obligations Supplementary Planning Document (2023). Development proposals which directly or indirectly affect ancient woodland and ancient or veteran trees will not be permitted.

To the north of the site lies a woodland, which includes ancient and veteran trees; this is protected by a blanket TPO (M1156). These trees lie outside of the B&NES boundary and

are within Somerset. The matters pertaining to trees within Somerset have been assessed by the Somerset Arborist.

In regard to the site access, the Tree Constraints Report identifies several trees close to the eastern boundary with residences in Orchard Vale and High Meadows. T7 has been identified as a veteran oak, which is offsite. Its diameter is estimated to be 2m. The Natural England and Forestry Commission "standing advice" for veteran trees recommends a buffer zone which should be at least 15 times larger than the diameter of the tree.

A site visit was conducted during the course of the previous application with the applicant, B&NES Planning Officer, applicant's Arborist and B&NES Arborist. Following this visit, the following documentation was submitted and has been submitted as part of this application:

- Arboricultural Constraints Report
- Arboricultural Method Statement
- Tree Protection Plan

The Arboricultural Method Statement is based on discussion with officers on site and outlines in detail the trees on and near to the site, as well as protection measures proposed, including barriers. The Veteran Oak (T7) will be protected during construction. The B&NES Arborist has commented that the footpaths are within the buffer zone and there is justification for this. The proposed footpaths along the eastern boundary will be constructed using "no dig" methods. This position was accepted as part of the previous application and it is noted that the Council's Arborist has not offered an objection to the scheme, they have commented that there is scope for revision. Given the no dig methods, and the context of the previous application, it is not considered that the above is reason for refusal. The Somerset Arborist has also accepted this position.

The comments of the B&NES Arborist in regard to the Underhill Woods are noted, and the fact there is not sufficient buffer from the woodland edge is also acknowledged. However, this is within Somerset, as well as the housing which falls within the buffer zones and B&NES do not have control over this element of the scheme. Somerset consider the buffer zones acceptable which is a material consideration and therefore, B&NES should not refuse the development on this basis.

Natural England were consulted as part of the previous scheme and have offered no objection to the proposals.

It is noted that a generous landscaping scheme is proposed, largely within the Somerset boundary over which B&NES have no control. The Somerset case officer has suggested that a condition is used to secure the landscaping scheme which is supported by B&NES. B&NES officers would recommend a similar condition to secure the soft landscaping along the access.

## 5. 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 third parties within B&NES have commented that they will suffer a loss of outlook, as a result of the positioning of the dwellings within Somerset. Whilst it is accepted that the outlook from their dwellings will change, in that they will be looking onto a housing development as opposed to an open field, it is not considered that this is reason to object to the development. Planning does not afford residents a right to a view and the separation distance between the proposals and the existing dwellinghouses is such that it will retain outlook for residents, albeit onto a difference view. A refusal on this basis would not be warranted within the context of policy D6.

Concern has been raised by several third parties in regard to noise during construction. Given the nature of the development, there will be a degree of noise and disturbance for residents who live locally to the site during construction. These impacts will be temporary and can be managed through a Construction Management Plan which could be secured by way of planning condition should the development be being approved.

Consideration must be given to the residential amenity of no.24 Orchard Vale, who is most likely to be impacted by the proposed development by given the nature of the proposed layout. The proposed vehicular access will run parallel to this dwelling. This is the sole vehicular access for the site and therefore, there will be vehicular movements past no.24 each day as residents undertake their daily business, particularly during peak times (such as the school run/morning commute and evening return home).

The application is supported by a Noise Impact Assessment (Clarke Saunders). This details that environmental noise measurements have been undertaken at a location suitably representative of nearby noise sensitive receptors which may be affected by vehicular noise associated with the development. These have been used to assess noise levels in regard to vehicles entering and egressing the site, based on the predicted number of vehicle trips. The assessment concludes that the access road will have a negligible impact upon existing noise levels at the existing adjacent residential receptors. The monitoring location is considered to be comparative of no.24 post development. It is accepted that the access road will cause some additional noise for these residents, however the Council does not have evidence to challenge the Noise Impact Assessment and does not consider that the impacts to residential amenity would be significant. A refusal on this basis would be unjustified.

Additionally, the proposal is not considered to result in significant levels of overlooking or overshadowing.

Overall, it is considered that the proposal complies with policy D6.

## 6. HIGHWAYS SAFETY AND PARKING:

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

The Highway Authority have been consulted on the current application and provided comments on the previous scheme.

### *Active Travel and Public Transport*

During the course of the previous application, it was highlighted to the applicant that there is a lack of dropped kerbs and tactile paving on key local walking routes. The Traffic and Network Management team identified opportunities for a formalised crossing across Radstock Road and improved links on the existing off-street Public Right of Way from the end of Dymboro Avenue to Redfield Road. It was advised that, in order to make the development acceptable having regard to B&NES transport policies and the Transport and Development Supplementary Planning Document (SPD), that a number of improvements were required along key pedestrian routes to local facilities as shown in Figures 3.4, 3.5 and 6.1 of the Transport Assessment (TA) and that Route W05 of the West of England Local Cycling and Walking Infrastructure Plan should be incorporated.

The applicant has proposed a number of uncontrolled pedestrian crossings (Drawing 1652-003 Rev B) containing dropped kerb and tactile paving, which are limited to within a 500m radius of the site location, identified on Figure 6.1 of the TA. The development has agreed to make a contribution to the proposed Scheme W05 of £86,892.50.

The closest bus stop to the site was previously identified as "Greenacres" which is located close to the proposed access point on Orchard Vale. As noted in the TA there is no infrastructure at "Greenacres". The public transport team requested raised kerb and bus border markings with a new shelter at this location or, alternatively a flag and pole with Real Time Information. This stop is served by the First Bus 82 route which provides a 2 hourly bus service between Paulton and Radstock for weekdays only. It was considered that subject to a new bus stop at Greenacres and a package of accessibility improvements to reach the bus stops on Paulton Road, the site is considered to have an acceptable level of public transport services.

However, it is understood that bus route 82 was withdrawn effective June 2023 and therefore, the proposed bus improvements are no longer considered to be appropriate. The public transport team have therefore requested the provision of alternative facilities.

The two bus stops on Paulton Road adjacent to Orchard Avenue and near the roundabout should be upgraded to include real time information. In addition, it has been requested that a cantilever bus shelter is provided for southbound users at Stop ID: bthatam and for northbound users at Stop ID: bthapwm adjacent to Pinewood Road. It is considered that the two sets of stops, Orchard Avenue and Pinewood Road, are approximately equidistant from the new development and therefore passengers travelling in both directions would then have access to shelter whilst waiting for a bus. A contribution of £34,000 for these works has been agreed with the applicant and can be secured by way of a S106 agreement.

Subject to the necessary contributions being secured by way of a Section 106 agreement, there would be no objection in regard to active travel and public transport.

### *Traffic Impact*

A large number of the objections received in relation to the scheme reference concerns in regard to the traffic impacts of the development.

The TA considers the potential highway impacts, with the scope of the assessment agreed with this highway authority. The baseline data is based on traffic surveys which are included in the TA appendices, and this is acceptable.

The Transport Assessment has interrogated the TRICS database. Method of Travel to work data from the 2011 census has been applied to the derived trip rates to give multimodal trip generation estimates. The highway authority agrees that this trip rate approach and methodology is acceptable.

Table 4.3 of the Transport Assessment shows that the proposed development would generate approximately 41 two-way vehicle trips during the morning peak hour, and 31 two-way vehicle trips during the evening peak hour. This would result in 321 two-way vehicle trips during a 12- hour period. This equates to 1 vehicle every 1.4 minutes in the morning peak and 1 vehicle every 2 minutes in the evening peak hour at the site access. This level of traffic generation would not be expected to present any capacity issues at the site access.

The impact at the Northmead Road / North Road / Paulton Road mini roundabout has been considered based on total traffic volumes through the junction and traffic using each approach to the roundabout. This has been calculated for a future year scenario of 2027 when the development could potentially be built out and fully occupied. A TEMPRO growth factor has been applied to 2022 survey data to consider estimated growth in traffic volumes.

The greatest proportional impact on traffic volumes is on the Paulton Road approach to the Northmead Road / North Road / Paulton Road roundabout in the morning peak hour. During this time period, 20 development trips are predicted through this approach. This represents a 5.3% increase in the total traffic in the 2027 morning peak.

The assessment does indicate that the proportional impact on the above roundabout is relatively small, and the submission argues that no further analysis is required. If traffic flows are distributed as estimated in the TA, due to the dilution of traffic through the highway network, the impact at any one junction is within the range of daily fluctuation in flows on these roads and the residual cumulative impacts would not be considered severe in terms of the NPPF (National Planning Policy Framework).

### *Access*

The vehicular access is proposed off of Orchard Vale, following the demolition of nos.26 and 28. The vehicle access from Orchard Vale is a dropped vehicle crossover with a continuous pavement. The Transport Assessment (TA) notes that the use of a crossover will emphasise this pedestrian priority which would benefit the existing residents and pedestrians of Orchard Vale by maintaining the accessibility of the existing play area and other community facilities along Orchard Vale which is welcomed.

A Swept Path Analysis (SPA) of the proposed access has been undertaken using an 11.2m long three axle refuse collection vehicle RCV. The SPA is included in Appendix E

of the Transport Assessment. As noted in Section 4.4 the SPA has significant overruns onto opposite carriageway lanes. The Transport Assessment states that as the RVC would only access the site once or twice a week and as Orchard Vale and the site access will be lightly trafficked, this swing into the opposing side of the carriageway is not considered significant in highway safety terms. However, B&NES Highways have observed on-street parking along Orchard Vale and Greenacres around the proposed access road. In response to concerns raised during the course of the previous application, a revised SPA was provided which addressed these concerns. This is included in the current application.

It has been raised by a number of third parties that the carriageway and footway or nearby estate roads including Orchard Vale, or the surrounding roads Underhill Lane, Orchard Avenue and Pinewood Road can get obstructed by parked cars. This gives rise to concerns about access for deliveries and emergency vehicles. Whilst the proposed housing in Somerset will increase the number of trips on these roads, at present there is no indication that the development will significantly increase the existing levels of on-street parking in the area. A review of injury accident collision records included in section 3.14 of the TA shows that there have been no reported injury accidents on any of these roads within a five-year period.

The proposed access is considered to be acceptable in regard to highway safety and is in accordance with policy ST7 of the Local Plan Partial Update.

### *Parking*

The proposed parking and access arrangements for the proposed dwelling in B&NES is considered to be acceptable and a condition securing covered, cycle parking could be added to the decision notice should the application be being recommended for permission. The parking for the dwellings within Somerset has been assessed by the Somerset Case Officer and has been concluded to be acceptable.

### *Highways conclusion*

Whilst the comments of third parties in regard to the traffic impacts of the development are noted, it is not considered that the proposal will result in an increase in traffic that the local road network would be unable to cope with. There is nothing to indicate that the proposal would cause an impact to highway safety. Subject to the obligations listed in the Planning Obligations section of this report, the development would accord with policies ST1 and ST7:

- Active travel infrastructure
- Active travel contribution of W05 of the West of England Local Cycling and Walking Infrastructure Plan
- Public transport infrastructure contribution
- Traffic regulation order contribution

## 7. FLOODING AND DRAINAGE

A number of concerns have been raised citing flood risk and drainage. Whilst the application is a cross boundary application, the surface water will be flowing into B&NES.



A drainage design has been provided which indicates that the surface water will be discharged from the swale via a Hydrobeak and discharged into the water course at 7.2l/s and this has been shown on the drainage calculations. This is considered to be an acceptable rate by the Lead Local Flood Authority.

The LLFA for B&NES have raised that surface water from Orchard Vale could flow into the proposed development and this could skew the calculations for drainage sizing. They have asked for further information in this regard. However, the drainage referred to is within Somerset boundary. Somerset's committee report concludes "The LLFA has confirmed it has no objections to the proposal, subject to the inclusion of conditions for detailed design of drainage and maintenance. Installation and maintenance of SUDS features is also recommended to be included within the legal agreement." It is considered that the drainage matters within B&NES have been sufficiently assessed by the Somerset LLFA.

The Flood Risk Assessment discusses the existing watercourse within the site and states that it will be culverted with a 600mm diameter pipe beneath the proposed access road. The road is stated as being offered for adoption by Somerset Highways. The LLFA have requested clarification of the culvert as this would not be part of the adoption and would remain with the landowner and land parcel.

The applicant has responded with the following:

"As the scheme straddles the Somerset/BANES boundary, our initial thoughts are to offer the internal estate roads to Somerset as that will be where the bulk of the site is situated. This can be discussed post planning with Somerset and BANES to determine who adopts the proposed roads. The culvert itself appears to be just inside BANES land. However, the culvert can be offered to the highway authority for adoption. If adoption is not forthcoming, the culvert will be passed to the site wide management company to maintain."

It is considered that this matter can be dealt with as part of the Highway Adoption process (S38). If not adopted, the culvert will be managed by a site wide management company, and this is accepted. Confirmation of this can be secured by condition.

## 8. ECOLOGY

The application site includes land within B&NES and Somerset. In ecological terms, separating out these areas would not be a valid approach to the ecological impact assessment and the ecology report follows this approach. Both the B&NES Ecologist and Natural England were consulted by B&NES during the previous application. Due to the fact that the ecological information has not changed, they have not been reconsulted for this application.

The Ecological Impact Assessment (EclA) report (Clarkson and Woods, June 2022) is welcomed. Surveys have been completed to best practice standards. Surveys should normally be kept valid to within 18 months to 2 years of submission. A full set of surveys was completed in 2020 and update walkover/building inspection has been completed in April 2022. The survey effort is considered sufficient to inform the application. The bat survey methodology including monthly static monitoring and bat activity transects is welcomed.

The site was found to support at least 10 foraging and commuting bat species with potential for hazel dormouse, nesting birds, hedgehog and common toad to be present in habitat around the site boundaries. Scrub does not appear to be unsuitable/sub-optimal for nesting birds or dormice, contrary to sections 2.5.75 and 2.5.97 of the EclA report. However, the non-licensed precautionary measures are appropriate for the scheme for species using boundary habitats.

Underhill Wood is located to the north of the site which is a Local Wildlife Site (LWS), which is made up of ancient woodland habitat. Within B&NES, LWS are afforded consideration under Policy NE3-3b and adverse impacts must be avoided. The LWS boundary is within Somerset Council who have policy DP5 in relation to protection of locally designated sites. Contrary to the EclA report, LWS should be considered of District/County importance, given that they form part of an authority-wide network of key local wildlife sites. Underhill Wood LWS is designated for "Broadleaved plantation on an ancient woodland site, with some coniferous plantations and tufa spring as well as Somerset notable plant species".

Following discussions, a 10m landscape buffer is now proposed along the northern and western boundaries of the site, to provide a buffer between the development and the LWS. A 5m buffer is proposed along the eastern boundary from the properties on Orchard Vale and High Meadow between the tree line and private gardens.

The above approach has been accepted by the Ecologists acting on behalf of the Local Planning Authorities.

Although the EclA found no evidence of otter on the site, anecdotal evidence of otter has been provided to the council as part of the consultation process. As such, a further condition on otter protections is recommended as a precaution and this approach has been adopted within Somerset.

In relation to bats, the site is clearly of local importance for horseshoe bats as well as other light sensitive species such as long eared and Myotis bats. It is accepted that there is negligible likelihood of bat roosts being present on site, but there is a high risk of roosting bats being present in adjacent woodland and buildings. Insufficient information has been provided in regard to lighting. The External Lighting Strategy (BSG, June 2022) is welcomed, including consideration of sensitive light fittings in some areas, but is not detailed enough to demonstrate no light spill onto boundary habitats and woodland edge. As a minimum, the layout of external light fittings needs to be provided. Lux contour modelling may be required to demonstrate that retained boundary habitats and buffers will remain lit to below 0.5 lux to be suitable for horseshoe bats and other species if this is not clearly feasible from a layout plan. Construction lighting requirements and restrictions also need to be detailed. A condition could be used to secure these details in both B&NES and Somerset.

The dwelling within B&NES should include an integrated bat or bird box and there should be hedgehog connectivity measures to provide hedgehog highways throughout the scheme. These measures could be secured by a relevant planning condition.

In addition, Policy NE3a of the Local Plan Partial Update relates to Biodiversity Net Gain (BNG). A net gain of 10% is a mandatory requirement for this site under the Environment Act 2020.

The applicant has committed to providing a biodiversity net gain, although there will be a net loss of biodiversity onsite. The proposed gains will therefore be provided offsite due to the onsite constraints. Whilst this is not the most preferable option, national legislation and local policy does make provision for offsite gains and a suitable site has been found within Somerset, 95m to the west of the application site. A Biodiversity Net Gain Report (Clarkson and Woods) and has been submitted and the proposed gains are to be as follows:

- Enhancement of Modified Grassland within fields 1-3
- Establish Other Neutral Grassland in at least "moderate condition"
- Cessation of intensive agricultural management
- Preparation of the land to create a disturbed sward with significant bare ground through (cutting/grazing and scarifying) to provide a suitable seedbed
- Subsequently, an appropriate and diverse seed mix/green hay source can be sown or spread within the fields. The land can then be managed through a low-intensity hay-cutting or grazing regime, which over time will encourage the development of a species-rich and structurally diverse sward

The off-site gains are located within Somerset and will therefore be secured via a S106 agreement with Somerset Council. This is accepted and B&NES are satisfied that the mandatory requirement for BNG has been met and this will be secured via a legal agreement. Conditions can be added to the B&NES decision notice to ensure that a BNG Gain Plan is submitted in line with the requirements of the Environment Act (2020).

Subject to conditions, the proposed development is considered to be acceptable in Ecological terms. Natural England raised no objection to the scheme previously. As such, the proposal meets the requirements of policies NE3, NE3a and NE5 of the Local Plan Partial Update, the provisions of the Environment Act and the requirements of regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended).

## 9. SUSTAINABLE CONSTRUCTION AND RENEWABLE ENERGY

Policy SCR6 of the Local Plan Partial Update has regard to Sustainable Construction for New Build Residential Development. The policy requires new residential development to achieve zero operational emissions by reducing heat and power demand, then supplying all energy demand through on-site renewables. A sustainable construction checklist (SCC) must be submitted with an application, evidencing that the prescribed standards have been met.

In order to address reason for refusal 3 of the previous scheme, a SCC has been submitted with the application. The SCC demonstrates that the dwelling to be within the B&NES boundary will be compliant with policy SCR6. The dwelling outside of the B&NES boundary, but with affordable housing nomination rights to B&NES will be built for "Future Homes Standard". Whilst it would be preferable for both dwellings to be policy SCR6 compliant, given the location of the second dwelling outside of the B&NES boundary this approach is accepted by officers.

Policy SCR8 of the Local Plan Partial Update relates only to large scale new-build development (a minimum of 50 dwellings or a minimum of 5000m<sup>2</sup> of commercial floor space). Such developments are required to submit an Embodied Carbon Assessment, having regard to the SCC SPD, which demonstrates a score of less than 900kgCO<sub>2</sub>e/2 can be achieved within the development for the substructure, superstructure and finished.

Given that the majority of the development is within the Somerset boundary and B&NES are unable to control these elements of the scheme it is not considered to be appropriate to request an embodied carbon assessment in this case.

Policy SCR5 of the 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.). The development within B&NES includes garden space, which is suitable for food growing, commensurate to the scale of residential activity on the site.

## 10. CONTAMINATED LAND

Local Plan Partial update policy PCS5 has regard to Contamination.

It is not considered that there is a likely risk of contamination within the B&NES local authority boundary. In the committee report for Somerset, it is detailed that contaminated land conditions are to be applied.

The proposal is considered to comply with policy PCS5 of the Local Plan Partial Update.

## 11. EDUCATION

The comments in relation to education relate to the proposed dwellings across the B&NES and Somerset area within the application. It is considered appropriate to assess the site a whole in relation to education, given the link between the access and the housing and the fact that there may be an expectation from future residents to accommodate Somerset children within B&NES schools. A number of third parties have raised concern in relation to this.

The children and pupils calculated to be generated from this dwelling mix are as follows:

Early Years age 0-1 - 1.25

Early Years age 2 - 1.10

Early Years age 3-4 - 4.71

Primary pupils - 13.92

Secondary pupils - 7.00

Sixth form pupils - 2.02

## Young people aged 13-19 - 6.30

### Early Years age children:

The Midsomer Norton area currently has a sufficiency of Early Years childcare provision. It is currently anticipated that if children generated by this proposed development were to seek to access Early Years provision within Midsomer Norton, there would be sufficient capacity available to accommodate them. Also, sufficient capacity to not negatively impact on the ability of B&NES children resident in Midsomer Norton to also access provision. Therefore, the proposed development is not currently anticipated to have a negative impact on Early Years provision available for B&NES resident children in Midsomer Norton.

### Primary and Secondary and Sixth Form pupils:

Each local authority (LA) is responsible for providing a school place for every child that lives within their boundary that requires a place. Therefore, the children generated by the proposed development in Somerset would be the responsibility of Somerset Council to accommodate, not B&NES. However, due to the close proximity of the proposed development to schools located in B&NES, particularly when compared to schools located in Somerset further away, it is quite possible that children generated by this proposed development may look to access a school place in B&NES in the Midsomer Norton/Westfield area, rather than in Somerset.

### Primary pupils:

It is currently anticipated that if the 13.92 (1.98 per year group) primary age pupils generated by this proposed development were to seek to access primary school provision within the Midsomer Norton/Westfield area, there would be sufficient capacity available to accommodate them. Also, sufficient capacity to not negatively impact on the ability of B&NES children resident in Midsomer Norton/Westfield to also access a primary school place here.

The current situation of sufficient available capacity can change however, and available school capacity could partially reduce, fill completely or become over-subscribed in the future. It should be noted that should primary school places become over-subscribed, the primary mechanism used to give priority when allocating places would be the straight-line distance from home to school. In this scenario, it could be that a child living in the proposed development in Somerset could qualify for a place in a primary school in B&NES ahead of a child living in Midsomer Norton/Westfield in B&NES, regardless of their home Local Authority. The Education Officer has not, however, raised an objection in this regard.

In summary, the proposed development is not currently anticipated to have a negative impact on primary school provision available for B&NES resident children in the Midsomer Norton/ Westfield area.

### Secondary and Sixth Form pupils:

It is currently anticipated that if the 7.00 (1.40 per year group) secondary age pupils generated by this proposed development were to seek to access provision within the Midsomer Norton/Westfield area, there would be insufficient capacity available to accommodate them as the two secondary schools in the area - Norton Hill and Somervale - are projected to be full.

Priority when allocating secondary school places is primarily based on whether a child lives within the catchment area of the school or outside it. A secondary age child living in the proposed development in Somerset would be resident outside of the catchment areas of both the above schools. Therefore, they would not normally qualify for a school place ahead of a B&NES resident child living within the catchment area of the school they apply for a place at.

On page 15 of the Planning Statement it states:

'...the B&NES School Organisation Plan states that both Somervale and Norton Hill Secondary Schools will have sufficient capacity to accommodate demand....'

In the School Organisation Plan, for Norton Hill and also for Somervale it states:

'There is projected to be sufficient capacity available in this Planning Area to accommodate pupils resident in the area up to the end of the 2029-30 academic year'.

It is important to distinguish between 'resident in the area' and resident outside of the area, which the pupils within Somerset would be. The scope of the Plan does not extend to considering the impact of any future planning applications that might be submitted, it only takes into account the impact of those currently permitted or under construction at the time the Plan was written. Therefore, it should not be assumed that Somervale or Norton Hill could accommodate the pupils generated by this proposed development. The Plan is updated every two years, at which point any new applications that have been approved will be taken into account. Somerset Council will secure, via a S106 agreement, a £57,480 contribution for the transportation of secondary school children to The Blue School in Wells, which accounts for the fact that these residents may not be able to be accommodated within B&NES Schools due to them being outside of the catchment area.

As such, the proposed development is not currently anticipated to have a negative impact on secondary school provision available for B&NES resident children in the Midsomer Norton/ Westfield area.

A number of other developments in the area have recently been permitted and are under construction. The Education Officer has highlighted the importance of considering the cumulative impacts of the developments. However, they have offered no objection to the scheme.

## 12. PARKS AND GREEN SPACES:

The quantum of development can be estimated to be occupied by 120 residents (52 units \* 2.3). The total demand for greenspace equates to 3922.88m<sup>2</sup>.

### *Onsite green space*

The proposal includes 0.7 ha of open space. This figure includes the network of green infrastructure (GI) around the edges of the site, surface water attenuation and landscaping within the scheme. The open space around the periphery of the site serves several other important functions and they are unlikely to provide spaces for informal recreation as intended.

The Green Space Strategy (2015) provides a quantity standard for amenity green space. The standards stipulate that the minimum size of a space that will be considered acceptable and count towards open space provision is 0.2 ha in size. Due to their size, some of the open spaces will only be acceptable in terms of their visual amenity and will not count towards the required level of provision.

The areas of open space are within the Somerset boundary and B&NES therefore have limited control of their scale. Somerset policy DP16 requires that a development of this scale provides 0.3 ha of open space; their requirements are less than B&NES. The amount of onsite space has therefore been accepted in Somerset. The management of the onsite spaces will be secured via a S106 agreement with Somerset.

#### *Remaining unmet demand for green space*

The development proposal is reliant on existing off-site green space provision. The green spaces within the parish of Ston Easton are inaccessible and the existing provision within Midsomer Norton will have to meet the demands of additional residents. The area has an insufficient capacity to accommodate the demands of additional residents without a greenspace improvement project. Curo recognise this and are willing to make an Off-site Public Open Space Contribution. This will go towards the enhancement and maintenance of green space in the vicinity of the development.

The Planning Statement references Greenacres Recreation Ground and a contribution of £111,945.60 will be provided. This figure was based on the previous application. Since this, the Planning Obligations SPD has been updated to reflect an increase in the Capital Cost of Green Space Enhancement. The contribution required is £132,080.26; the applicant has agreed to this increase.

#### 13. COAL MINING:

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

#### 14. HEALTHCARE:

A number of third party comments have raised concern with regard to lack of healthcare facilities in the locality and the impact that the proposed development will have upon the ability to access local healthcare.

The NHS has not provided comments on the B&NES planning application but did provide comments on the Somerset application.

The applicant has confirmed that the site is within the catchment area of Somerton House Surgery (which will be merging with St Chad's and Chilcompton Surgery). Somerton House Surgery is within Midsomer Norton and is around 0.5 miles from the development site. This surgery is currently accepting new patients, regardless of which authority they reside in.

It is therefore considered that the residents of the development could be accommodated at the local GP surgery (Somerton House) as it has been demonstrated that this surgery is accepting new patients. Somerset Council has accepted this and has recommended permission on this basis.

#### 15. TARGETED TRAINING AND RECRUITMENT:

The development triggers the requirement for a financial contribution towards Targeted Training and Recruitment. The applicant has agreed to provide the required contribution, secured via a S016 agreement.

#### 16. FIRE HYDRANTS:

The request for a contribution for fire hydrants is noted. However, this element of the scheme is not within the B&NES boundary and therefore, it is not considered reasonable for B&NES to request this contribution.

#### 17. PLANNING OBLIGATIONS:

Having regard to the Planning Obligations Supplementary Planning Document and the relevant planning policies set out above, the following obligations/contributions have been requested within B&NES:

- Affordable housing (2x 3-bedroom dwelling (social rent); Plot 1 in B&NES and Plot 8 in Somerset
- £4,351 for a Traffic Regulation Order
- £34,000 for bus stop enhancements
- £80,955.75 contribution towards cycle infrastructure associated with the SVEZ
- £86,892.50 towards Route W05 of the West of England Local Cycling and Walking Infrastructure Plan
- £132,080.26 contribution towards off-site green space
- £3,685 towards Targeted Training and Recruitment

The following obligations/contributions are being secured by way of a S106 agreement in Somerset:

- 30% affordable housing across the site
- Travel plan
- £57,480 for transportation of secondary school children to The Blue School, Wells
- Management company including maintenance of communal areas
- Programme of implementation and compliance
- SUDS delivery and maintenance
- Off-site 10% biodiversity net gain
- Landscape and Ecological Management Plan

#### 18. PUBLIC SECTOR EQUALITY DUTY:

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



Section 149 provides that the Council must have due regard to the need to—

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

Officers have had due regard to these matters when assessing this application and have concluded that neither the granting nor the refusal of this application would be likely to have an impact on protected groups and, therefore, that these considerations would not weigh in favour of or against this application.

#### 19. OTHER MATTERS:

Third parties have raised that the development will decrease the property value of their houses. Property value is not a planning matter and is therefore not a material consideration in this planning assessment.

It has also been raised that Council Tax will be paid to Somerset, despite the development having an impact upon Midsomer Norton and B&NES. Council Tax for the dwellings within the Somerset boundary will be paid to Somerset. However, the contributions set out above have negotiated to mitigate against the impact of the development and it is not considered that this would be a planning reason to refuse to grant permission.

#### 20. PLANNING BALANCE

The application is considered to be contrary to the development plan for a number of reasons. The planning balance section of this report will assess whether there are benefits of the scheme which can be considered to outweigh the harm of non-compliance with a number of policies. In accordance with case law, the benefits and harms to the project as a whole (i.e., the access and the housing in Somerset) will be considered.

As discussed within the "Principle of Development" section of this report, the proposal is contrary to H5 in that it will result in the net loss of one dwelling within B&NES. The applicant has proposed that a dwelling is provided within Somerset but provided with nomination rights to B&NES within a S106 agreement. The principle of this is accepted by B&NES housing and planning officers, however, does not overcome the issue of a net loss of a physical dwelling within the B&NES boundary.

As per policy H5, this is only permissible should the either of the following criteria be met:

- i) Demonstrable and substantial conservation benefits
- ii) Demonstrable and substantial economic, social, or environmental benefits

In regard to criterion (i) conservation benefits are not defined by the policy, however this is considered to relate to heritage conservation. In this case, there are no demonstrable and substantial conservation benefits to the proposal and H5(i) is not met.

Moving to criterion (ii), homes England Fact Sheet 8, published on 2nd November 2023 provides a useful summary of matters which can be considered economic, social, or environmental benefits.

The opportunity for employment during the construction phase, which includes entry level and apprenticeships and well as more experienced roles, is a clear benefit to the scheme. The construction phase is temporary and therefore, this is attributed limited to moderate weight given the scale of the scheme.

New housing can create a social benefit, and the provision of 54no. dwellings with 30% affordable units, notwithstanding the fact they are outside of the B&NES boundary must be given weight in the planning balance. This must be weighed against the unacceptability of the location of development having regard to B&NES' spatial strategy (policies DW1 and SV1).

Somerset Council do not have a 5 year housing land supply (5YHLS). It is understood that Somerset Council are currently reviewing site allocations within the District, following the removal of several sites from their Local Plan following a successful Judicial Review. However, at the current time a 5YHLS can be demonstrated. Whilst B&NES can demonstrate a 5YHLS, the situation in Somerset is a significant material consideration, as demonstrated by a recent appeal across two other authorities.

In May 2023, an appeal was allowed for the erection of up to 145 dwellings and associated works in Stourport on Severn. Similar to the current proposals, the majority of the site was within the Malvern Hills District Authority (MHDA) and a smaller portion was in the Wyre Forest District Authority (WFDA) boundary. MHDA did not have a 5YHLS, whereas the WFDA was able to demonstrate a 9.83 year supply. In paragraph 64 of the Inspector's appeal decision (reference APP/J1860/W/22/3309338, APP/R1845/W/22/3309343), the concluded that:

"Whether the 5 year supply is 4.59 or 4.92 years or somewhere in-between, it is a relatively modest shortfall. However, given the lengthy duration of the shortfall and the ability for the proposed development to start delivering dwellings within the next 5 years, significant weight can be afforded to the benefit of delivering around 125 dwellings within MHDC in Appeal A. Although there is a healthy housing land supply in WFDC, the WFDC land within the site is needed to provide the access to and unlock development in the MHDC land within the site. Therefore, significant weight can also be afforded to the delivery of housing in Appeal B."

Whilst the above is in a different Local Authority boundary, it serves to demonstrate that the decision maker should be applying significant weight to the fact that the proposed site access will unlock land, which is within a different authority, where there is not a 5YHLS.

Taking into account the above, it is considered that there are demonstrable social benefits to the scheme which would outweigh the loss of a housing unit within B&NES, and policy H5 can be said to be met in this regard.

The location of the proposed housing within Somerset is contrary to the B&NES spatial strategy as aforementioned. As discussed in the principle of development section of this report, there is an imbalance between jobs and housing within the Somer Valley, with the development plan seeks to address. This development, by virtue of the addition of 52 new dwellings on the edge of Midsomer Norton can be said to be worsening this imbalance. It must therefore be determined whether there is sufficient justification to depart from the development plan in this regard.

The applicant has agreed to a £80, 955.75 towards cycle infrastructure associated with the Somer Valley Enterprise Zone. It is considered that providing a contribution toward a project which will provide sustainable transport routes to a key, strategic employment site does help to mitigate the impacts of the housing in this location.

The applicant has also demonstrated a commitment to provide two affordable houses (in addition to plot 8) with nomination rights to B&NES. This has been discussed with the B&NES Housing Team who welcome the offering. Somerset Council is also content with this agreement. The additionality dwellings will be depended on Affordable Public Subsidy being made available to enable their delivery. In order for subsidy/grant funding to be sought from Homes England, the dwellings cannot be secured by way of a S106 agreement and therefore, B&NES have no way of formally securing that these dwellings are delivered through the planning process. Additionality is a procedure which does occur on development sites, whereby additional affordable houses are secured by the B&NES housing team, outside of a S106 agreement and the planning process. However, given that they cannot be secured through a legal mechanism with planning, the two additionality dwellings being offered have only be attributed very limited weight in the planning balance.

As set out above, the lack of a 5YHLS within Somerset is a significant material consideration within the B&NES decision. Somerset Council have granted planning permission for the development within their boundary, and this is also a significant material consideration. Both of these facts have been attributed significant weight in the planning balance. The NPPF makes clear that, where a Local Authority cannot demonstrate a five-year housing land supply, the presumption in favour of sustainable development applies. This is set out in paragraph 11 of the framework. This sets out that where there are no relevant development plan policies, or the policies which are the most important for determining the application are out-of-date, planning permission should be granted unless:

- i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

It is clear that the development will have an impact upon Midsomer Norton and that, due to the location of the development, the new residents will access and utilise local services and facilities. A package of contributions is set out above which are considered to comply with the CIL Regulation 122 Tests, that help to mitigate the potential impacts of the scheme. Somerset Council have concluded that there are no adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme when assessed against the NPPF, taken as a whole.

## 21. CONCLUSION

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that the decision of whether or not to grant planning permission must be made in accordance with the development plan unless material considerations indicate otherwise. Taking into account the contributions which have been agreed, the fact that Somerset do not have a 5 year housing land supply and that Somerset have granted permission for the

development; both of which attribute significant weight in the balance, officers consider that there is sufficient justification to depart from the development plan and grant permission for the development. The application will be advertised as a departure from the development plan accordingly.

## **RECOMMENDATION**

Delegate to PERMIT

## **CONDITIONS**

0 A). Authorise the Head of Legal and Democratic Services to complete a Legal Agreement to secure:

1. 1no. affordable dwelling within Bath and North East Somerset (Plot 1)
2. 1no. affordable dwelling within Somerset with Nomination Rights to Bath and North East Somerset Council
3. £4,351 for a Traffic Regulation Order
4. £34, 000 for bus stop enhancements
5. £80, 955.75 contribution toward cycle infrastructure associated with the Somer Valley Enterprise Zone
6. £86, 892.50 for Route W05 of the West of England Local Cycling and Walking Infrastructure Plan
7. £132, 080.26 for offsite green space
8. £3,685 for Targeted Training and Recruitment

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

### **1 Biodiversity Net Gain Plan (Pre-commencement)**

No development shall commence until full details of a Biodiversity Gain Plan achieving a minimum of 10% measurable biodiversity net gain, and a Habitat Management Plan for any on-site habitats and biodiversity measures, have been submitted to and approved in writing by the Local Planning Authority. The Plans shall be in accordance with current best practice guidelines and standards and shall be in accordance with the approved Biodiversity Net Gain Assessment and calculation and shall include the following:

In all cases:

1. Pre and post development biodiversity values including a completed metric calculation tool using the DEFRA Biodiversity Metric or any successor, and accompanying evidence for baseline condition assessments;
2. A BNG habitat map for on-site proposed habitats
3. Information about the steps taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat and, in the case of any irreplaceable habitat, information on arrangements for compensation for any impact of the development has on the biodiversity of the irreplaceable habitat (which does not include the use of biodiversity credits).

4. Details and evidence of any registered off-site biodiversity gain units allocated to the development and any biodiversity credits purchased for the development;

Where on-site habitat is proposed/retained:

5. Long term aims and objectives and targets for habitats; proposed management prescriptions and operations; timing, frequency, durations and methods of operations; specialist expertise, specialist tools/machinery or equipment and personnel where required to meet the stated aims and objectives;

6. Annual work schedule for at least a 30 year period

7. A list of activities and operations that shall not take place and shall not be permitted within the Habitat Management Plan (HMP) area (for example use of herbicides; on-site disposal of grass cuttings or other vegetation waste; routine cutting of ivy where there is no specific arboricultural justification; inappropriate maintenance methods, storage of materials; inappropriate machine or vehicle access).

8. Detailed monitoring strategy for habitats and species, and methods of measuring progress towards and achievement of stated objectives.

9. Details of proposed reporting to the Local Planning Authority, and proposed review and remediation mechanism.

10. Proposed costs and resourcing, and legal responsibilities.

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

Reason: To protect and enhance ecological interests and to ensure delivery of Biodiversity Net Gain in accordance with Bath and North East Somerset Local Plan Partial Update policies NE3, NE3a NE5 and D5e and paragraph 13 of Schedule 7A to the Town and Country Planning 1990 Act (Biodiversity Gain Condition).

## **2 Construction Environmental Management Plan (CEMP: Biodiversity) (Pre-Commencement)**

No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall provide details of how adjacent designated sites (including any hydrologically connected sites) as well as retained and enhanced habitats and protected species will be protected from the development during construction.

The CEMP will include the following:

1. Risk assessment of potentially damaging construction activities.
2. Identification of "biodiversity protection zones".
3. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction, including nesting birds habitat clearance

measures, any badger buffer zones, reptile/amphibian sensitive habitat clearance, hedgehog sensitive habitat clearance, dormice sensitive habitat clearance and safeguarding measures for bats.

4. The location and timing of sensitive works to avoid harm to biodiversity features.
5. The times during construction when specialist ecologists need to be present on site to oversee works.
6. Responsible persons, lines of communication and written notifications of operations to the Local Planning Authority.
7. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
8. Use of protective fences, exclusion barriers and warning signs.
9. Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: In the interests of European and UK protected species, UK priority species and habitats listed on s41 of the Natural Environment and Rural Communities Act 2006 and in accordance with policies NE3 and NE3a of the Bath and North East Somerset Council Local Plan Partial Update. This is a condition precedent because it is necessary to understand the scheme in detail prior to any initial construction works to safeguard protected species.

### **3 Badger Survey (Pre-Commencement)**

Prior to vegetative clearance or groundworks commencing, a survey for badger setts shall be carried out by an experienced ecologist. The results of this survey shall be reported to the Local Planning Authority and relevant subsequent actions, or mitigation agreed in writing prior to the commencement of vegetative clearance or groundworks. Where a Natural England licence is required, a copy will be submitted to the Local Planning Authority prior to works affecting the badger resting place commencing.

Reason: A pre-commencement condition to safeguard badgers from the outset of the development, to comply with the Protection of Badgers Act 1992 and in accordance with policy NE3 of the Bath and North East Somerset Council Local Plan Partial Update.

### **4 Otter Mitigation Strategy (Pre-Commencement)**

No development including vegetation clearance and groundwork shall commence until construction operatives have been inducted by an accredited ecologist to make them aware of the possible presence of otters, their legal protection and of working practices to avoid harming otter. Any works potentially affecting otter will proceed under the supervision of an accredited ecologist.

Reason: To prevent ecological harm in accordance with policies NE3 and NE3a of the Bath and North East Somerset Council Local Plan Partial Update. This is a condition precedent because it is necessary to safeguard protected species during construction.

### **5 Sustainable Surface Water Drainage Scheme (Pre-Commencement)**

No development shall be commenced until details of the sustainable surface water drainage scheme for the site, along with an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in

writing by the local planning authority. The development shall include measures to control and attenuate surface water.

This shall include:

1. Drawing(s) illustrating the proposed surface water drainage scheme including the sustainable methods employed to delay and control surface water discharged from the site, sewers and manholes, attenuation features, pumping stations (if required) and discharge locations. The current proposals may be treated as a minimum and further SuDS should be considered as part of a 'SuDS management train' approach to provide resilience within the design which shall include source control and conveyance.
2. Detailed, network level calculations demonstrating the performance of the proposed system including:
  - i. Details of design criteria and, where relevant, justification of the approach / events / durations used within the calculations.
  - ii. Where relevant, calculations should consider the use of surcharged outfall conditions.
  - iii. Performance of the network including water level, surcharged depth, flooded volume, pipe flow, flow/overflow capacity, status of network and outfall details / discharge rates.
  - iv. Results as a summary for each return period (as opposed to each individual storm event).
  - v. Evidence may take the form of software simulation results and should be supported by a suitably labelled plan/schematic to allow cross checking between any calculations and the proposed network.
3. Detail drawings including cross sections, of proposed features such as infiltration structures, attenuation features, pumping stations and outfall structures. These should be feature-specific and include cross sections, design information, structural information and details on the risk of failure including location of exceedance and sensitive receptors.
4. Groundwater monitoring in the location of attenuation structures which includes consideration of floatation if necessary.
5. Consideration of the location of the spring including further groundwater monitoring in this location, routing of groundwater through the site and further raising Finished Floor Levels in this location if necessary.
6. Details for provision of any temporary drainage during construction. This should include details to demonstrate that during the construction phase measures will be in place to prevent unrestricted discharge, and pollution to the receiving system. Suitable consideration should also be given to the surface water flood risk during construction such as not locating materials stores or other facilities within this flow route.
7. Further information regarding external levels and surface water exceedance routes and how these will be directed through the development without exposing properties to flood risk. Exceedance will be strategically managed throughout the site with the use of source control and conveyance features.

8. Details, if necessary, on the receiving system to ensure that this has the capacity and condition to take flows, along with measures to manage erosion to the receiving system and ensure that there will be no overtopping of the adjacent bank.

The scheme shall be implemented in accordance with the approved details and maintained at all times thereafter.

Reason: To ensure the development is properly drained in accordance with policies CP5 of the Bath and North East Somerset Council Core Strategy and SU1 of the Bath and North East Somerset Placemaking Plan and the NPPF.

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

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

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

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

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

#### **7 Bicycle Storage (Pre-occupation)**

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

Reason: In the interest of enabling cycling as genuine choice of travel mode, in accordance with Policies ST1 and ST7 of the Bath and North East Somerset Local Plan Partial Update and the Transport and Development Supplementary Planning Document.

#### **8 Highway Works (Pre-occupation)**



No occupation of the development shall commence until the highway works shown on drawing number 1652-001 Rev K has been provided. There shall be no on-site obstruction exceeding 600mm above ground level within the visibility splay. The visibility splay shall be retained permanently thereafter.

Reason: To ensure that the development is served by a safe and suitable means of access in accordance with Policy ST7 of the Bath and North East Somerset Local Plan Partial Update.

#### **9 Dwelling Access (Pre-occupation)**

Each dwelling shall not be occupied until it is served by a properly bound and compacted footway and carriageway to at least base course level between the dwelling and the existing adopted highway.

Reason: To ensure that the development is served by a safe and suitable access in accordance with Policy ST7 of the Bath and North East Somerset Local Plan Partial Update.

#### **10 Surface Water Drainage System Management and Maintenance Responsibilities (Pre-Occupation)**

No development approved by this permission shall be occupied or brought into use until a plan for the future responsibility and maintenance of the surface water drainage system has been submitted to and approved by the Local Planning Authority. This shall include full details on the management and maintenance and replacement of all features. The approved drainage works shall be completed and maintained in accordance with the details agreed.

Reason: To safeguard the long-term maintenance and operation of the proposed system to ensure development is properly drained in accordance with the NPPF.

#### **11 Ecological and Biodiversity Net Gain Compliance 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 site visit and inspection, and confirming and demonstrating, using photographs, completion and implementation of ecological measures as detailed in the approved ecology report and Biodiversity Net Gain Plan has been submitted to and approved in writing by the Local Planning Authority. These details shall include:

1. Findings of any necessary pre-commencement or update survey for protected species and mitigation measures implemented;
2. Confirmation of compliance with the method statements referenced above including dates and evidence of any measures undertaken to protect site biodiversity; and
3. Confirmation that proposed measures to enhance the value of the site for target species and habitats have been implemented.

All measures within the scheme shall be retained, adhered to, monitored, and maintained thereafter in accordance with the approved details.

Reason: To prevent ecological harm and to ensure that biodiversity net gain is successfully provided in accordance with policy D5e of the Bath and North East Somerset Placemaking Plan and policies NE3, NE3a and NE5 of the Bath and North East Somerset Local Plan Partial Update.

### **12 Installation of Ecological Enhancements (Pre-occupation)**

Prior to the occupation of the dwellings within the Bath and North East Somerset boundary, an integrated bat or bird box shall be installed on the dwelling. Hedgehog connectivity measures shall also be provided.

Reason: To ensure that wildlife can move through the site and to encourage ecological gain in accordance with policies D5e, NE3 and NE3a of the Bath and North East Somerset Local Plan Partial Update.

### **13 SCR6 Residential Properties (Pre-occupation)**

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

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

1. Energy Summary Tool 1 or 2
2. Tables 1.1 or 1.2 (if proposal has more than one dwelling type)
3. Table 5 (updated)
4. Building Regulations Part L post-completion documents for renewables;
5. Building Regulations Part L post-completion documents for energy efficiency;
6. Final as-built full data report from Passive House Planning Package or SAP
7. Microgeneration Certification Scheme (MCS) Certificate/s

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

### **14 Rainwater Harvesting (Pre-occupation)**

No occupation of the approved dwelling 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.

### **15 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 policy CP6 of the Bath and North East Somerset Core Strategy, policies D1, D2 and D3 of the Bath and North East Somerset Placemaking Plan and Policy D5 of the Bath and North Somerset Local Plan Partial Update.

### **16 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 occupation of any part of the development or in accordance with the programme of implementation agreed in writing with the Local Planning Authority.

Any trees or plants indicated on the approved scheme which, within a period of 30 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 and to ensure appropriate biodiversity net gain is secured in accordance with Policies D1 and D2 of the Bath and North East Somerset Placemaking Plan and NE2, NE3, and NE3a of the Bath and North East Somerset Local Plan Partial Update.

### **17 External Lighting (Bespoke Trigger)**

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

1. Lamp models and manufacturer's specifications, positions, numbers, and heights;
2. Predicted lux levels and light spill on both the horizontal and vertical planes;
3. Measures to limit use of lights when not required, to prevent upward light spill and to prevent light spill onto nearby vegetation and adjacent land.

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

Reason: To avoid harm to bats and wildlife in accordance with policy CP6 of the Bath and North East Somerset Core Strategy and policies NE3 and D8 of the Bath and North East Somerset Local Plan Partial Update.

### **18 Arboricultural Compliance (Bespoke Trigger)**

No development or other operations shall take place except in complete accordance with the approved Arboricultural Method Statement and Tree Protection Plan (JP Associates October 2023 and Tree Protection Plan D14 437 02 P4 Rev D).

In accordance with 3.2 of the Arboricultural Method Statement, a pre-commencement site meeting will be held before the start of any construction works, attended by the site manager and the arboricultural consultant and local planning authority arboricultural officer. The tree protection arrangements outlined in the Tree Protection Plan, and this method statement will be fully discussed, so that all aspects of their implementation and sequencing are made clear to all parties. The outcomes of the meeting will be recorded on the first of the site monitoring forms.

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 Bath and North East Somerset Local Plan Partial Update.

### **19 Signed Certificate of Arboricultural Compliance (Bespoke Trigger)**

A signed compliance statement shall be provided by the appointed Arboriculturalist to the local planning authority within 28 days of completion of all associated works and prior to the first occupation of the dwellings.

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 Bath and North East Somerset Local Plan Partial Update.

### **20 Water Efficiency (Compliance)**

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

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

### **21 Compliance with Ecological Recommendations (Compliance)**

The development hereby approved (including demolition, ground works, and vegetation clearance throughout the construction period) shall be carried out in strict accordance with the recommendations set out in the approved Ecological Impact Assessment.

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

### **22 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:

0768-C-P-0300 D - DRAINAGE STRATEGY SHEET 1  
0768-C-P-0301 D - DRAINAGE STRATEGY SHEET 2  
0768-C-P-0302 D - DRAINAGE STRATEGY SHEET 3  
0768-C-P-0305 D - DRAINAGE AREAS PLAN  
0768-C-P-0330 E - ENGINEERING LEVELS SHEET 1  
0768-C-P-0331 E - ENGINEERING LEVELS SHEET 2  
0768-C-P-0332 E - ENGINEERING LEVELS SHEET 3  
0768-C-P-0340 D - HIGHWAY ADOPTION PLAN  
0768-C-P-0350 D - HIGHWAY MATERIALS LAYOUT  
0768-C-P-0370 D - VEHICULAR TRACKING  
0768-C-P-0381 B - DRAINAGE CONSTRUCTION DETAILS SHEET 1  
0768-C-P-0382 A - DRAINAGE CONSTRUCTION DETAILS SHEET 2  
0768-C-P-0390 B - FOUL MANHOLE SCHEDULE  
0768-C-P-0391 B - STORM MANHOLE SCHEDULE  
0768-P-D-0360 B - ROAD & DRAINAGE LONGITUDINAL SECTIONS SHEET 1  
0768-P-D-0361 B - ROAD & DRAINAGE LONGITUDINAL SECTIONS SHEET 1  
1652-001 K - PROPOSED SITE ACCESS ARRANGEMENT OPTION A  
1652-SPA-001 F - PROPOSED SITE ACCESS SWEEP PATH ANALYSIS  
3063-5-2 DR-5000 S4-P6 - LANDSCAPE MASTERPLAN  
3063-5-2 DR-5100 S4-P6; 3063-5-2 DR-5101 S4-P6; 3063-5-2 DR-5102 S4-P6; 3063-5-2  
DR-5103 S4-P6 - SOFTWARE PROPOSALS (SHEETS 1-4)  
3063-5-2 DR-5104 S4-P6 - HARD SURFACE, FURNITURE AND PLAY PROPOSALS  
PL-03 REV N - Planning Layout  
PL-04.REV C - Materials Layout  
PL-04.1 REV B - Boundary Treatments  
35197 PL-05 REV C - ADOPTION LAYOUT  
PL-06 C - Storey Heights Layout  
PL-07C - Refuse Strategy Layout  
35197 SE-01A - Site Sections  
35197 SS-01A - Street Scenes  
A125/12033/1A REV C; A125/12033/1B REV C - TOPOGRAPHICAL SURVEY  
D14 437 02 P4 REV D - Tree Protection Plan  
HT-APT-01A - Apartment 1 Housetype Elevations - plots 13-18  
HT-APT-02A - Apartment 1 Housetype Floorplans - plots 13-18  
HT-APT-03A - Apartment 2 Housetype Elevations - plots 46-51  
HT-APT-04A - Apartment 2 Housetype Floorplans - plots 46-51  
HT-ASHS-01 - Housetype - Ashton Side - plots 23, 33, 35, 43  
HT-AVE-01 - Housetype - Avebury 1 - plots 24, 45, 52  
HT-AVE-02 - Housetype - Avebury 2 - plot 27  
HT-AVE-CT01 - Housetype - Avebury Corner Turner 1 - plot 12  
HT-AVE-CT02 - Housetype - Avebury Corner Turner 2 - plot 28  
HT-AVE-CT03 - Housetype - Avebury Corner Turner 3 - plots 41, 54  
HT-BECK-01A - Housetype - Beckford - plots 3, 4  
HT-BECK-02 - Housetype - Beckford Special - plot 2  
HT-BIN&CYC-01 - BIN & CYCLE STORE

HT-CLIF-01 - Housetype - Clifton - plots 34, 37, 44  
HT-COT-01A - Housetype - Cotswold - plots 6, 7  
HT-GAR-01 - Garages  
HT-KEN-01 - Housetype - Kensington 1 - plot 1 (within BANES)  
HT-KEN-02 - Housetype - Kensington 2 - plot 8 (within Somerset, nomination rights to BANES)  
HT-PEN-01 - Housetype - Pensford - plots 20, 31, 32, 36, 38, 39  
HT-PUL-01 - Housetype - Pultney - plot 5  
HT-THO-01 - Housetype - Thomas - plots 25, 26, 29, 30  
HT-WTBG-01 - Housetype - Westonbirt Gable Fronted - plots 9, 10, 11, 19, 21  
HT-WTBG-02 - Housetype - Westonbirt Eaves Fronted - plots 40, 53  
OVCURO001- EXISTING ELEVATIONS - 26-28 Orchard Vale Page 97  
OVCURO002 - EXISTING FLOOR PLANS - 26-28 Orchard Vale  
OVCURO003 - EXISTING FLOOR PLANS AND ELEVATIONS - 26-28 Orchard Vale  
PL-01 - Site Location Plan  
PL-01.2 - Site Location Plan Mendip  
PL-01.1 - Site Location Plan BANES  
HT-ASHF-01 - Housetype - Ashton Front - plots 22, 42  
D14 437 02 03 Arboricultural Method Statement  
DR-5104-P6 - HARD SURFACE, FURNITURE & PLAY PROPOSALS

## **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 Biodiversity Net Gain - Standard Informative**

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are set out in the Biodiversity Gain Requirements (Exemptions) Regulations 2024 and The Environment Act 2021 (Commencement No. 8 and Transitional Provisions) Regulations 2024.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements apply. A detailed version of the biodiversity gain condition can be found in the list of conditions attached to this permission.

The effect of section 73D of the Town and Country Planning Act 1990:-

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission ("the earlier Biodiversity Gain Plan") there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
- ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

#### **4 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.

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

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

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



**Item No:** 04  
**Application No:** 23/03510/FUL  
**Site Location:** Odd Down Sports Pavilion Chelwood Drive Odd Down Bath Bath And North East Somerset



**Ward:** Odd Down      **Parish:** N/A      **LB Grade:** N/A  
**Ward Members:** Councillor Steve Hedges      Councillor Joel Hirst  
**Application Type:** Full Application  
**Proposal:** Erection of extension, addition of 4no. padel tennis courts and replacement of existing floodlights to LED-based lights  
**Constraints:** Article 4 Bath Demolition Wall, Article 4 Reg 7: Estate Agent, Article 4 HMO, Colerne Airfield Buffer, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Conservation Area, Policy CP9 Affordable Housing, Policy LCR5 Safeguarded existg sport & R, MOD Safeguarded Areas, Policy NE2A Landscapes and the green set, Policy NE3 SNCI 200m Buffer, SSSI - Impact Risk Zones,  
**Applicant:** GLL  
**Expiry Date:** 28th June 2024  
**Case Officer:** Isabel Daone  
To view the case click on the link [here](#).

## **REPORT**

### **REASON FOR COMMITTEE:**

In accordance with the Council's Scheme of Delegation, the application has been referred to the Chair and Vice Chair of the Planning Committee. Both have decided that the decision should be made by the Planning Committee. Their comments are as follows:

#### **Chair:**

This is an existing sport ground, but the creation of a new sporting facility has generated significant public interest. Whilst the level of objections and support is no justification for automatically referring an application to committee, it is considered that it will be in the public interest for the Committee to understand more about the facility and the planning balance of its potential impacts and consider this.

#### **Vice Chair:**

I consider it is in the public interest to full debate the potential impacts of this new sporting facility particular in relation to any potential impacts particularly in relation to any noise intrusion noting that there are neighbouring properties within 30 m.

The Lawn Tennis Association guidance states that "careful consideration of the location of proposed padel courts should be given in relation to the impact of noise and light upon adjacent residential properties. If a residential property is within 30m of the padel court then it is likely that sound attenuation mitigation will be required, as well as noise and light surveys being required as part of the planning application."

#### **Site Context and Proposal:**

The site comprises the sports pavilion which forms part of Odd Down Sports Ground. The sports ground comprises a 14 hectare area of sports fields laid to grass in south-west Bath, the pavilion, a cycle track, and sports pitch. The sports ground is surrounded by residential streets to the south (Chelwood Drive) and west (Bloomfield Road) and border the Tumps Site of Nature Conservation Interest (SNCI) to the north. The A367 Wellsway lies to the east and runs along the far edge of the playing fields. Access to the car park is achieved via Chelwood Drive, near the junction with Bloomfield Road. The pavilion building is located on the eastern side of the car park. The site is within both of the Bath World Heritages Sites and borders with the Bath Conservation Area, although is not within it. No. 297 Bloomfield Road which is adjacent to the northern boundary is a Grade II Listed Building.

Planning permission is sought for the erection of an extension to the existing sports pavilion building, the addition of 4no. padel tennis courts with a canopy and the replacement of the existing floodlights, to LED based lights.

#### **Relevant Planning History:**

12/03014/REG03

PERMIT - 12 October 2012

Provision of a cycle track comprising of a macadam finished 1.5km closed loop with intermediate turning points, the main width is 6m wide with a 200m long 8m wide finishing

straight and bordered by a 3m wide grassed run-off strip extending to galvanised mesh stock fence on timber posts with timber 5 bar type stock field gates.

13/04739/REG03

PERMIT - 30 January 2014

Provision of an artificial grass pitch bordered by 4.5m high steel mesh fencing and provision of sports lighting.

14/02591/REG03

PERMIT - 04 September 2014

Installation of 8 no. x 15 metre high lighting columns.

14/03820/REG03

PERMIT - 23 October 2014

Erection of new pavilion/changing rooms and cycle shelter following demolition of existing single storey flat roof building and associated external works (Pav B) (Revised proposal)

17/04558/REG03

PERMIT - 14 August 2018

Installation of lighting in sport centre car park

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Consultation Responses :

**COUNCILLOR JOEL HIRST:**

As the ward councillors for Odd Down. Steve Hedges and I continue to have concerns about this application.

As there are significant concerns from local residents we continue to request that the application goes to planning committee to give people opportunity to address the committee.

1. The visual and noise impact of the paddle courts is a concern and wish that a better setting on the site can be found further away from the neighbours
2. The impact of the paddle courts on the Bath Preservation Area needs to be considered
3. Would like to support improvements in the range of offer at ODSG
4. The concerns Highways have need to be considered carefully
5. It was disappointing that there were some problems with the consultation process and the timing of the public consultation so close to Christmas

There are many other aspects of the application we support the remodelling, the gym etc

**HIGHWAYS:**

12th October 2023 -

- Scope for revision

- It is recommended that there are minor changes to the pedestrian route within the site, although subject to this, the highway authority would not object to the proposals. There will be a need to secure the appropriate Travel Plan monitoring fee, and planning

conditions to secure a Travel Plan update and Construction Management Plan would also be recommended

23rd November 2023 -

- Objection
- Given the concerns relating to the pedestrian access to the site, and that the scheme has not changed since the advice previously provided, the highway authority now recommends refusal

7th February 2024 -

- No objection subject to conditions

SPORT ENGLAND:

No objection

ARBORICULTURE:

No objection subject to conditions

DRAINAGE AND FLOODING:

2nd November 2023 -

- Drainage acceptable in principle, but soakway sizing do not conform to standard
- There should be no flooding during the 1 in 30 storm
- Revisions required

28th November 2023 -

- Scope for revision
- Microdrainage results for the 1 in 100 year event with a 45% allowance for climate change have not been submitted for the 3 pit soakaway that will drain the car park
- The land that the soakaways are in generally falls southeast towards the rear of the properties of Chelwood Drive, this is an unacceptable flood risk.

27th March 2024 -

- No objection
- Previous comments regarding drainage have been resolved

ENVIROMENTAL PROTECTION -

18th December 2023 -

- The low background noise at night increases the chance of adverse noise impact from the potential mechanical plant. With this in mind, and taking into account absolute noise levels, it would seem sensible to not exceed 24dB at night at the residential receptors, if this is seen as practicable to achieve?
- During the day, I would suggest a maximum limit of 35dB.

5th February 2024 -

- No objection subject to conditions

## CONSERVATION/LISTED BUILDINGS -

No objection in principle. Less than substantial harm, planning balance will be required. Canopy colour details required.

## ARCHAEOLOGY -

No objection subject to conditions.

## LANDSCAPE -

- Scope for revision
- Commitment to the delivery of landscaping enhancements required

Representations Received :

### BLOOMFIELD BATH RESIDENTS ASSOCIATION (summary):

- In principle welcome the proposed development
- Plans show pavement on both sites of Bloomfield Road - this is incorrect
- Transport Statement is inaccurate in regard to personal injury accidents
- Dwellings on Bloomfield and Chelwood Drive will be moderately adversely affected by the size and scale of the courts
- Significant increased noise, beyond the acceptable level
- Courts should be relocated to a position where they have less impact on local residents
- Why has a pedestrian/cycle crossing across Bloomfield Road not been proposed?
- Please confirm the proposals regarding a possible pedestrian/cycle access through the Wellsway
- Missed opportunity to not provide a formal pedestrian/cycle access through to Wellsway in the South East corner of the site
- We would like to have confirmation of administrative controls applied to the use of the site. Having a system to moderate the flow of traffic and car parking space issues would lessen the impact of the new facilities within the neighbourhood which often suffers from overflow on match / event days.

24 other third parties have objected to the scheme, there are 43 comments of support and 4 general representations have been received. Due to the number of comments, they have not been included verbatim, but a summary is provided below. Full comments can be viewed on the Council's public access website. Two of the objection comments on the council's website appear to relate to other schemes as they discuss housing development and renewable energy schemes.

### OBJECTIONS:

- Arrangement means players waiting will be standing outside
- Layout of the courts will cause hazard to players
- Gap between panels will result in rubbish and debris getting stuck
- Alternative design with lesser height could be achieved
- Concerns about rainwater pooling on the canopies

- Potential for glare from the sun for players
- Potential headlight glare due to orientation of parking spaces
- No explanation as to why all courts have to be covered
- Noise impact concerns
- Noise pollution has not been sufficiently considered
- Padel tennis is louder than regular tennis
- Courts should be relocated to opposite side of the pavilion
- Revised plans do not address resident concerns
- Harm to the outlook of the area
- Too close to Bloomfield Road houses
- Degradation of the character of Bloomfield Road
- Detrimental to the character of the area
- Impact to the Conservation Area and Listed Buildings
- Scale is inappropriate in this location
- Architectural eyesore
- Blocks a sense of open space
- Loss of car parking and coach spaces
- Additional traffic
- No provision for the 8 removed trees
- Public consultation did not show the same scheme proposed here
- Drawings do not accurately show the cladding colour
- Canopy will degrade overtime and allow light transmission
- Harm to bats and birds
- Lighting lux levels are too high
- Existing lighting left on outside of permissible hours
- Concerns about mechanical plant
- Drainage concerns
- Guidance says minimum distance from residential properties should be 200m
- Lack of consultation with residents
- Removed trees have not been replaced
- Lack of landscaping to screen the building
- Technical response to comments raised does not address concerns
- No provision for minibus parking

#### SUPPORT:

- More sporting facilities
- Padel tennis is an accessible sport
- Encouraging an active lifestyle
- Other courts in Bristol
- Expansion of leisure facilities in the local area
- Improved gym offering
- Live close to the site and think the benefits outweigh the extra noise
- Better facilities for all, especially youth
- Enriches society and general wellbeing
- Courts are not close to residential buildings
- Padel noise is not significantly different to any other sports already offered at the facility

#### GENERAL:

- In general, support but have concerns about road access and safety
- Welcome the courts but could be positioned elsewhere

## **POLICIES/LEGISLATION**

The Development Plan for Bath and North East Somerset comprises:

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

### **CORE STRATEGY:**

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

B4: The World Heritage Site and its Setting  
 CP5: Flood Risk Management  
 CP6: Environmental Quality  
 SD1: Presumption in favour of sustainable development

### **PLACEMAKING PLAN:**

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

B1: Bath Spatial Strategy  
 D1: General urban design principles  
 D2: Local character and distinctiveness  
 D3: Urban fabric  
 D4: Streets and spaces  
 D6: Amenity  
 HE1: Historic environment  
 LCR5: Safeguarding existing sport and recreational facilities  
 NE2A: Landscape setting of settlements  
 PCS2: Noise and vibration  
 SCR2: Roof-mounted/ building integrated scale solar PV  
 SU1: Sustainable drainage policy

### **LOCAL PLAN PARTIAL UPDATE:**

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

DW1: District Wide Spatial Strategy  
CP7: Green infrastructure  
D5: Building design  
D8: Lighting  
LCR6: New and replacement sports and recreational facilities  
NE1: Development and green infrastructure  
NE2: Conserving and enhancing the landscape and landscape character  
NE3: Sites, species, and habitats  
NE3a: Biodiversity Net Gain  
NE5: Ecological networks  
NE6: Trees and woodland conservation  
PCS5: Contamination  
ST1: Promoting Sustainable Travel  
ST7: Transport requirements for managing development

#### SUPPLEMENTARY PLANNING DOCUMENTS:

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

Transport and Development Supplementary Planning Document (January 2023)

The City of Bath World Heritage Site Setting Supplementary Planning Document (August 2021)

Planning Obligations Supplementary Planning Document (January 2023)

#### NATIONAL POLICY:

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

The main issues to consider are:

1. Principle of development
2. Design, appearance and impact to character
3. Heritage
4. Archaeology
5. Residential amenity
6. Highways
7. Drainage and flooding
8. Arboriculture
9. Ecology
10. Other matters

## PRINCIPLE OF DEVELOPMENT:

The NPPF highlights the importance of having access to high quality open spaces and providing opportunities for sport and recreation. Policy LCR6 of the Local Plan Partial Update states that new or replacement sport and recreational facilities, or improvements/extensions to existing facilities will be supported within or adjoining a town or settlement provided that:

- a) It complements the existing pattern of recreational facilities
- b) It is accessible by sustainable modes of transport.

The policy also makes clear that any new or replacement facilities will only be permitted where:

- a) the proposal, either by itself or together with other existing and/or proposed recreational facilities, does not have an unacceptable impact on landscape character or areas of ecological interest; and
- b) the re-use or adaptation of existing buildings is not practical or viable, and they are of a scale appropriate to the location and recreational use; and
- c) if an ancillary facility is proposed, it is well-related to the attraction it serves.

Finally, in all cases, the proposal should not give rise to significant adverse environmental conditions, should provide appropriate vehicular access, and must provide adequate access to and between facilities for people with disabilities.

The proposed development includes an extension to an existing sports facility and the provision of a new sports facility in the form of the padel tennis courts. Odd Down Sports Ground is an established sports facility, and it is considered that the proposals would respect the existing pattern of such facilities. Additionally, the site is accessible by public transport modes.

Matters pertaining to landscape and ecology as raised in 2(a) are discussed below within this report. The proposal will result in the adaptation of the existing building by way of the extension. The new padel tennis courts have a specification which cannot practically be accommodated by the existing sports building and this criterion 2(b) is considered to be passed.

In so far as it relates to the principle of development, the scheme is considered to comply with policy LCR6. The proposal will need to comply with the criteria of policy LCR6 and other material considerations which are assessed in the report below.

Policy LCR5 is also relevant, and this has regard to the loss of open space. The proposed extensions to the pavilion and outdoor gym, as well as the padel courts will result in the loss of open space. Policy LCR5 highlights that this will only be acceptable where the proposed development is for an indoor or outdoor sports facilities with at least an equal benefit. The proposals will not affect any of the existing sports pitches on the fields and will be located in areas which are adjacent to existing buildings and structures. Their loss is considered to have a nominal impact on the function of the playing fields and will provide additional sporting facilities which can be considered of equivalent or better value in accordance with policy LCR5.

It is therefore considered that the principle of development is acceptable.

#### DESIGN, APPEARANCE AND IMPACT TO CHARACTER:

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.

The proposed development will be located within an existing sports ground which comprises the existing pavilion building, a 3G sports pitch with mesh fencing and floodlighting, a car park, a BMX track, open space, and a number of grass sports pitches.

#### Pavilion extension:

The existing pavilion building is proposed to be extended to provide a new internal gym and an area of external gym which will be located to the east of the extension, fronting onto the grassed pitches and open space.

The extension will protrude from the eastern elevation of the existing building, with the external gym area located to the east and north of this. The external gym area will be

fenced directly outside the rear of the extension, with gated access. The height of the fence is in line with the eaves of the extension (approximately 2.4m). In the context of the existing sports ground and fencing around the 3G sports pitch, a mesh fencing as shown on the plans is visually acceptable. A fixed canopy over this area is proposed, and again details of the colour and finish can be secured by condition. A condition can be used to secure details of the hard landscaping for the outside gym to ensure a satisfactory appearance.

The extension itself, whilst having a large floor plate, will site below the ridge of the existing pavilion, and features gable ends which reflect the character of the existing building. The materials are shown to match the existing and this can be secured by condition.

Overall, the design of the extension is considered to be reflective of the character of the existing building, is subservient to it and responds to the character of the locality.

#### Lighting:

Policy D8 makes clear that proposals for artificial lighting will only be permitted where it does not have an adverse impact on visual amenity.

The proposed replacement floodlights will result in a reduction of light spill over the existing which is considered to be a positive attribute of the scheme. The proposed padel lighting will be under the canopy and therefore, subject to conditions securing operating hours, are also not considered to cause adverse visual effects.

#### Padel tennis courts:

The proposed padel tennis courts are proposed to be located directly to the west of the pavilion building and the 3G sports pitch.

The four courts are proposed to be covered by a canopy and have a height of approximately 9.7m. This height represents a reduction since pre-application discussions, as outlined in the Design and Access Statement. The height has been amended during the application in response to Sport England comments which highlighted the canopy cover clearance needs to be 8m above the net. The frame will be constructed from Glulam, which is glue-laminated timber. The canopy is proposed to be tensile canvas and is coloured on the plans as light grey. It has been highlighted by the Landscape Officer that it is imperative that the most recessive colour is chosen for the canopy and therefore, a condition can secure details of the canopy colour, notwithstanding the colour shown on the plans.

The overall appearance of the padel tennis courts is utilitarian and it is accepted that they result in a large structure in this location. There will be glimpses of the courts from Bloomfield Road. The Landscape Visual Impact Assessment concludes that the proposals would not result in an unacceptable landscape impact subject to the proposed tree planting which would provide visual mitigation. This conclusion is agreed with, but officers consider that the delivery of tree planting and a landscape enhancement scheme based on the submitted Nature Trail and Landscape Enhancement Scheme must be secured.

Odd Down Sports Ground is council owned land, GLL lease and operate the site. The Nature Trail enhancements are funded and will be delivered by the Council. It is considered that a Grampian condition can be used to secure the delivery of the Nature Trail, in accordance with a scheme which has first been submitted to and approved in writing by the Local Planning Authority. This should be based upon the nature trail drawings which are presented in Appendix 3 of the Design and Access Statement.

The main impact of the proposals will be from closer range views, largely from the streets to the west (Bloomfield Road) and south (Chelwood Drive) of the site. However, in the context of the existing sports ground, which is already home to tall fencing, floodlighting columns, and other sporting/urban infrastructure it is not considered to be inappropriate. Third party comments have questioned the necessity of the canopies. The Design and Access Statement sets out that they have been included to allow play during wet weather, ensuring that the scheme is viable. This is accepted and the scheme presented must be assessed on its own merits. In the context of the existing sports ground, it is considered that the character and appearance of the courts are acceptable. However, officers do consider that they will cause less than substantial harm to the setting of the adjacent conservation area and this is assessed in detail below.

#### IMPACT TO HERITAGE ASSETS:

The application site is located within 2 No. World Heritage Sites (City of Bath and The Great Spa Towns of Europe), adjoins an east facing boundary of Bath Conservation Area (the Entry Hill, Perrymead and Prior Park Character Area) and lies a short distance south of Tower House, a Grade II Listed Building. Therefore, consideration must be given to the effect the proposal might have on the Outstanding Universal Values of the World Heritage Sites and their setting. There are duties placed on the Council under; Section 66 (1) 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; and, Section 72 (1) of the same Act to pay special attention to the preservation or enhancement of the character of the surrounding Conservation Area.

The setting of a heritage asset (as set out in the NPPF Annex 2: Glossary) is 'the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.' PPG advises that 'when assessing any application for development which may affect the setting of a heritage asset, local planning authorities may need to consider the implications of cumulative change.'

#### *The Bath World Heritage Sites*

The City of Bath World Heritage Site was inscribed in 1987: the reason for inscription, or key attribute of Outstanding Universal Value (OUV), of most relevance to this proposal is 'the green setting of the City in a hollow in the hills.' The Great Spa Towns of Europe was inscribed onto the UNESCO World Heritage list in 2021: the inscription is a transnational serial nomination involving 11 spa towns from 7 countries. All of the towns developed around natural mineral water springs. The key attribute of the OUV most relevant to this

proposal is 'an overall urban context that includes a carefully managed recreational and therapeutic environment in a picturesque landscape.'

Whilst the proposed Padel Tennis Courts have a relatively significant height and massing, the Landscape and Visual Impact Assessment confirms that they will not have an adverse impact upon longer views. Whilst there will be impacts from closer range viewpoints, it is not considered that the development will harm the OUVS of the Bath World Heritage Sites, particularly given the context of the site as an existing sports ground. Conditions will secure the switch off of the external lighting, which will limit light pollution.

#### *Conservation Area*

The draft Entry Hill, Perrymead and Prior Park Character Appraisal Bath Conservation Area (2018) advises that 'open green spaces, parks and gardens form a major contribution to this Character Area.' In terms of playing fields /sports facilities the Appraisal specifically mentions Odd Down (and woodland known as The Tumps). One of the assets of the Character Area is identified in the Appraisal as 'the numerous listed and other historic buildings which survive intact in respect of their form, fabric and setting.'

The site is not within the Conservation Area but is adjacent to it as set out above and therefore can be considered to be within its setting.

It is acknowledged that due to the existing development of the plateau as sports ground (with associated structures, hard landscaping, pitches, tracks etc.), there is a change to the open landscape and the setting of the Conservation Area. However, although the pavilion building and tarmac car park as existing do not represent a positive aspect of setting to this designated heritage assets some restraint has been exercised to date, by keeping the built form (i.e., pavilion) on the site, to single storey. The height is not dominant within the Conservation Area setting. Within the aforementioned Character Appraisal, building height of new development exceeding the traditional limits of this area and disrupting the hierarchy of public and private buildings, is noted as a threat to the Conservation Area.

The proposed structure is around 9.7m in height and therefore, around 3m taller than the existing pavilion building. Since pre-application discussions, the applicant has reduced the height of the proposals, and this is welcomed. The canopy proposed has a "light weight" appearance and is relatively open, which is considered to reduce the overall bulk and impact of the massing of the structure. Planning conditions can secure details of the colour and management of the canopy to ensure that it does not fall into disrepair and is of an appropriate colour in this location.

Notwithstanding the evolution of the design and the reduction in height, it is considered that by virtue of its scale and massing that it will cause less than substantial harm to the setting of the Conservation Area.

#### *Listed Buildings*

The Tower House, No. 297 Bloomfield Road is a Grade II Listed Building and said to have been built in the mid-19th century by a quarry master for his own use; a standard villa with a high square tower attached to command views.

Views into the site from the immediate surroundings are limited but glimpses can be had from certain points along Bloomfield Road and A367 (junction with Midford Road). There are residential areas mainly to the south and west of the sports ground and dwellinghouse height is typically two storey here. Due to its height the tower of the Tower House can be seen from various locations beyond the application site boundary and stands out when viewed from within the sports ground (views afforded around its perimeter). When the Tower House is viewed from within the application site it is seen in the context of mature, established trees, the rear 2 no. 2 storey terrace of cottages of local historic interest, the single storey sports pavilion, and wider sports ground/facilities. The tower of the Tower House can be seen from Bloomfield Road, most notably when approaching from the north (travelling south) and is viewed in the context of mature, established trees, and the frontages of the (same) 2 No. 2 storey terrace of cottages.

Although there are a number of other listed buildings scattered beyond the application site, they are situated either below the sports ground plateau or on level ground (but at too far a distance and screened) such that their setting would not be affected by the proposal. Notwithstanding, it is noted that the tower of The Tower House can glimpsed, through a break in tree cover, from the Grade II St Martin's Hospital (Midford Road).

As with the assessment of the impact of the proposal upon the setting of the Conservation Area, the existing sports ground does represent a change in the setting of the nearby listed buildings, but the heights are respectful to it.

It is considered that, despite efforts to limit the height of the padel tennis structure, the scale and massing with particular regard to the height is considered to cause less than substantial harm to the setting of listed buildings, specifically Tower House and, to a more limited extent, nos. 378 and 380 Bloomfield Road.

Paragraph 205 of the NPPF sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). It goes on to explain that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

This assessment is undertaken within the "Planning Balance" section of this report.

#### ARCHAEOLOGY:

The site lies within an archaeologically sensitive area near to possible Iron Age earthworks and to the west of a Roman Road, and possible the site of the deserted village of Berwicke. The Historic Environment Record (HER) contains reports of the discovery of stone buildings and occupation deposits within this area.

Policy HE1 of the Placemaking Plan and the NPPF requires that where heritage assets are impacted, developers should be required to advance understanding of the heritage asset. Therefore, an Archaeological Watching Brief can be secured by way of planning condition to ensure archaeological monitoring of the development.

## 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 concerns have been raised which relate to residential amenity. The main areas can be summarised as:

- Loss of outlook
- Noise and disturbance
- Light pollution

The above will be assessed in turn.

### Loss of outlook

The proposed extension to the pavilion building is located on the eastern side of the existing building, facing onto the existing sports field. Due to the siting of the existing, which is away from the residential dwellings along Bloomfield Road and Chelwood Drive, it is not considered that this element of the scheme will result in a loss of outlook to nearby residents.

The padel tennis courts are proposed to be located to the west of the pavilion building and existing 3G pitch and to the east of the car park. There is therefore visibility of the courts from the dwellings which are located to the west and south of the site. Comments have been raised that, as existing, residents have a more "open" view across the site due to the low level of the pavilion building and the nature of the fencing around the 3G pitch, which is mesh and allows views through. The erection of the padel tennis courts will undoubtedly change this view and introduce a large, canopied structure in this location. The courts are located on the opposite side of the car park and there is a separation of approximately 25-37 metres from the residential dwellings on Bloomfield Road and further from those on Chelwood Drive. Whilst the outlook from these dwellings will change as a result of the proposal, it is not considered that there would be a significant loss of outlook which would warrant the refusal of the application on this basis. There is a degree of separation from these dwellings, which already overlook a sporting facility and are in a built-up, urban area. As such, officers do not consider a refusal on this basis would be justified.

### Noise pollution

A large proportion of representations received raise concerns with regard to the additional noise and disturbance that the development will cause. The site is an existing sporting facility. There is an open air 3G pitch which is floodlit and can be lit until 10pm, which allows for sports to be played within relatively close proximity to dwellings as existing. Whilst padel tennis is a different sport to those which can currently be played in this location, it is important that consideration is given to the site context and the way in which the site can currently operate.

The extension to the pavilion building, again due to its siting away from residential properties is unlikely to result in a significant noise impact.

The padel tennis courts, as above, will be located approximately 25m-37m from the residential properties on Bloomfield Road, with a car park situated in between the dwellings and proposed courts. A noise assessment has been submitted with the application and it has been confirmed that there will be no mechanical plant associated with the padel courts. A condition can secure the submission of a further noise assessment should any mechanical plant be required in the future.

The Lawn and Tennis Association have guidance relating to padel tennis. This is not planning policy, but does provide useful information about padel, the style of gameplay and the courts themselves. The guidance states that "careful consideration of the location of proposed padel courts should be given in relation to the impact of noise and light upon adjacent residential properties. If a residential property is within 30m of the padel court then it is likely that sound attenuation mitigation will be required, as well as noise and light surveys being required as part of the planning application."

Sport England do not have specific guidance themselves on conducting noise assessments for padel tennis courts, and therefore the 2015 Sport England Artificial Grass Pitch (AGP) Acoustics - Planning Implications has been used to help to identify the noise implications of the proposal. It is considered that this is a suitable measure, given the lack of padel specific guidelines available. The use of this guidance is a common approach within noise assessments for padel courts, for example at other sites within Bath and Dorset. Notwithstanding this, officers have given due regard to the differences with the form of gameplay associated with padel tennis (including the ball hitting against the side of the court, the size of the court etc.,).

The World Health Organisation sets out in their guidance relating to community noise that "to protect the majority of people from being seriously annoyed during the daytime, the outdoor sound level from steady, continuous noise should not exceed 55dB on balconies, terraces and in outdoor living areas. To protect the majority of people from being moderately annoyed during the daytime, the outdoor sound level should exceed 50dB."

The noise assessment sets out that a baseline noise survey was undertaken at a location representative of the nearest noise sensitive receptor, which is considered to be the rear facades of nos. 301/303 Bloomfield Road, which also have residential gardens associated with them. The noise survey provided the ambient noise levels as follows:

Lowest Ambient Noise Levels - 43dB  
Average Ambient Noise Levels - 47dB  
Highest Ambient Noise Levels - 51dB

The noise assessment sets out that the ambient noise level has been assessed during a typically quieter period at the sports ground, during the summer months; the ground has a high level of utilization in the winter months than the Summer. The ambient noise level assessment is acceptable and considered to be an accurate measure.

The noise levels to be produced by the padel tennis courts have been ascertained from a noise assessment undertaken for a padel tennis court in Dorset. The noise assessment from East Dorset compares noise levels from padel tennis to clay pigeon shooting, and states that "impulsive noise from the striking of the padel ball is not dissimilar to that from



shooting activities at a distance". It utilises research by the Building Research Establishment which reviews shooting noise and concludes "At shooting noise levels below the mid 50's dB(A) there is little evidence of significant annoyance at any site, whereas for levels in the mid to high 60's, significant annoyance is engendered in a majority of sites. For levels in between however, the extent of the annoyance varies considerably from site to site. Thus, a level of, say, 60dB(A) may be deemed acceptable at one site, but not at another."

The noise levels provided within the noise assessment for the current application, have been based on the assessment within the East Dorset noise assessment as the courts proposed are of a similar design. This is accepted. The average noise levels are as follows:

5m from Centre Line Opening: 52dBL  
5m from baseline end: 51dBL

There will of course be instances whereby these levels rise over and above the average and there will be instances where they are lower.

The noise assessment indicates that the proposal will result in a negligible noise impact from the proposed padel tennis courts. The ambient noise level was taken during a quieter period of use and therefore, the increase in noise can be seen as a "worst case scenario". Even taking this into account, the noise levels predicted are below noise levels set out in the WHO and Sport England Guidance. Whilst the courts will be within 30m of residential properties in some locations, the noise assessment confirms that no mitigation is required here.

Noise from participants, talking and cheering for example, is to be expected in this sports ground location and at any one time a maximum of 16 people could be playing across the four courts. It is not considered that this would be a significant number of people so as to cause an unacceptable impact.

The cumulative noise levels from the site must also be accounted for. The existing 3G pitch can currently be lit from 7am until 10pm. The pitch is located behind the padel courts which will result in a sound barrier. Nonetheless, officers consider that it is important to limit the potential for noise and disturbance during antisocial hours and therefore the following operational times for the padel is proposed to be secured by way of condition:

Monday to Saturday (excluding any Bank/Public Holiday): 9:00am until 9:30pm  
Sundays and Bank/Public Holidays: 9:00am until 9:00pm

The concerns of third parties with regard to noise have been assessed. Considering the existing site context as a sporting facility, the separation of residential properties from the padel courts by the car park, the proposed hours of operation and the noise assessment results it is not considered that the proposal would give rise to significant levels of noise and disturbance which would justify the refusal of the application on this basis.

Light pollution

Policy D8 sets out that proposals for artificial lighting will only be permitted where it can be demonstrated that proposals will not be detrimental to residential amenity.

The proposal includes the replacement of the existing floodlighting system. The columns will be retained with just the lights themselves being replaced. The submitted lighting assessment demonstrates that there will be a significant reduction in the level of light spillage from the floodlights when compared to the existing. As such, this element of the scheme is not considered to result in a significant level of light pollution which would harm the residential amenities of neighbouring residents. The lighting is currently allowed to operate between 7am and 10pm, as secured by a condition on the original permission and such a condition will be carried forward as part of any consent granted here.

The proposals also include lighting for the padel tennis courts, inside the courts.

These lights have not been included within the lighting strategy; however, they are shown on the submitted plans as being located internally within the padel courts, facing toward the pitch. The lighting columns are around 6.5m tall. The submitted design and access statement sets out that with the canopy, the light levels which will emit from the padel tennis courts will be between 2 and 3 lux. As a result of their location within the padel tennis courts it is not considered likely that the lighting will cause a significant impact to the neighbouring occupiers. A condition can secure a lighting scheme which ensures that the light levels do not exceed the stated level and a lux plan can be submitted, to ensure that the level at the nearest residential receptors is acceptable. Lighting guidance specifies 5 lux as an acceptable level in this location. Given the limited height of the proposed columns and their location within the padel tennis courts, this should be more than achievable. A condition can also be added to secure the switch off times of the lights when the courts are not in use.

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

#### HIGHWAYS SAFETY AND PARKING:

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

It is considered that the scale of the development is unlikely to have a significant impact upon the surrounding transport network, and the proposals are likely to result in only a moderate increase in the number of people visiting the site. The transport implications of the development have been considered within the submitted Transport Statement (TS) document.

The external connections to the site will not change as part of the proposal, and it is noted that the padel tennis court position will require that the pedestrian route to the main

building would have to be adjusted. In response to safety concerns raised by the Highway Authority, the main pedestrian access has been better protected by the alteration to the car parking arrangements that are immediately adjacent to the route. The Highway Authority have no objection to the approach proposed.

The proposed development would provide a total of 70 covered cycle parking opportunities, and this is considered to be appropriate.

The TS does consider the potential traffic impact of the additional sports facilities, including the padel tennis courts and this concludes that there would be no material impact upon the operation of the local highway network. Having reviewed the submitted evidence, the Highway Authority agree with this conclusion. The Statement also reviews the proposed changes to the site car parking arrangements and there are no significant concerns relating to the amendments proposed. Third parties have raised that the proposal will reduce the amount of coach parking available, in lieu of increase car parking provision. An area of coaches/mini buses is still available to the north of the additional car parking spaces. The applicant has confirmed that this should be sufficient. However, in the event that more coaches needed to park, there is coach parking available at the Odd Down Park and Ride (0.8 miles away). Coaches could drop users of the sports ground at the site and then go to wait/park at the Odd Down park and ride. This could be captured in an updated Travel Plan, which can be secured by condition. The Highway Authority have no concerns with the level of coach parking proposed.

The submission is supported by a Travel Plan and there are no significant concerns relating to the initiatives/measures that are proposed. It is noted that a Travel Plan Co-Ordinator will be appointed and that they will be responsible for ensuring that the measures are implemented as necessary. The Plan proposes targets for employees; however, it is assumed that the day-to-day employment levels at the site are fairly low, and there is unlikely to be an opportunity for significant change. It is noted that the baseline for visitors will be collected post-planning permission, and appropriate targets will then be developed. It is recommended that the Travel Plan is updated to reflect the need to include the visitor travel mode shift targets. Additionally, electric car charging provision will be included within the layout, although the specification of the charging equipment is not yet identified. This can be included in the updated travel plan. This will be secured by condition. An appropriate monitoring/review process is proposed and there is a required, as per the Transport and Development SPD to secure a monitoring fee for the travel plan (£4775). This will be secured by a S106 agreement.

A Construction Management Plan should also be secured by condition to ensure that the highway remains operational during construction and to protect the resident amenities of surrounding occupiers.

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

**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.

Policy SU1 states that for both major development ((as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015)) and for minor development in an area at risk of flooding (from any source up to and including the 1 in 100 year+ climate change event) Sustainable Urban Drainage Systems (SuDs) are to be employed for the management of water runoff.

The site boundary has been amended to that a cellular storage crate drainage system can be accommodated to the south of the proposed padel tennis courts, as shown on the Proposed Drainage Layout Plan (Revision P04). The system has been designed for the 1 in 100 year event with 45% allowance for climate change. This is to be design with a safety factor of three and this has been deemed acceptable by the Lead Local Flood Authority.

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 part 14 of the NPPF.

#### TREES:

Local Plan Partial Update policy NE6 has regard to trees and woodland conservation. Development should seek to avoid adverse impacts on trees and woodlands of wildlife, landscape, historic, amenity and productive or cultural value, as well as appropriately retaining trees and providing new tree planting. Development will only be permitted where it can be demonstrated that adverse impacts on trees are unavoidable to allow for development and that compensatory provision will be made in accordance with guidance within the Planning Obligations Supplementary Planning Document (2023). Development proposals which directly or indirectly affect ancient woodland and ancient or veteran trees will not be permitted.

A number of third parties have raised points which relate to the removal of the trees to the front of the existing sports pavilion, which were adjacent to the car park. This row of trees, which had amenity value and softened the visual appearance of the site from Bloomfield Road were removed following the identification of Ash Dieback as noted in the Design and Access Statement; this is not disputed by the Council's Arboricultural Officer.

The Design and Access Statement identifies the need for replacement tree planting to be incorporated into the proposals. Given the locations of the proposed padel tennis courts, which are on the land which had previously accommodated the Ash trees, the new planting is proposed outside of the site boundary as part of the nature trail enhancements. As detailed above, the nature trail is a fully funded scheme to be delivered by the council, on council owned land and as such it is considered that a Grampian condition can secure the delivery of the tree planting and other nature trail enhancements.

Changes to the drainage proposals, as detailed above, necessitated the requirement to re-consult the Arboricultural Officer. They concluded no overall objection to the scheme

but commented that there was no revised Arboricultural Impact Assessment, nor a Tree Constraints Plan included in the Arboricultural Report. The Tree Protection Plan does not show protective fencing to protect trees G01 and G02.

It is considered that an Arboricultural Method Statement, Tree Constraints Plan, and updated Tree Protection Plan can be secured by way of pre-commencement condition. Indeed, such a condition has been recommended by the Council's Arboricultural Officer.

It has also been raised that the proposed replacement tree planting, as shown in Appendix 3 of the Design and Access Statement is over the location of the proposed drainage cellular storage system. As previously explain, a Grampian condition will secure details of the final nature trail scheme and it is considered that there is scope to reposition these trees further to the south, so as to avoid this storage crate.

Overall, it is considered that subject to conditions, the proposal is capable of complying with policy NE6.

#### ECOLOGY:

##### Relevant ecological policy

The application is accompanied by an ecological report which covers a "preliminary ecological appraisal, preliminary roost assessment and bat emergence and re-entry survey", as well as a Biodiversity Net Gain Assessment (both by Arbtech, 2023).

Policy NE3 of the Local Plan Partial Update has regard to Sites, Species and Habitats and states that development which results in significant harm to biodiversity will not be permitted. For all developments, any harm to the nature conservation value of the site should be avoided where possible before mitigation and/or compensation is considered.

Policy D8 has regard to lighting and sets out, amongst other things, that proposals for artificial lighting should retain ecological corridors and should be designed to protect wildlife.

In addition, Policy NE3a of the Local Plan Partial Update relates to Biodiversity Net Gain (BNG). Biodiversity Net Gain (10%) is now a mandatory requirement; however, this application was submitted before the mandatory requirement date and therefore, 10% is required under local policy only.

In the case of major developments, policy NE3a requires that a BNG of a minimum of 10% must be demonstrated using the latest DEFRA metric (or agreed equivalent), by a suitably qualified and/or experienced ecologist. BNG will be secured in perpetuity (at least 30 years) and a management plan will be required detailing how the post-development biodiversity values of the site will be secured, managed, and monitored in perpetuity.

##### Impacts to designated sites

The proposals include the replacement of existing floodlighting with new LED floodlighting, and it is considered that this element of the scheme does have the potential to impact upon bats. Bats, including Horseshoe bats, are known to use the habitats around Odd

Down and these are light sensitive species. Generally, bat activity surveys would be required in order to assist in drawing a conclusion on the potential impacts upon the bat populations and the lack of surveys within this application has been noted by Council Ecologists.

Notwithstanding this, the specific location of the proposals must be considered. The specific location of the lighting and pavilion within the sports ground renders it unlikely that this particular part of the open space is of strategic importance to bats. The site is already illuminated by floodlighting, which was granted in 2014, as well as lighting in the car park, which was granted in 2017. Whilst, ideally, the baseline would be taken from an unilluminated site, it is accepted that there is already lighting within the locality. Whilst there is little assessment provided within the report of foraging and commuting bats, the replacement of the existing luminaires with new LED luminaires will result in a reduction in light spill and lux levels; this is demonstrated by the submitted lighting assessment. The application also secures a reduction in the light spill from the site, when compared to current levels, and illumination of boundary features which may be used by bats is avoided. The use of LED luminaires may also reduce impacts upon invertebrates.

Therefore, whilst the ecological survey presents a fairly light touch assessment with regard to bats, it is considered sufficient to conclude that the proposed LED lighting will be an improvement upon the existing lighting situation at the site and it is not considered that a refusal reason on this basis would be justified.

The proposed padel tennis courts also include some lighting. Whilst these are covered by a canopy, by way of their design, there will be some opportunity for light spill from them. The padel courts are situated adjacent to the existing pavilion and floodlit, 3G pitch as well as the car park which also has lighting. The Council's Ecologist concludes that the location of the courts is in an area of the site which is already subject to elevated levels of illumination and is therefore unlikely to be of significant importance to foraging and commuting bats. A lighting scheme can be secured by condition, as discussed in the Residential Amenity section of this report.

As above, the lack of detail with regard to bats within the submitted ecological report is disappointing. However, when taking the site context into account and the existing levels of illumination at the site, and the fact that this will be decreasing overall as a result in the proposed floodlighting luminaires, it is not considered that additional bat data is likely to result in a re-design of the scheme, and the assessment of the impacts is unlikely to be substantially different. Therefore, with regard to lighting and the impact to bats, the scheme is considered to be acceptable.

#### Habitats Regulations Assessment Screening

This planning application is not directly connected with or necessary for the conservation management of the Bath and Bradford on Avon Bats Special Area of Conservation (SAC). Considering the design of the scheme and the avoidance of lighting key habitats with artificial illumination, it is not considered that the application risks having a significant effect upon the integrity of conservation status of bat populations associated with the SAC. As such, no further HRA is required, and mitigation is not considered necessary.

#### Other Protected Species Surveys

Surveys have confirmed the likely absence of roosting bats, and a suitable survey effort has been undertaken. A number of bat boxes are proposed as an ecological enhancement, and these can be secured by way of planning condition.

The preliminary ecological appraisal considers the impacts upon other species, including dormice, hedgehog, otter and water vole, birds, and invertebrates. Prior presence of nesting birds within the building B1, which will be altered as part of the proposals, suggests that pre-commencement checks of the building would be appropriate prior to works commencing and again, this can be secured by condition. Enhancements are proposed for birds and a suggestion made for invertebrates which appears to have been adopted by the plans for the Nature Trail; a habitat management plan will be secured by way of condition, and this can be included within this.

### Ecological Enhancement and BNG

The proposals include considerable enhancements, including the new nature trail. It should be noted that the nature trail is not included with the red line boundary and these enhancements for BNG are therefore offsite. As aforementioned, this can be secured by condition.

The submitted Arbtech report appears to assess differing BNG proposals to that shown on the Plan Option presented. However, in line with current legislation, the information presented at this stage is sufficient to conclude that a significant biodiversity net gain can be achieved on and off-site and an accurate and updated BNG plan can be secured by way of condition/obligation as appropriate.

### Ecological conclusion

Overall, subject to conditions, the scheme is considered to be compliant with policies D8, NE3, NE3a and NE5 of the Bath and North East Somerset Local Plan Partial Update.

### OTHER MATTERS:

A number of third parties have raised issue with the consultation process for the scheme. It is understood that there was a public consultation undertaken by the applicant team prior to the submission of the planning application. A number of comments have raised that this consultation presented a different scheme to the proposal which has been put forward. The Local Planning Authority cannot control public consultation which takes place prior to the application. The Local Planning Authority has undertaken the statutory consultation in accordance with the Development Management Procedure Order (2010) in respect of notifying neighbouring residents and erecting a site notice.

It has also been raised in several representations that the padel tennis courts would be better sited on the opposite side of the pavilion building and 3G pitch. The applicant has explained to the planning officer that part of the rationale behind the siting of the buildings in this location was to avoid the loss or interference with the existing grass pitches at the sports ground. Notwithstanding this, the planning officer has assessed the scheme before them on its own merits.

It has been queried by a crossing is not being proposed on Bloomfield Road. This has not been requested by the Highway Authority and is not considered necessary to make the development acceptable. Queries with regard to pedestrian access have been raised. The plan shown pedestrian access running to Chelwood Drive alongside the car park. Pedestrian access at the north of the proposed nature trail (which is outside of the red line) are shown on Appendix 3, and a final plan is to be secured by condition. The Highway Authority are now satisfied with the pedestrian arrangements at the site.

Confirmation as to the administrative management of the site has been requested. The site is leased and operated by GLL. A travel plan is to be secured by condition and a contribution to secure monitoring secured via a S106. This will help to manage transport impacts of the scheme.

Comments have been raised about potential sun glare for players, the layout of the courts being hazardous for players and the fact players will have to wait in the rain before starting their session. The pavilion building is available for shelter in bad weather. No comments with regard to glare or court hazard has been raised by the Lawn and Tennis Association via Sport England. In addition, comments raise that the design of the courts is not optimal for players; however no comments with regard to this (except for the height clearance which has now been resolved) have been raised by Sport England. There is therefore not a planning reason to refuse the application.

It has been raised that the existing lights are left on outside of permissible hours. This would be a matter for planning enforcement.

#### **PUBLIC SECTOR EQUALITY DUTY:**

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

Section 149 provides that the Council must have due regard to the need to—

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

Officers have had due regard to these matters when assessing this application and have concluded that neither the granting nor the refusal of this application would be likely to have an impact on protected groups and, therefore, that these considerations would not weigh in favour of or against this application.

#### **PLANNING BALANCE:**

As identified in the report above, it is considered that the proposed padel tennis courts, by virtue of their siting, scale and massing will cause less than substantial harm to the setting of the Conservation Area, setting of the Conservation Area and the setting of listed buildings, specifically Tower House and, to a more limited extent, nos. 378 and 380 Bloomfield Road.



Paragraph 205 of the NPPF sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). It goes on to explain that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

The padel tennis courts are considered to have the following public benefits:

#### Additional sporting facilities

There are currently no Padel Tennis facilities within Bath. The provision of such facilities is considered to enhance the availability of facilities within the Bath and Bristol area and may help to reduce the number of people travelling long distances to play. It is raised in the Design and Access Statement, and on the Lawn Tennis Association website, that padel is easy to play and therefore, these sporting facilities can be considered to be inclusive for a wide range of the population.

The NPPF highlights in paragraph 102 the importance of access to opportunities for sport and physical activity. It is considered that the provision of the courts will provide an increase of facilities at the site, and will offer sport which, as a result of the canopies, can be played in all weathers.

The provision of additional, high-quality sports facilities should be attributed significant weight in the planning balance.

#### Creation of jobs

The construction of the padel tennis courts will create construction jobs, albeit on a limited scale and this is therefore attributed moderate weight.

The harm identified is to the setting of the Conservation Area and the setting of two Grade II listed buildings. It is considered that the provision of a high-quality sporting facility in an existing sports ground and thus a sustainable location and the creation of additional construction jobs is sufficient to outweigh the less than substantial harm identified to the setting of these heritage assets.

#### CONCLUSION:

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

When considering whether development proposals accord with the development plan it is necessary to make this judgement with regard to the development plan as a whole.

Taking into account the planning balance above, the application is considered to comply with the development plan as a whole. As such, subject to a S106 agreement to secure

the Travel Plan Monitoring fee and conditions, the application is recommended for permission.

## **RECOMMENDATION**

Delegate to PERMIT

## **CONDITIONS**

0 A). Authorise the Head of Legal and Democratic Services to complete a Legal Agreement to secure:

1. A Travel Plan Monitoring Fee of £4775

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

### **1 Standard Time Limit (Compliance)**

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

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

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

No development shall commence, except archaeological investigation work and demolition required to undertake such 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 pre-commencement condition because archaeological remains and features may be damaged by the initial development works.

### **3 Biodiversity Net Gain Plan (Pre-commencement)**

No development shall commence until full details of a Biodiversity Gain Plan for on-site and off-site delivery and monitoring of Biodiversity Net Gain, and a Habitat Management Plan have been submitted to and approved in writing by the Local Planning Authority. The Plans shall ensure a net gain is secured (providing in excess of 2.89 units). The Plans shall be in accordance with the approved Biodiversity Net Gain Assessment and calculation, and with current best practice guidelines and shall include the following:

1. An up-to-date BNG habitat map for on-site and off-site proposed habitats.

2. Habitat Management Plan, long-term management and protection measures for all retained and proposed habitats and species, including fencing and boundary details.
3. Long term aims and objectives for habitats (extents, quality) and species.
4. Detailed management prescriptions and operations for newly created habitats; locations, timing, frequency, durations; methods; specialist expertise (if required), specialist tools/machinery or equipment and personnel as required to meet the stated aims and objectives.
5. A detailed prescription and specification for the management of boundary habitats including hedgerows, woodland and scrub.
6. Details of any management requirements for species-specific habitat enhancements.
7. Annual work schedule for at least a 30 year period.
8. A list of activities and operations that shall not take place and shall not be permitted within the Habitat Management Plan (HMP) area (for example use of herbicides; disposing of grass cuttings / arisings in "compost" heaps on-site or in hedgerows (or other on-site waste disposal); routinely cutting ivy where there is no specific arboricultural justification; inappropriate maintenance methods; storage of materials; machine or vehicle access).
9. Detailed monitoring strategy for habitats and species and methods of measuring progress towards and achievement of stated objectives.
10. Details of proposed reporting to the Local Planning Authority and proposed review and remediation mechanism.
11. Proposed costs and resourcing, and legal responsibilities.

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

Reason: To protect and enhance ecological interests and to ensure delivery of Biodiversity Net Gain in accordance with Bath and North East Somerset Local Plan Partial Update policies NE3, NE3a NE5 and D5e.

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

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

1. Deliveries (including storage arrangements and timings);
2. Contractor parking;
3. Traffic management;
4. Working hours;

5. Site opening times;
6. Wheel wash facilities;
7. Site compound arrangements;
8. Measures for the control of dust;
9. Temporary arrangements for householder refuse and recycling collection during construction.

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

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

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

No development shall take place until a revised 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 on completion of the development. Wording for all measures required must state what will happen and use committal language that is enforceable (eg "shall" instead of "should"). The statement should also include the control of potentially harmful operations such as the storage, handling and mixing of materials on site, burning, location of site office, service run locations including soakaway locations and movement of people and machinery.

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 Bath and North East Somerset Local Plan Partial Update. 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.

#### **6 Arboricultural Compliance (Bespoke trigger)**

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

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 Bath and North East Somerset Local Plan Partial Update.

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

No development beyond slab level of the padel tennis courts shall commence until a schedule of materials and finishes to be used in the construction of the external surfaces, including the canopy, 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, 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 policy CP6 of the Bath and North East Somerset Core Strategy, policies HE1, D1, D2 and D3 of the Bath and North East Somerset Placemaking Plan and Policy D5 of the Bath and North Somerset Local Plan Partial Update.

#### **8 Nature Trail Details and Delivery (Pre-occupation - Grampian Condition)**

Prior to the first use of the padel tennis courts hereby approved, details of the proposed nature trail, offsite landscaping, and tree planting, as shown in the indicative drawing "Appendix 3" of the Design and Access Statement shall be submitted to and approved in writing by the Local Planning Authority. The details must be consistent with the biodiversity net gain calculations and management plans and shall include the following:

1. A scaled plan showing the location and design of the nature trail, including all habitat types and replacement trees to be provided;
2. Detailed planting plans;
3. Written specifications (including cultivation and other operations associated with plant and grass establishment); and a
4. Schedules of plants, noting species, planting sixes and proposed numbers/densities.

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

#### **9 Implementation of Nature Trail and offsite landscaping (Bespoke Trigger - Grampian Condition)**

The Nature Trail, offsite landscaping and tree planting shall be carried out in accordance with the approved details. The works shall be carried out prior to the first use of the padel tennis courts 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 30 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 and to ensure appropriate biodiversity net gain is secured in accordance with Policies D1 and D2 of the Bath and North East Somerset Placemaking Plan and NE2, NE3, and NE3a of the Bath and North East Somerset Local Plan Partial Update.

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

Prior to the first use of any part of the development (except the new artificial pitch floodlighting) shall commence until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be operated in accordance with the approved Travel Plan.

Reason: In the interest of enabling a genuine choice in mode of travel, reducing car dependency, and encouraging sustainable travel methods in accordance with Policies ST1 and ST7 of the Bath and North East Somerset Local Plan Partial Update and the Transport and Development Supplementary Planning Document.

#### **11 Bicycle Storage (Pre-occupation)**

No occupation of the development shall commence until bicycle storage for at least 70 bicycles has been provided. The bicycle storage shall be retained permanently thereafter.

Reason: In the interest of enabling cycling as genuine choice of travel mode, in accordance with Policies ST1 and ST7 of the Bath and North East Somerset Local Plan Partial Update and the Transport and Development Supplementary Planning Document.

#### **12 Drainage (Pre-occupation)**

Prior to the first use of the padel tennis courts of sport pavilion extension hereby approved, the drainage strategy shall be installed for that relevant part of the development in accordance with the details as shown on the Proposed Drainage Layout (23144-101 P04) and the Flood Risk Assessment and Drainage Strategy Report Issue 6. The development shall thereafter be operated in accordance with those details.

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.

#### **13 Hard Landscaping (Bespoke Trigger)**

Prior to the commencement of construction on the external gym area, as shown on the Proposed Site Plan (revision P12), details of the hard landscaping shall be submitted to and approved in writing by the Local Planning Authority. The details shall include:

1. The design and specification of any means of enclosure

2. The design and specification of the fixed canopy
3. Hard surfacing materials

The hard landscaping works shall be carried out in accordance with the approved details prior to the first use of the external gym hereby approved.

Reason: To ensure that the landscape works are implemented and to ensure the continued provision of amenity and environmental in accordance with Policies D1 and D2 of the Bath and North East Somerset Placemaking Plan and NE2 of the Bath and North East Somerset Local Plan Partial Update.

#### **14 Padel Tennis Court Lighting (Bespoke Trigger)**

No lighting shall be installed within or on the padel tennis courts hereby approved until full details of the proposed lighting design have been submitted to and approved in writing by the Local Planning Authority. These details shall include:

1. Lamp models and manufacturer's specifications, positions, numbers, and heights;
2. Predicted lux levels and light spill on both the horizontal and vertical planes;
3. Measures to limit use of lights when not required, to prevent upward light spill and to prevent light spill onto nearby vegetation and adjacent land.

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

Reason: To avoid harm to bats and wildlife in accordance with policy CP6 of the Bath and North East Somerset Core Strategy and policies NE3 and D8 of the Bath and North East Somerset Local Plan Partial Update.

#### **15 Floodlighting (Bespoke Trigger)**

Lighting installed on site must be in accordance with details presented in the Sports Lighting Impact Statement - Surfacing Standards Ltd dated 7th July 2023. Any modification to the proposed design must first be submitted to and approved in writing by the Local Planning Authority. These details shall include:

1. proposed lamps and lamp models, with manufacturer's specifications; proposed lamp positions; numbers and heights, with details also to be shown on a plan;
2. Light spill modelling, in accordance with the standards and best practice guidelines as described in ILP Guidance Note 08/23 "Bats and artificial lighting in the UK", including details of predicted light spill and lux levels within and beyond site boundaries, onto adjacent land and onto boundary vegetation and all ecological habitats and sensitive features within and adjacent to the site, on both vertical and horizontal planes, with details of predicted light levels to also be shown on a plan, and at heights using sections and drawings;
3. Details of lighting controls; proposed hours, frequency and duration of use; and details of all measures and features to contain light spill, and to prevent upward light spill and light spill onto trees and boundary vegetation and adjacent land; and to limit use of lights when not required; and to avoid harm to bat activity and other wildlife.

Within 6 months of operation of the scheme a compliance and monitoring scheme for the lighting, produced by a suitably qualified lighting engineer to demonstrate it is operating in

accordance with the approved details which shall be improved in writing by the LPA and then implemented, with remedial actions detailed where applicable.

The lighting shall be installed, maintained, and operated thereafter only 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 Partial Update.

#### **16 Precautionary Working Methods for the protection of wildlife (Compliance condition)**

Works must proceed only in accordance with the following measures for the protection of bats and birds:

- Appointment of a suitably qualified Ecological Clerk of Works to specify and oversee precautionary working methods;
- a careful visual check for signs of active bird nests and bats shall be made of the interior and exterior of the building (B1) and its roof, and any crevices and concealed spaces, immediately prior to any works affecting these areas;
- nests in use or under construction shall be protected undisturbed until the young have fledged;
- works to the roof and any areas with concealed spaces or crevices shall be carried out using "soft strip" methods, by hand, lifting materials (not sliding) to remove them, and checking beneath each one;
- the site manager and site workers shall be briefed on appropriate ecologically sensitive methods and an ecologist shall be available on call to deal with any unexpected or last-minute discoveries of bats or roosts, or nesting birds;

If bats are encountered works shall cease and the Bat Helpline (Tel 0345 1300 228) or the on-call licenced bat worker shall be contacted for advice before proceeding.

Reason: to avoid harm to protected species (bats and nesting birds) in accordance with policy CP6 of the Bath and North East Somerset Core Strategy and policy NE3 of the Bath and North East Somerset Local Plan Partial Update

#### **17 Materials to Match - Gym Extension (Compliance)**

All external walling and roofing materials to be used shall match those of the existing pavilion building in respect of type, size, colour, pointing, coursing, jointing, profile, and texture.

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

#### **18 Parking (Compliance)**

The areas allocated for parking and turning, as indicated on submitted plan reference 1897- SBA-XX-XX-DR-A-0004 P12 shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.



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

### **19 Padel Tennis Court Hours of Use (Compliance)**

The Padel Tennis Courts should only be used in during the following hours:

Monday to Saturday (excluding any Bank/Public Holiday): 9:00am until 9:30pm  
Sundays and Bank/Public Holidays: 9:00am until 9:00pm

Reason: to ensure that any additional noise from the development is appropriately managed, in accordance with policy D6 of the Bath and North East Somerset Placemaking Plan.

### **20 Padel Tennis Court Lighting Switch Off (Compliance)**

The lighting associated with the Padel Tennis Courts shall be switched off when not in use and outside of the following hours:

Monday to Saturday (excluding any Bank/Public Holiday): 8:55am and 9:35pm  
Sundays and Bank/Public Holidays: 8:55am and 9:05pm

Reason: In order to minimise the visual impact of lighting upon the World Heritage Site, Conservation Area and surrounding area in accordance with policy HE1 of the Bath and North East Somerset Placemaking Plan and policy D8 of the Bath and North Somerset Local Plan Partial Update.

### **21 Artificial Pitch Floodlighting Switch Off (Compliance)**

The floodlighting system shall automatically switch off the floodlights outside the hours of 07:00 - 22:00 and within these times the system shall be fitted with a manual switch to allow the system to be switched off when not in use.

Reason: In order to minimise the effect of the lighting on the character of the night sky and on the World Heritage Site setting and in the interests of protecting the amenity of surrounding residents in accordance with policies HE1 and D6 of the Bath and North East Somerset Placemaking Plan and policy D8 of the Bath and North Somerset Local Plan Partial Update.

### **22 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:

2002 P04 Proposed Elevations 19th September 2023  
0008 P01 Padel Tennis Courts Plan 9th May 2024  
0005 P07 Site Location 25th March 2024  
1001 P02 Proposed Section S01 19th September 2023  
0004 P12 Proposed Site Plan 25th March 2024  
0002 P06 Proposed Floor Plan 25th March 2024  
2004 P08 Long Elevations 25th March 2024  
2005 P11 Padel Tennis Courts 25th March 2024  
23144-101 P04 Proposed Drainage Layout 14th March 2024

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

**Item No:** 05  
**Application No:** 23/04747/FUL  
**Site Location:** Lower Shockerwick Farm Shockerwick Farm Lane Bathford Bath  
Bath And North East Somerset



**Ward:** Bathavon North                      **Parish:** Bathford                      **LB Grade:** II

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

**Application Type:** Full Application

**Proposal:** Change of use of farmhouse and garage Use Class C3 to residential agritherapy centre (Use Class C2). Farmhouse as weekend holiday let. Erection of extension to farmhouse and internal alterations. Internal alterations to The Stable remaining as a single use dwelling. Conversion of garage into a staff office. Replace existing windows. External works and creation of car park.

**Constraints:** Colerne Airfield Buffer, Agricultural Land Classification, Policy B4 WHS - Indicative Extent, Policy CP3 Solar and Wind Landscape Pote, Policy CP8 Green Belt, Policy CP9 Affordable Housing, Listed Building, LLFA - Flood Risk Management, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, Policy NE2 AONB, Ecological Networks Policy NE5, Strategic Nature Areas Policy NE5, Policy ST1 Promoting sustainable travel, Policy ST8 Safeguarded Airport & Aerodro,

**Applicant:** Mr Jamie Feilden

<b>Expiry Date:</b>	15th March 2024
<b>Case Officer:</b>	Christine Moorfield
To view the case click on the link <a href="#">here</a> .	

## REPORT

This application has been called to committee by Cllr Warren for the following reasons:

B&NES draft Economic Strategy proposes to support the adoption of regenerative farming whilst providing support to rural businesses with diversification.

This proposal involves the sympathetic restoration, retrofit in line with policy CP1, and extension of a listed building currently in a very poor state of repair. The development will ensure not only that this farm, close to the city of Bath, continues to produce food using regenerative methods that are supportive of the local ecology, exactly in line with the aspiration in the manifesto of the B&NES administration. It will also, importantly, ensure that this listed farmhouse remains connected to the rest of its estate. The proposed diversification of the farm will also enable provision of educational experiences for some of our district's more vulnerable young people, as well as for young people visiting from other parts of the country. This is a worthwhile application which is deserving of support.

Cllr Kevin Guy also called the applications to committee for the following reasons:

I would like to add my support for the planning application from Jamie's Farm that is currently under consideration. The scheme proposed will ensure that a listed building, currently in a poor state of repair, is restored and well maintained, as well as existing agricultural land being protected through their regenerative farming approach.

Jamie's Farm seem to have taken all responsible actions with regard to heritage, highways, ecological and structural surveys. The work they do with disadvantaged children in BANES is important in the wider social context and I support the application.

The Chair and Vice Chair have both agreed the applications should be considered by Committee.

The Chair has stated:

I have discussed these associated applications with the Vice-Chair.

We are in agreement that these should be referred to the planning committee for final determination. We note the arguments put forward by the two ward councillors, and note the reason given by the officer for the recommendation to refuse these applications. The committee would wish to weigh harms against any benefits and planning gains in these unusual applications

The Vice Chair has stated:

The Chair and I are sympathetic to the time frame for these two applications to be determined and in all cases, we seek to determine all applications within the statutory time frames or with agreement of the applicant. Notwithstanding the present lack of comments from the conservation team it does appear that this is the only outstanding objection and thus the sole reason for recommending refusal on both the full and listed building applications.

The views expressed by the ward Councillors justify the approval of the development in principle in respect of the Council's manifesto and strategies and in seeing substantial improvement to the condition of listed building. Whilst these are not reasons alone to approve development under planning policy, the support of members of the community and Bathford Parish Council are also noted.

This is a detailed and diverse proposal so it would be in the interests of the committee to consider the merits. This is in addition to determining whether what is presumed to be the less than substantial harm to the listed building and whether any public benefits would outweigh that harm.

## BACKGROUND

This application is considered in parallel with application 23/04748/LBA

This application was subject to a site visit by committee members on the 28th May 2024.

This application is for the change of use of farmhouse and garage from Use Class C3 to residential agritherapy centre (Use Class C2), use of the Farmhouse as a weekend holiday let, erection of an extension to the farmhouse and internal alterations, internal alterations to The Stable (remaining as a single use dwelling), conversion of the garage into a staff office, replacement of existing windows, external works and creation of a car park.

Lower Shockerwick is a historic farmstead within Green Belt, Cotswolds AONB, and the indicative landscape setting of the Bath World Heritage Site. The Farmhouse and its associated curtilage buildings are Grade II listed.

The long term master plan for this proposal is that Jamie's Farm runs regenerative working farms across the UK. They do not plan to diversify from the agricultural use of Lower Shockerwick Farm, the long-term master plan is to re-instate the entire farmyard to its original use and continue to focus on regenerative farming practices across the 200 acres. They focus on soil regeneration, increasing biodiversity, and enhancing ecosystems; protecting high grade agricultural land and producing high quality livestock which we sell to local farmers and butchers.

Jamie's Farm has extensive knowledge and experience of planting herbal leys, managing low input grassland, restoring and planting new hedgerows and delivering large scale fencing projects across all their farms. They have been successful recipients of many grants from the Countryside Stewardship scheme and have recently been awarded £225,000 for capital expenses at Lower Shockerwick Farm which will be used to ensure fencing, herbal leys and new hedges can be quickly erected and planted. They have a strong track record for protecting and enhancing high grade agricultural land.

## HISTORY

There is no recent planning history on this site.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

5 letters of support have been received

Sensitive scheme  
Good project to help young people

Cllr Warren

B&NES draft Economic Strategy proposes to support the adoption of regenerative farming whilst providing support to rural businesses with diversification.

This proposal involves the sympathetic restoration, retrofit in line with policy CP1, and extension of a listed building currently in a very poor state of repair. The development will ensure not only that this farm, close to the city of Bath, continues to produce food using regenerative methods that are supportive of the local ecology, exactly in line with the aspiration in the manifesto of the B&NES administration. It will also, importantly, ensure that this listed farmhouse remains connected to the rest of its estate. The proposed diversification of the farm will also enable provision of educational experiences for some of our district's more vulnerable young people, as well as for young people visiting from other parts of the country. This is a worthwhile application which is deserving of support.

Cllr Kevin Guy

I would like to add my support for the planning application from Jamie's Farm that is currently under consideration. The scheme proposed will ensure that a listed building, currently in a poor state of repair, is restored and well maintained, as well as existing agricultural land being protected through their regenerative farming approach. Jamie's Farm seem to have taken all responsible actions with regard to heritage, highways, ecological and structural surveys. The work they do with disadvantaged children in BANES is important in the wider social context and I support the application.

Please could I ask that this application is referred to committee should officers be inclined to refuse it.

Children, Young People and Families Service Bath and North East Somerset Council have written in support of the proposals:

The existing Jamies farm has been used for groups of young people facing disadvantage from Bath & NE Somerset.

The local authority, have worked with Jamie's Farm and it was during the pandemic that the value of having such a resource available for our young people was particularly valuable. The partnership has gone from strength to strength, with the addition of extra elements to our work together - including Wellbeing and Training days for teams of social workers and other local authority staff; weekend visits for young people during lambing and other seasonal moments on the farm and apprenticeships and other longer-term support.

## HIGHWAYS

The site location is isolated from built up areas with very limited access to local facilities within reasonable walking or cycling distance of the site. However, the highway authority acknowledges that the proposed use of the site by very nature of the proposed operation needs to be located in rural areas where accessibility by sustainable modes of transport will be limited.

The proposed parking and standard of access would be suitable for the intended use.

In summary the highway authority raises no objection to the proposal however, a condition requiring the parking to be provided is necessary.

## BATHFORD PC-No objections

### ARCHAEOLOGY

Based on the submitted information it is very unlikely that this proposal it will impact on significant archaeological remains and so we have no objections to the development.

### LANDSCAPE

The site lies within the Cotswolds National Landscape (AONB) and the Green Belt and is also covered by Policy NE1 which seeks to protect and enhance green infrastructure.

The proposed extension and alterations to the farmhouse are modest in scale and would be of a 'lightweight agricultural aesthetic', using traditional materials that are sympathetic to those of the existing farmhouse and appropriate to the AONB context.

No adverse landscape or visual effects are anticipated, and the details of landscape and external works proposals can be secured by Condition.

Future intentions as indicated in the long-term masterplan set out in the Planning Statement for the reinstatement of the entire farmyard to original uses and regeneration of some 200 acres of AONB farmland will bring opportunities for ecological, green infrastructure and landscape enhancement which are strongly supported.

A condition requiring landscaping details is considered necessary.

### TREES

It is not envisaged that there will be an adverse impact on existing trees subject to precautionary measures being taken to avoid accidental damage.

Tree protection measures should ensure that activities such as upgrading the capacity of the sewage treatment plant avoid harm to neighbouring trees.

Further information has been provided to indicate tree protection which has been seen to be acceptable.

### DRAINAGE

No objection - all drainage works to comply with building regulations approved document part H.

### ECOLOGY

As originally submitted the details in respect of ecology matters were not considered to have been adequately addressed.

-The preparation of a shadow HRA would be useful. Internal and external lighting details. Sufficient information to demonstrate that there will be no light spill above 0.5 lux onto potential dispersal corridors or the compensatory bat roosts. Details of any habitat removal and replanting.

-Results of the additional hibernation surveys. Justification regarding survey effort for B4 or further bat surveys required. Confirmation regarding proposals for The Privy and bike store.

- Further information is requested regarding the classification of the roosts particularly the maternity and satellite lesser horseshoe roosts.

- Further details of compensatory roosting provision to demonstrate that the Poultry Pens and Void Beneath Farmhouse will be suitable for a lesser horseshoe satellite roost and



greater horseshoe day and night roost. The compensatory bat roost provision (including bat access, enhancement features and dimensions) needs to be confirmed on architectural plans.

- Compensatory nesting provision for swallows.
- Enhancements for wildlife need to be incorporated into the scheme.

Further information has been submitted and the new/revised information addresses the majority of previous comments made. No habitat enhancement or creation is proposed. Revisions i.e. habitat enhancement or creation are requested to address comments from Natural England and to accord with Policy D5e.

A Habitats Regulations Assessment is appended which concludes that there is not a credible risk of significant negative impacts on the Bath and Bradford-on-Avon Bats Special Area of Conservation based on the details submitted. The HRA will need to be agreed with Natural England. Providing that planting is satisfactorily addressed, then conditions should be attached to secure bat and wildlife mitigation scheme (which for bats can be in the form of Natural England licence documentation), wildlife compensation & enhancements, a compliance report and sensitive lighting.

## NATURAL ENGLAND

As submitted, the application could have potential significant effects on the Bath and Bradford on Avon Bats SAC. Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation. Without this information, Natural England may need to object to the proposal.

## CONTAMINATION

Taking account of the sensitive nature of the proposed re-development (i.e. including ongoing residential) and the potentially contaminative use of the site as a farm/agriculture use which may have included storage of vehicles and agricultural machinery, storage of chemicals such as pesticides and herbicides and storage of fuels and oils, conditions and advisory note in respect of the following are considered necessary should the application be granted permission:

Condition - Reporting of Unexpected Contamination

Advisory Note - Desk Study and Walkover

## **POLICIES/LEGISLATION**

Planning policies, legislation & other information relevant to your proposal

The Development Plan for Bath and North East Somerset comprises:

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

## CORE STRATEGY:

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

B4: The World Heritage Site and its setting  
CP6: Environmental quality  
CP8: Green Belt  
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:

BD1: Bath design policy  
D1: General urban design principles  
D2: Local character and distinctiveness  
D5: Building design  
D6: Amenity  
GB1: Visual amenities of the Green Belt  
HE1: Historic environment  
NE2A: Landscape setting of settlements  
RE3: Farm diversification  
RE4: Essential dwellings for rural workers  
RE6: Re-use of rural buildings  
RE7: Visitor accommodation  
SU1: Sustainable drainage policy

#### LOCAL PLAN PARTIAL UPDATE:

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

DW1: District wide spatial strategy  
D8: Lighting  
GB3: Extensions and alterations to buildings in the Green Belt  
NE2: Conserving and enhancing the landscape and landscape character  
NE3: Sites, species, and habitats  
NE3a: Biodiversity net gain  
NE6: Trees and woodland conservation  
ST7: Transport requirements for managing development

#### SUPPLEMENTARY PLANNING DOCUMENTS:

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

Transport and Development Supplementary Planning Document (January 2023)  
The Existing Dwellings in the Green Belt Supplementary Planning Document (October 2008)  
The City of Bath World Heritage Site Setting Supplementary Planning Document (August 2021)

#### NATIONAL POLICY:

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

#### 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.

#### OFFICER ASSESSMENT

The main issues in respect of these proposals are considered to be as follows:

#### PRINCIPLE OF THE DEVELOPMENT

In summary, the proposed works are for the change of use of the farmhouse to Use Class C2 and it is proposed when not used as an Agri therapy centre the farmhouse will be used for holiday accommodation.

The main farmhouse is to be refurbished and an extension is proposed at the rear of the farmhouse extending the existing kitchen and extending over existing out buildings at the lower ground floor level.

The existing dwelling the Stables is to be a Class C3 dwelling house offering accommodation for a full-time worker on the site.  
Car parking will be provided in the farmyard.

The existing garage will be converted to provide associated office space.

Other works of refurbishment are proposed throughout the site including new windows.

In support of this application an outline management plan of how the holding will operate has been provided. As is set out in the submitted statement Jamie's Farm exists to provide support to young people who are at risk of academic or social exclusion. This is done through 'farming, family, therapy and legacy'. This proposal will boost Jamie's Farm's capacity to deliver transformative residential visits for disadvantaged children while providing environmental benefits.

Jamie's Farm runs 'regenerative' working farms across the UK. They will continue to farm the land alongside re-instating the entire farmyard to its original use with the instatement

of 'regenerative farming practices' across the entire 200 acres. Their focus is on soil regeneration, increasing biodiversity, and enhancing ecosystems; protecting high grade agricultural land and producing high quality livestock which we sell to local farmers and butchers.

The operators (Jamie's Farm) have extensive knowledge and experience of planting herbal leys, managing low input grassland, restoring, and planting new hedgerows and delivering large scale fencing projects across their farms. The Charity's business model therefore combines instatement and operation of sustainable farming practices along with providing support for vulnerable young people.

In this instance much of the land has previously been rented by the applicants and run in conjunction with their existing operation near Box. The opportunity to purchase the land and buildings will enable Lower Shockerwick Farm to be run as its own, fully operational unit, and to deliver additional 'agri-therapy' provision that will benefit around 450 disadvantaged children every year for whom it will also provide an introduction to agriculture and the countryside as well as domestic skills.

### Farm Diversification

Placemaking Plan policy RE3: Farm Diversification states that proposals for farm diversification involving the use of agricultural land or buildings will be permitted providing:

- i they are consistent with Policy RE5 (protection of high-grade agricultural land)
- ii they complement the agricultural function of the holding.
- iii they do not compromise the agricultural function of the holding or lead to the fragmentation or severance of a farm holding.
- iv the activity will not lead to an unacceptable impact on the viability of nearby town or village centres.
- v in the case of a farm shop, the operation would not prejudice the availability of accessible convenience shopping to the local community
- vi they do not compromise key ecological function or key habitat integrity
- vii existing buildings are re-used in accordance with Policy RE6 Where existing buildings cannot be re-used in accordance with Policy RE6, new buildings will be permitted only where they are required for uses directly related to the use of or products from the associated land holding, are small in scale, well designed and grouped with existing buildings.

This scheme as proposed complies with i, ii, iii in that the proposed operations will enhance the use of the agricultural land and unit as a whole. The relatively isolated position of the farm means the proposal will comply with iv and it should be noted impact on the amenity of neighbours is discussed below.

Criterion v. is not relevant to this proposal.

With regard to RE6, the scheme proposes the reuse of the existing buildings, the only additional development is the rear extension to the main farmhouse.

POLICY RE6: Re-use of Rural Buildings Conversion of a building or buildings to a new use in the countryside outside the scope of Policies RA1, RA2 and GB2 will only be permitted, provided:

1 its form, bulk and general design is in keeping with its surroundings and respects the style and materials of the existing building.

2 the building is not of temporary or insubstantial construction and not capable of conversion without substantial or complete reconstruction or requires major extension .

3 the proposal would enhance visual amenity and not harm ecological function (e.g. bat roost)

4 the proposal does not result in the dispersal of activity which prejudices town or village vitality and viability.

5 where the building is isolated from public services and community facilities and unrelated to an established group of buildings the benefits of re-using a redundant or disused building and any enhancement to its immediate setting outweighs the harm arising from the isolated location.

6 the development would not result, or be likely to result, in replacement agricultural buildings or the outside storage of plant and machinery which would be harmful to visual amenity.

7 in the case of buildings in the Green Belt, does not have a materially greater impact than the present use on the openness of the Green Belt or would conflict with the purposes of including land within the Green Belt.

8 The integrity and significance of buildings and farmsteads of architectural and historic interest and of communal, aesthetic and evidential value are safeguarded consistent with Policy HE1.

With regard to the above criteria, criterion 1 is addressed in the Impact on the Listed Building and Design Character and Appearance sections below.

The proposals comply with criterion 2 as the three buildings namely the main farmhouse, The Stable and the garage are all buildings of substantial construction.

Criterion 3 is addressed in the Ecology section below.

Criteria 4, 5 and 6 are not considered relevant as the existing agricultural use is to remain.

Criteria 7 is addressed below; the proposal represents appropriate development in the green belt.

Criterion 8 is addressed in the Listed Building Section below.

The proposals are considered to comply with both Policy RE3 and RE6.

It is recognised that the proposed holiday let use of the farmhouse is proposed as a subsidiary use in order that additional income can be generated to support the main Class C2 use of this site. As the residential Agri therapy centre operates during term time this subsidiary use will operate outside of these times and weekends. A condition in this respect is considered necessary.

Visitor accommodation.

POLICY RE7: Visitor Accommodation states that for new visitor accommodation permission will be granted provided:

- a it is in a sustainable location or accessible by a choice of transport modes.
- b there are no other buildings available and suitable for conversion
- c the scale of the proposal will not harm the character or appearance of the countryside
- d the materials, form, bulk, and general design of buildings are in keeping with their rural surroundings
- e there is safe and convenient access to the highway network and there are no significant adverse impacts on the local highway network
- f the proposal would not adversely affect protected species or habitats.

2 Where a proposal for visitor accommodation is approved appropriate planning conditions will be used to prevent permanent residential use of the accommodation. Change of use from a dwelling to visitor accommodation

3 The change of use of an existing dwelling to visitor accommodation will be permitted provided that:

- a- for large residential properties, a substantial private residential unit is retained, and any existing or proposed parking within the curtilage of the property which does not detract from the appearance of the property is made permanently available; and
- b- for small residential properties, a satisfactory residential accommodation is retained which is not occupied independently of the proposed use.

The site by its nature as an operating farm is located away from any settlement and there are no real public transport alternatives to access the site. The use of the main farmhouse as a C3 residential unit would not conflict with development policy given its existing use. The Stables will have a C3 use thereby retaining a residential unit on the site given the scale of the farmhouse. Issues of access, design (of the extension) and ecology are addressed elsewhere in this report. The proposals are seen to comply with placemaking plan policy RE7.

It is noted that The Stables was granted permission for holiday accommodation in the 1980s and whilst this use may not have been in operation recently it appears not to have been abandoned. This proposal seeks to operate this detached building as a C3 dwelling, thereby retaining a full-time presence on the site. The retention of this building as a residential property means the proposal does not conflict with Policy H5 Retention of Existing Housing Stock as there is no net loss of residential units on the site.

A condition in respect of the occupation of this dwelling will be necessary to retain a residential unit on the site if permission was granted.

Green Belt

In accordance with Policy GB3, control of development in the Green Belt will be exercised in accordance with national policy.

The NPPF addresses proposals affecting the Green Belt at Para.147. it states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It goes on to say :

para 148. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Para 149 states a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. An exception to this is:

(c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;

At para 150. it states that certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include:

(d) the re-use of buildings provided that the buildings are of permanent and substantial construction;

(e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds);

In this situation, it is proposed to change the use of the three permanent/substantially constructed buildings. The use of the garage as an associated office is acceptable in principle but would need to be subject to a condition restricting its use to ancillary to the main operations of the site.

The proposed car park will be located within the existing farmyard screened by buildings thereby not harming the openness of the green belt.

Regarding the proposed extension to the farmhouse it is, in terms of volume proportionate. It does not exceed a volume increase of about one third as specified in the Councils SPD 'extensions to houses in the green belt'.

In addition, the impact on the openness or the purposes of including land within the green belt, must be considered. Given the siting and scale of the extension proposed it is not considered to represent inappropriate development in the Green Belt or to be harmful to openness or the purposes of including land within the green belt.

The proposals in terms of the changes of use carparking area and extension to the main house are not inappropriate development within the green belt and therefore, the proposals comply with policy CP8 of the Core Strategy, policy GB1 of the Placemaking Plan, policy GB3 of the Local Plan Partial Update and part 13 of the NPPF.

Impact on the AONB

Local Plan Partial Update policy NE2 has regard to conserving and enhancing the landscape and landscape character. The policy notes several criteria which should be met in order for the development to be considered acceptable in landscape, including conserving the local landscape character. The policy also states that development should seek to avoid or should adequately mitigate any adverse impacts on the landscape.

The impact on the landscape is an important consideration given the siting of the holding within the AONB. The proposals are not considered to give rise to adverse landscape or visual effects. The intentions to reinstate the entire farmyard to original uses, and to regenerate the 200 acres of associated AONB farmland, are seen to be a benefit and will bring opportunities for ecological, green infrastructure and landscape enhancement that is supported.

Historic farmsteads of this nature are typical of the Cotswolds landscape and contribute to the character of its AONB. By maintaining and enhancing the farmhouse and associated outbuildings through reinstating a beneficial use, they will retain and enhance the contribution that they make to their landscape context, with potential further enhancements through the future sustainable agricultural tenure and husbandry proposed. Subject to conditions in respect of the details of landscape and external works the application proposals are acceptable. Overall, the proposal is considered to comply with policy NE2 of the Local Plan Partial Update, policy NE2A of the Placemaking Plan and part 15 of the NPPF.

#### Impact on the Listed building

Lower Shockerwick is a historic farmstead within Green Belt, Cotswolds AONB, and the indicative landscape setting of the Bath World Heritage Sites. The Farmhouse is picturesque Grade II detached building. It is considered to be a mid-17th century house remodelled in 1793 (according to the date stone). To south of the Farmhouse, there is Grade II listed Stables, which were converted into the residential accommodation in the 1980s. To the west there is a range of Grade II listed shelter sheds and barns. Across the lane to the south is a Grade II Threshing Barn and Granary. To the east and in the wider setting there is Lower Shockerwick, a Grade I country house, and Grade II Coach House and Garden House.

Lower Shockerwick Farm was referred to as Home Farm and was part of the large country estate.

Lower Shockerwick Farmhouse has a L-shaped plan form and is set within sloping site. The principal range is two storeys with dormers serving the accommodation in the roof. It has a distinct gambrel roof covered in stone slates. The lower ground floor under the main range appears to be an older structure with There is a two-storey service range with a hipped roof, which has Kitchen at first floor level and a series of stores underneath.

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.'

Section 205 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be



given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

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 proposed works are as follows:

Change of use of farmhouse and garage Use Class C3 to residential agritherapy centre (Use Class C2). Farmhouse as weekend holiday let. Erection of extension to farmhouse and internal alterations. Internal alterations to The Stable remaining as a single use dwelling. Conversion of garage into a staff office. Replace existing windows. External works and creation of car park.

These proposals require significant and cumulative alterations to the listed buildings.

Farmhouse extension:

An extension to the existing service range is proposed which is sited over the existing range which currently comprises stores and enclosures which have significant historic interest.

There is significant concern with the extension in principle and in respect of detailed design and resulting harm to historic fabric:

- The size, scale, bulk and massing is unacceptably dominating and thereby harms the character and appearance the principal listed building. The extension seeks to almost double the length of the existing historic range adding a first floor level (due to the topography of the site).
- Whilst the scale of the extension is considered unacceptable the harm is exacerbated by the design including the scale of openings and the use of timber cladding both of which are uncharacteristic.
- The extension also requires the removal of the end wall of the existing kitchen and hence will result in the loss of this historic fabric and will be harmful to the plan form of the building.
- The extension will require underpinning for its construction - this is not to address any existing structural issue. This is a significant intervention and risk to historic fabric in a location which is one of the oldest and significant elements of the listed building. The extent of works needed to construct the extension are such that this part of the building will not retain its existing historic integrity. This area (and in particular Store 5) has rare surviving interior features including a fireplace with a significant ashlar arch and moulded mantle shelf, a cast iron oven and a copper furnace. It is likely it was a detached washhouse/ kitchen/ dairy/brewhouse, and it is an important reminder of the functions of the farmhouse. Despite being attached to the kitchen range, it has retained its sense as a separate entity because of its single storey form and varied roof form. The removal of the internal features of this store would not be supported and their retention is recognised.

While the roof is modern and the chimney is truncated, the store has retained its sense as a separate entity as stated due to its single storey form and varied roof form, which helps illustrate its historic function.

- The extension will erode the legibility of the service range and outbuildings and impact on the hierarchy of historic development, oversailing the stores and the smaller outbuildings, altering and engulfing them.
- In summary, it is inevitable, alongside a significant structural intervention, that there will be loss of historic integrity to these sensitive areas of survival as a result of the underpinning works commencing. In terms of the extending the kitchen range at first floor level, the key concern has been with the harm to legibility of the service range and outbuildings by oversailing Store 5 and smaller outbuildings and the impact on the hierarchy of historic development.

Works to two storey outshot:

At the rear of the main range there is a two-storey outshot. It appears the ground floor was added in the early 20th century and subsequently the first floor bathroom was added. It is proposed to extend the outshot so that it meets the parapet of the principal range and will intersect the cornice, which is currently uninterrupted. The purpose is to incorporate additional insulation. Whilst this impacts appearance, given that this is a later addition and the impact limited, it is not of concern.

Fire safety works:

The change of use of the farmhouse triggers the requirement for a range of fire protection measures.

- On the lower ground, ground, first and second floor it is proposed to upgrade the 'soffits' There are historic lath and plaster ceilings which could be harmed by such works. The applicant has confirmed that the lath and plaster soffit upgrades will consist of a thin intumescent paint coating and as a rule, it is proposed to replace existing and sometimes asbestos containing modern board with a double layer of fire rated board of similar appearance. Where there is lath and plaster it is proposed that it will be painted thereby minimising the impact on historic fabric. Upgrading to the stairs, shows instrument paint and is accepted as is the painting of ceilings.
- The introduction of a sprinkler system will require the installation of multiple mist heads within the ceilings associated pipework throughout the building, again impacting historic fabric and character.
- Whilst these works could be balanced against benefits of the scheme they add to the cumulative impact of harm all stemming from the proposed change of use.

Opening up of kitchen ceiling:

It is recognised that the fabric of the ceiling is modern and that the original ceiling lining sat higher. However, raising of the ceiling to form a vaulted space has not been

adequately justified and the proposed vaulting to the roof will change the character and appearance of the space.

Further explanation of why other traditional approaches could not be achieved in order to justify the modern detailing and impact on the stonework has not been provided.

#### Works to the roof:

As well as long term lack of maintenance and inappropriate repair, there is indicated to be an inherent problem with the design of the roof and rainwater disposal from the parapet gutters given the impact of heavier rainfall events.

It is proposed as part of the application to change the detailing of the parapet gutters from lead to stainless steel, and hence modern detailing and insulation. Whilst full explanation of the issue and solution and its justification is still needed this aspect could be resolved as acceptable given the circumstances.

It is also proposed to replace the dormers, which are in poor condition and likely a later addition. This will include addition of insulation and hence change in detailing. Again, given the current condition, this aspect could be resolved as acceptable given the circumstances.

#### Windows in main building:

It is proposed to replace all of the glazing in the main building windows with vacuum glazing in new timber frames or metal frames. As the existing are not of historic interest this is considered acceptable. The omission of the aerogel is acceptable. Fineo window details have been provided and these are seen to be acceptable in principle.

#### Works to the stable

This detached two storey dwelling was converted into holiday accommodation in the 1980s. The conversion removed many of the internal and external features, which would have reflected its former function and gave it a domestic character. The proposed internal changes and agreed changes to windows with vacuum glazing are not therefore considered to harm its significance.

#### Works to the garage:

The garage, curtilage listed as part of the complex of barns, was altered into a garage in the 20th century. The proposed internal changes and changes to openings are not therefore considered to harm its significance.

#### Parking:

The parking is shown to be located in the existing farmyard and will be access via an existing tracked way. As such it is not considered detrimental to the setting of the farmstead.

All information submitted and relevant to the applications have been fully considered by officers. Some of the works to the building and in particular the farmhouse which seek to

prevent further damage through water ingress are seen to be a significant heritage benefit, but this is balanced against the totality of the works proposed which cumulatively impact and erode the buildings historic character. In addition, the extension to the building due to its size and impact on the footprint of the farm house and outbuildings is considered unacceptable. The cumulative effect of the large extension and the alterations are such that they would have a significant impact upon the special interest of the listed building.

It is concluded that the harm caused to the designated heritage asset, is, in the language of the NPPF, less than substantial but to the upper end of this given the impact of the proposed extension and the cumulative impact with other changes needed to accommodate the proposed use. In such circumstances, Paragraph 208 of the NPPF (2023) requires that any harm be weighed against the public benefits of the proposal, including securing the optimum viable use of the building.

The public benefits are discussed further in the planning balance section below.

#### 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. 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.

In this instance, whilst the proposed kitchen extension is shown as an extension of the existing kitchen in terms of its roof form height width etc it is shown to result in an enlarged rear element to the property out of scale with the main house. The extension is shown to be constructed of timber cladding and the windows in terms of their shape and subdivision do not reflect the character and or appearance of the host dwelling. Therefore, the extension by reason of its design, siting, scale, and materials is unacceptable and does not contribute and respond to the local context and maintain the character and appearance of the host dwelling. The proposal fails to accord with policy CP6 of the Core Strategy, policies D1, D2, D3, D4 and D5 of the Placemaking Plan and part 12 of the NPPF.

#### HIGHWAYS AND ACCESS

The application site is located within the hamlet of Shockerwick, which is a settlement isolated from built up areas with very limited access to local facilities within reasonable walking or cycling distance of the site. Whilst there are some local Public Rights of Way which facilitate off-road pedestrian movements, these do not provide a coherent route to any key local destinations. There are also no strategic cycling routes or infrastructure local to the site, meaning that the site is considered to have poor accessibility by cycling for all but confident road cyclists.

The nearest bus stops are located on the A4 Bath Road, approximately 750m walking distance via the local road network. Whilst these bus stops are served by three bus routes

which provide a reasonably frequent service to locations such as Bath, Box, Melksham, Devizes, Corsham and Chippenham, the bus stop infrastructure is limited with the southbound stop being only a small area for standing with a flag and pole, and the northbound stop having no formal designation. There is also no crossing facility between the stops, despite the A4 being a busy highway at this location. As such the accessibility of the site by public transport is poor.

On this basis, future residents at the site will more than likely be required to travel by vehicular modes to access the site. Policies ST1 and ST7 of the B&NES LPPU seek to secure development which is located where there are "genuine" and "realistic" opportunities to travel by sustainable modes of transport. The development could therefore be considered contrary to the key aims of Policy ST1 and ST7 of the LPPU, however Transport Development Management (TDM) acknowledge that the proposed use of the site by the very nature of the proposed operation needs to be located in rural areas where accessibility by sustainable modes of transport will be limited.

### Access

Access to the site is currently available via Shockerwick Farm Lane to the front of the farmhouse building, which will be retained under the proposals.

### Vehicle Parking

Vehicle parking should be provided in accordance with adopted vehicle parking standards, as outlined in the B&NES Transport & Developments (T&D) Supplementary Planning Document (SPD). The proposed development is located in Zone D of the Parking Standards Zones, which requires C2 development to provide parking using an evidence-based approach which is agreed with the Local Highway Authority (LHA). The proposed parking and standard of access as shown would be suitable for the intended use. In summary the proposal subject to a condition requiring the parking to be provided and retained is acceptable.

### Bicycle Parking

Bicycle parking should be provided in accordance with adopted parking standards, as outlined in the B&NES T&D SPD, which requires C2 development to provide storage for one bicycle per four members of staff, and 1 space per 2.5 students. Whilst these are the standards required as it is recognised students will not be arriving separately it is considered the bicycle parking should be provided for visitors and therefore a condition to this effect is considered necessary.

### Refuse & Recycling

The submitted plans indicate on-site storage and collection of refuse and recycling containers in accordance with B&NES Waste and Recycling Planning Guidance and therefore, this element of the proposal is considered acceptable.

### IMPACT ON 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.

The site is located in a relatively remote location with few neighbours at a distance and no objections to the proposal have been received.

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

## ECOLOGY

As originally submitted the details in respect of ecology matters were not considered to have been adequately addressed. Further information has been submitted.

The new/revised information submitted addresses the majority of previous comments made by the Councils Ecology Officer. No habitat enhancement or creation is proposed. Revisions i.e. habitat enhancement or creation are requested to address comments from Natural England and to accord with Policy D5e.

A Habitats Regulations Assessment is appended which concludes that there is not a credible risk of significant negative impacts on the Bath and Bradford-on-Avon Bats Special Area of Conservation based on the details submitted. The HRA will need to be agreed with Natural England and this has now been sent to them for comment.

Providing that planting is satisfactorily addressed, then conditions should be attached to secure bat and wildlife mitigation scheme (which for bats can be in the form of Natural England licence documentation), wildlife compensation and enhancements, a compliance report and sensitive lighting.

The proposals are seen to comply with the 3 tests in that the purpose of the licence has a valid basis; the proposals indicate a low impact given the existing situation is retained and the area will be retained and therefore, granting the licence won't cause long-term impacts on the species concerned.

Habitats Regulations Assessment (HRA) process has been undertaken and sent to Natural England. They have been reconsulted and their response is awaited.

Policy NE3 of the Local Plan Partial Update has regard to Sites, Species and Habitats and states that development which results in significant harm to biodiversity will not be permitted. For all developments, any harm to the nature conservation value of the site should be avoided where possible before mitigation and/or compensation is considered.

In this instance, the applicants have submitted details of the works to be undertaken and this has been seen to be acceptable subject to the HRA being agreed by English Nature. The development complies with this policy.

Biodiversity Net Gain (BNG)

Given that the proposals include renovation of structures, provision of additional car parking in an existing farmyard (and will utilise an existing access track) and no semi-natural habitats will be impacted. It is therefore acknowledged that policy NE3a does not apply to this application.

## TREES

Local Plan Partial Update policy NE6 has regard to trees and woodland consecration. Development should seek to avoid adverse impacts on trees and woodlands of wildlife, landscape, historic, amenity and productive or cultural value, as well as appropriately retaining trees and providing new tree planting. Development will only be permitted where it can be demonstrated that adverse impacts on trees are unavoidable to allow for development and that compensatory provision will be made in accordance with guidance within the Planning Obligations Supplementary Planning Document (2023). Development proposals which directly or indirectly affect ancient woodland and ancient or veteran trees will not be permitted.

It is not envisaged that there will be an adverse impact on existing trees subject to precautionary measures being taken to avoid accidental damage.

Tree protection measures should ensure that activities such as upgrading the capacity of the sewage treatment plant avoid harm to neighbouring trees.

Further information has been provided to indicate tree protection which has been seen to be acceptable and a condition requiring these measures to be put in place prior to the commencement of development is seen to be necessary.

Overall, the proposal is considered to comply with policy NE6 of the Local Plan Partial Update.

## DRAINAGE

No objection - all drainage works to comply with building regulations approved document part H.

## ARCHAEOLOGY

It is not considered that this proposal will impact on significant archaeological remains and so the development is seen to be acceptable.

## CONTAMINATION

Taking account of the sensitive nature of the proposed re-development (i.e. including ongoing residential) and the potentially contaminative use of the site as a farm/agriculture use which may have included storage of vehicles and agricultural machinery, storage of chemicals such as pesticides and herbicides and storage of fuels and oils, conditions, and advisory note in respect of the following are considered necessary should the application be granted permission:

Condition - Reporting of Unexpected Contamination

Advisory Note - Desk Study and Walkover

## PUBLIC SECTOR EQUALITY DUTY

The applicant has identified within the submissions that the development provides for the needs of disadvantaged children and that is further highlighted and recognised in the support letter from Childrens Services.

S.11 of the Children Act 2004, (2004 Act) which gives effect to Article 3 of the UN Convention on the Rights of the Child. Subsection (1) of s.11 of the 2004 Act applies s.11 to local authorities in England. Section 11(2)(a) provides that each person and body to whom s.11 applies must make arrangements for ensuring that their functions are discharged having regard to the need to safeguard and promote the interests of children.

The failure to grant planning permission may have an adverse impact on the following protected characteristics, as the profile of uses is unknown.

Gender; Pregnancy and maternity; Transgender; Race ; Sexual orientation; Marriage & civil, partnership; Religion/belief

The proposed facility would benefit particularly disabled young people with mental impairments. The facilities do not in themselves allow access to all, given the nature and layout of the historic building. Two parking spaces for people with disabilities are provided to the front of the building.

The needs of children and groups with protected characteristics that may benefit in this case are acknowledged and taken into account in the planning assessment.

In reaching its decision on the planning application the Council is required to have regard to the duties contained in section 149 of the Equality Act 2010, known collectively as the public sector equality duty.

Section 149 provides that the Council must have due regard to the need to—

(a) eliminate discrimination, harassment, victimisation

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

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The Council has discharged its public sector equalities duty in relation to the planning application process, including preparation of the Local Plan and in relation to community involvement in the planning process. Officers have had due regard to relevant protected characteristics when assessing the current application and development. It is concluded that neither granting or the refusal of this application would be likely to specifically impact on protected groups.

## PLANNING BALANCE

There are a number of key benefits associated with the proposal

1. Retention of the agricultural buildings in agricultural use, which would ordinarily not be economically viable. The optimum viable use of the agricultural buildings and the public benefit arise from the project's charitable work. The associated agricultural benefits connected to good agricultural husbandry.

2. Conservation and enhancement of Landscape

3. Ecological interests



4. Social benefits including benefits relating to groups with protected characteristics.

#### PLANNING OFFICER ASSESSMENT OF THE PLANNING BENEFITS

The retention of the agricultural buildings in agricultural use and the diversification of the farm use cumulatively are seen to result in a substantial benefit.

The re-instating of the farmyard to its original use with the instatement of 'regenerative farming practices' is also seen to have the potential to significantly benefit the holding and landscape (AONB) around the farm.

In terms of the benefits to ecology, the proposals primarily retain the existing bat roost and so this benefit is seen to be modest in this respect as it proposes the retention of the existing situation with limited additional benefits. The 'regenerative farming practices' as indicated but not detailed have the potential to have a moderate benefit on ecology within the holding.

The public benefit arising from the charity's work to provide support to young people who are at risk of academic or social exclusion is considered a significant benefit. The social benefits of the proposed development as stated are significant.

The harm identified in this case is that caused to significance of the listed building as set out earlier in the report and for the reasons outlined is, in this case, at the upper end of less than substantial. It should also be noted that paragraph 205 of the NPPF requires that great weight is should be given to the conservation of designated heritage assets, irrespective of the level of harm.

It is acknowledged that consideration of this application is finely balanced however, given the significant impact of the proposed extension, associated harm, potential loss of early historic fabric and changes required to facilitate the proposed change of use, the public benefit would be insufficient to outweigh the less than substantial harm identified. As such, the proposal would not comply with paragraph 208 of the NPPF which requires that any harm be weighed against the public benefits of the proposal, including securing the optimum viable use of the building.

The Council has a statutory requirement under Section 66 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. Taking account of the above and in this instance the proposed extension and accumulation of associated works would fail to preserve the special interest of the listed building and as such this proposal would fail to meet this requirement.

Taking account of the above it is considered that the proposed development is not consistent with the aims and requirements of the primary legislation, planning policy or guidance. The proposed works would result in an unacceptable level of alteration to the building and a dominant addition to the listed building that would harm its significance as a designated heritage asset. The proposal would not, therefore, comply with policy HE1 of the Placemaking Plan for Bath and North East Somerset (2017) and part 16 of the NPPF.

#### RECOMMENDATION

REFUSE

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

### **1 Heritage**

The proposed rear extension to the kitchen and associated underpinning would result in harm to historic fabric, plan form and character of the listed building. The cumulative alterations to the listed building as a result of works required to facilitate the proposed C2 Use result in harm to the fabric of the Listed Building. As such it is considered that the proposed development would not accord with the duties of the primary legislation, nor the aims or objectives of national and local planning policy and guidance as it relates to the historic environment and would harm the significance of the designated Heritage assets. As such the development does not accord with policy CP6 of the adopted Core Strategy (2014) or Policy HE1 of the Placemaking Plan for Bath and North East Somerset (2017) or Part 16 of the NPPF. In this case it is concluded that the harm caused to the designated heritage asset, is, in the context of the significance of the asset as a whole and in the language of the NPPF, less than substantial. Whilst in this instance there are significant environmental and social benefits and moderate ecological benefits they are not considered to outweigh the considerable importance and weight to be given to the harm to the designated heritage asset. As such, the development would not comply with paragraph 208 of the NPPF.

### **2 Design**

The proposal rear kitchen extension by reason of its design, large scale, massing, fenestration details and materials is unacceptable and fails to contribute and respond to the character and appearance of the host dwelling and therefore, the proposal does not accord with policy CP6 of the Core Strategy, policies D1, D2, D3, and D4 of the Placemaking Plan, policy D5 of the Local Plan Partial Update and part 12 of the NPPF.

## **PLANS LIST:**

### **1 PLANS LIST:**

845- FP- 001B, 003E, 006E, 008C, 100C, 101C, 102C, 103C,115, 211B, 212B, 213C, 214B, 220A, 300A, 401, 403,  
845-A- 01B, 02A, 03A, 10A.  
845-FH-L 301, 310, 311, 312, 314,401, 402, 403,  
845-FH-P 103.01, 305, 801  
845-FH-S 301, 311A, 312, 314  
845 SO L 301

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

## **2 Community Infrastructure Levy**

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

3 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:** 23/04748/LBA  
**Site Location:** Lower Shockerwick Farm Shockerwick Farm Lane Bathford Bath  
Bath And North East Somerset



**Ward:** Bathavon North                      **Parish:** Bathford                      **LB Grade:** II

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

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

**Proposal:** Change of use of farmhouse and garage Use Class C3 to residential agritherapy centre (Use Class C2). Farmhouse as weekend holiday let. Erection of extension to farmhouse and internal alterations. Internal alterations to The Stable remaining as a single use dwelling. Conversion of garage into a staff office. Replace existing windows. External works and creation of car park.

**Constraints:** Colerne Airfield Buffer, Agricultural Land Classification, Policy B4 WHS - Indicative Extent, Policy CP3 Solar and Wind Landscape Pote, Policy CP8 Green Belt, Policy CP9 Affordable Housing, Listed Building, LLFA - Flood Risk Management, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, Policy NE2 AONB, Ecological Networks Policy NE5, Strategic Nature Areas Policy NE5, SSSI - Impact Risk Zones, Policy ST8 Safeguarded Airport & Aerodro,

**Applicant:** Mr Jamie Feilden

<b>Expiry Date:</b>	15th March 2024
<b>Case Officer:</b>	Christine Moorfield
To view the case click on the link <a href="#">here</a> .	

## REPORT

This application has been called to committee by Cllr Warren for the following reasons: B&NES draft Economic Strategy proposes to support the adoption of regenerative farming whilst providing support to rural businesses with diversification.

This proposal involves the sympathetic restoration, retrofit in line with policy CP1, and extension of a listed building currently in a very poor state of repair. The development will ensure not only that this farm, close to the city of Bath, continues to produce food using regenerative methods that are supportive of the local ecology, exactly in line with the aspiration in the manifesto of the B&NES administration. It will also, importantly, ensure that this listed farmhouse remains connected to the rest of its estate. The proposed diversification of the farm will also enable provision of educational experiences for some of our district's more vulnerable young people, as well as for young people visiting from other parts of the country. This is a worthwhile application which is deserving of support.

Cllr Kevin Guy also called the applications to committee for the following reasons: I would like to add my support for the planning application from Jamie's Farm that is currently under consideration.

The scheme proposed will ensure that a listed building, currently in a poor state of repair, is restored and well maintained, as well as existing agricultural land being protected through their regenerative farming approach.

Jamie's Farm seem to have taken all responsible actions with regard to heritage, highways, ecological and structural surveys. The work they do with disadvantaged children in BANES is important in the wider social context and I support the application.

The Chair and Vice Chair have both agreed the applications should be considered by Committee.

The Chair has stated:

I have discussed these associated applications with the Vice-Chair.

We are in agreement that these should be referred to the planning committee for final determination. We note the arguments put forward by the two ward councillors, and note the reason given by the officer for the recommendation to refuse these applications. The committee would wish to weigh harms against any benefits and planning gains in these unusual applications

The Vice Chair has stated:

The Chair and I are sympathetic to the time frame for these two applications to be determined and in all cases, we seek to determine all applications within the statutory time frames or with agreement of the applicant. Notwithstanding the present lack of comments from the conservation team it does appear that this is the only outstanding objection and

thus the soul reason for recommending refusal on both the full and listed building applications.

The views expressed by the ward Councillors justify the approval of the development in principle in respect of the Council's manifesto and strategies and in seeing substantial improvement to the condition of listed building. Whilst these are not reasons alone to approve development under planning policy, the support of members of the community and Bathford Parish Council are also noted.

This is a detailed and diverse proposal so it would be in the interests of the committee to consider the merits. This is in addition to determining whether what is presumed to be the less than substantial harm to the listed building and whether any public benefits would outweigh that harm.

## BACKGROUND

This application is considered in parallel with application 23/04747/FUL

This application was subject to a site visit by committee members on the 28th May 2024.

This application is for the change of use of farmhouse and garage Use Class C3 to residential agritherapy centre (Use Class C2). Farmhouse as weekend holiday let. Erection of extension to farmhouse and internal alterations. Internal alterations to The Stable remaining as a single use dwelling. Conversion of garage into a staff office. Replace existing windows. External works and creation of car park.

Lower Shockerwick is a historic farmstead within Green Belt, Cotswolds AONB, and the indicative landscape setting of the Bath World Heritage Site. The Farmhouse and its associated curtilage buildings are Grade II listed.

The long term master plan for this proposal is that Jamie's Farm runs regenerative working farms across the UK. They do not plan to diversify from the agricultural use of Lower Shockerwick Farm, the long-term master plan is to re-instate the entire farmyard to its original use and continue to focus on regenerative farming practices across the 200 acres. They focus on soil regeneration, increasing biodiversity, and enhancing ecosystems; protecting high grade agricultural land and producing high quality livestock which they sell to local farmers and butchers.

Jamie's Farm has extensive knowledge and experience of planting herbal leys, managing low input grassland, restoring and planting new hedgerows and delivering large scale fencing projects across all their farms. They have been successful recipients of many grants from the Countryside Stewardship scheme and have recently been awarded £225,000 for capital expenses at Lower Shockerwick Farm which will be used to ensure fencing, herbal leys and new hedges can be quickly erected and planted. They have a strong track record for protecting and enhancing high grade agricultural land.

## HISTORY

There is no recent planning history on this site.

## SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Following comments from the Councils Ecologist further details have been submitted.

The Councils Ecologist has commented as follows:

#### Bath and Bradford on Avon Bat SAC/Lighting

A component (Combe Down and Bathampton Down Mines SSSI) of the Bath and Bradford-on-Avon Bats Special Area of Conservation (SAC) is located 2.1km south of the site. The horseshoe roosts on site will form part of the SAC population. The SAC is designated for internationally important populations of horseshoe and Bechstein's bats which hibernate in the mines.

o The Ecology Response produced by Ethos Environmental Planning dated 25th March 2024 verifies that no new external lighting is proposed which is supported. The consultant has also confirmed there will be no new lighting in Store 1 or the Portico, which will protect these light sampling areas from disturbance. This can be secured by condition. Section 10.2 of the Lighting Technical Report produced by Designs for Lighting (DFL) dated April 2024 provides details of internal lighting, this includes the use of downlighters and confirms that all lighting (unless otherwise stated) will emit a warm white colour temperature light of 2700 K or less. It is disappointing that no key has been provided for Figure 9 (of the Lighting Technical Report) to identify the Ecological Receptors and aid interpretation.

o Figure 1 in the Ecology Response shows flight lines and foraging habitat, which is welcomed. The calculations in the Lighting Technical Report are based on the horseshoe bats leaving the bat roosts then flying along the garden hedgerow, before flying towards a larger wooded area in the wider countryside.

The following comments are made:

i) The Additional Vertical Grid calculation (between 0-0.038 lux) demonstrates the main exit of the maternity roost (through the eastern window of Store 1) and the compensatory roost in the vault, will both be subject to light spill < 0.5 lux. Figure 8a demonstrates that the lesser-used maternity roost exit (the bats fly through the northern window of Store 1 then straight into the portico) will also be subject to light spill < 0.5 lux (0.29-0.34 lux). In addition, the Ecology Receptor 3 calculation demonstrates that the flyway through the garden will not be subject to light spill > 0.5 lux (0.005-0.067 lux).

ii) Table 1 of the Ecology Response demonstrates that the western elevation of the staff office comprises a single slit window, it is accepted that will result in minimal light spill on horseshoe bats exiting the compensatory bat roost in the Poultry pens.

o The Ecology Response confirms there will be no habitat removal. Natural England in their comments of 8th March 2024 requested habitat creation or enhancement on site, which provides good quality habitats for horseshoe bats such as improvements to habitats on site to enhance their foraging value to these species. This should be satisfactorily addressed to accord with Policy D5e.

The ecologist has completed a Habitats Regulations Assessment (Appropriate Assessment) for the site. Based on the information provided, the HRA concludes that there is no risk of significant negative impacts on the Bath and Bradford-on-Avon Bats Special Area of Conservation, providing mitigation commitments are met including securing compensatory roosting provision and sensitive lighting by condition. The HRA will need to be agreed with Natural England who have been reconsulted.

As per request from Natural England due to the site's sensitive location, all external lighting should have an Upwards Light Ratio of 0% and a peak wavelength higher than 550nm in line with ILP/BCT 2023 guidance. This can be secured by condition.

## Bats

Hibernation surveys- The results of the full suite of hibernation surveys have been provided in the letter.

This included a visual search using artificial light (torch with red filter) and endoscope to search areas shown at Figure 2 of the Ecology Response. A maximum count of two lesser horseshoe and one greater horseshoe have been recorded hibernating in The Cellars (Building A). The open arch on the east of the farmhouse was not considered to be a hibernation roost, as the two soprano pipistrelles observed on 5th March 2024 were not present one week later suggesting they were not in torpor (also confirmed by surveyor observations). The greater horseshoe bat was also not in torpor when observed on the 12th March. The observations suggest this is transitional roost for soprano pipistrelles and a single greater horseshoe. These results are accepted.

Building E Poultry Pens (B4)- The letter provides additional justification regarding survey effort to this structure and demonstrates that visual, static and DNA analysis was used to confirm the status of the existing roost within this structure. This is accepted.

Classification of roosts- as requested further information has been provided about both the satellite and maternity roost.

i) Given the low number of bat droppings, the fact bats were only recorded using this structure on two occasions and its unstable environmental conditions, the conclusion that Store 5 is a satellite roost is accepted.

ii) Given the significant piles of bat droppings (which have accumulated over many years) and continued presence of lesser horseshoes throughout the survey period, the conclusion that The Cellars Store 2 is a maternity roost is accepted.

The letter confirms that both the Old Privy and bike store are not being impacted by the proposals and therefore it is acknowledged that surveys of these structures are not required.

As requested, full details of the compensatory bat roosts have been provided on the following plans:

Farmhouse & Stables - Part Site Plan Bat Mitigation (Dwg no. 845 S 150), Farmhouse & Stables - Part Site Plan Bat Mitigation - Sheet 2 of 3 (Dwg no. 845 S 151) and Farmhouse & Stables - Part Site Plan Bat Mitigation - Sheet 3 of 3 (Dwg no. 845 S 152). Separate provision for greater and lesser horseshoe has now been provided. The proposed mitigation is now considered to meet the first of the "three tests" of the Habitats Regulations. It is believed the other two tests, should be capable of being met.

The bat mitigation and compensation scheme must be strictly adhered to and secured by condition. It should be noted that the works must not commence until the EPSM licence has been confirmed, a licenced bat worker has been commissioned to provide on-site ecological supervision and all other mitigation measures are in hand.

## Nesting Birds

The Ecology Response confirms that two artificial swallow nests will be placed into the open poultry sheds (Building E, B4) adjacent to the proposed bat roost in this location, this



will compensate for the loss of swallow nesting sites elsewhere on site and can be secured by condition.

#### Species Enhancements

The intention to install 5 x bird boxes and 5 x bat boxes as per recommendation in Ecology Response would be fully supported. If consent is granted, a scheme of ecological compensation and enhancement should be secured by condition.

#### Other Matters

An ornamental pond is located in the garden and another pond is situated 30m from the site. Given that the works to the buildings will not impact any habitat suitable for these species, the risk of committing an offence is considered unlikely, therefore, further surveys for great crested newts are not required.

However, amphibians will rest in sheltered places such as barns and underneath stones, therefore the recommendation for a precautionary approach (including the provision of a toolbox talk) to site clearance would be supported and can be secured by condition for a WPES.

#### Other Protected/Notable Species

There is low potential for hedgehog/polecat to be present on site. The recommendation for sensitive clearance of debris and general good practice measures would be supported and can be secured by condition.

#### Biodiversity Net Gain (BNG)

Given that the proposals include renovation of structures, provision of additional car parking in an existing farmyard (and will utilise an existing access track) and no semi-natural habitats will be impacted. It is therefore acknowledged that policy NE3a does not apply to this application.

#### Species Enhancements

All schemes should achieve measurable biodiversity net gain to meet the NPPF (paragraphs 174, 179, and 180), Bath and North East Somerset Core Strategy and Placemaking Plan policies (for example Policies D5e and NE3) and emerging government policy. Provision of bat and bird boxes, hedgehog connectivity and/or native/beneficial planting would be proportional and appropriate

Habitats Regulations Assessment (HRA) process has been undertaken and sent to Natural England. They have been reconsulted and their response is awaited.

#### Natural England (response to 23/04747/FUL)

As submitted, the application could have potential significant effects on the Bath and Bradford on Avon Bats SAC. Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation. Without this information, Natural England may need to object to the proposal.

Please re-consult Natural England once this information has been provided.

Children, Young People and Families Service Bath and North East Somerset Council have written in support of the proposals:

The existing Jamies farm has been used for groups of young people facing disadvantage from Bath & NE Somerset.

The local authority, have worked with Jamie's Farm and it was during the pandemic that the value of having such a resource available for our young people was particularly valuable.

The partnership has gone from strength to strength, with the addition of extra elements to our work together - including Wellbeing and Training days for teams of social workers and other local authority staff; weekend visits for young people during lambing and other seasonal moments on the farm and apprenticeships and other longer-term support.

5 letters of support have been received  
Sensitive scheme  
Good project to help young people

Listed Building Officer comments are contained within the body of this report.

### **POLICIES/LEGISLATION**

There is a duty placed on the Council under Section 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.

The Revised 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)
- Bath & North East Somerset Local Plan (2007) - only saved Policy GDS.1 relating to 4 part implemented sites
- Bath & North East Somerset Local Plan Partial Update (2023)
- 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

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:

D2: Local Character and Distinctiveness  
HE1: Historic Environment

### **Local Plan Partial Update:**

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

DW1: District Wide Spatial Strategy  
NE3: Sites, species, and habitats  
NE3a: Biodiversity net gain

### *Supplementary Planning Guidance:*

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

The City of Bath World Heritage Site Setting Supplementary Planning Document (August 2013)  
The Bath City-wide Character Appraisal (August 2005)

### *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**

Lower Shockerwick is a historic farmstead within Green Belt, Cotswolds AONB, and the indicative landscape setting of the Bath World Heritage Sites. The Farmhouse is picturesque Grade II detached building. It is considered to be a mid-17th century house remodelled in 1793 (according to the date stone). To south of the Farmhouse, there is Grade II listed Stables, which were converted into the residential accommodation in the 1980s. To the west there is a range of Grade II listed shelter sheds and barns. Across the lane to the south is a Grade II Threshing Barn and Granary. To the east and in the wider setting there is Lower Shockerwick, a Grade I country house, and Grade II Coach House and Garden House. Lower Shockerwick Farm was referred to as Home Farm and was part of the large country estate.

Lower Shockerwick Farmhouse has a L-shaped plan form and is set within sloping site. The principal range is two storeys with dormers serving the accommodation in the roof. It has a distinct gambrel roof covered in stone slates. The lower ground floor under the main range appears to be an older structure with There is a two-storey service range with a hipped roof, which has Kitchen at first floor level and a series of stores underneath.

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.

Section 205 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

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 proposed works are as follows:

Change of use of farmhouse and garage Use Class C3 to residential agritherapy centre (Use Class C2). Farmhouse as weekend holiday let. Erection of extension to farmhouse and internal alterations. Internal alterations to The Stable remaining as a single use dwelling. Conversion of garage into a staff office. Replace existing windows. External works and creation of car park.

These proposals require significant and cumulative alterations to the listed buildings.

Farmhouse extension:

An extension to the existing service range is proposed which is sited over the existing range which currently comprises stores and enclosures which have significant historic interest.

There is significant concern with the extension in principle and in respect of detailed design and resulting harm to historic fabric:

- The size, scale, bulk and massing is unacceptably dominating and thereby harms the character and appearance the principal listed building. The extension seeks to almost double the length of the existing historic range adding a first floor level (due to the topography of the site).
- Whilst the scale of the extension is considered unacceptable the harm is exacerbated by the design including the scale of openings and the use of timber cladding both of which are uncharacteristic.
- The extension also requires the removal of the end wall of the existing kitchen and hence will result in the loss of this historic fabric and will be harmful to the plan form of the building.
- The extension will require underpinning for its construction - this is not to address any existing structural issue. This is a significant intervention and risk to historic fabric in a location which is one of the oldest and significant elements of the listed building. The extent of works needed to construct the extension are such that this part of the building will not retain its existing historic integrity. This area (and in particular Store 5) has rare surviving interior features including a fireplace with a significant ashlar arch and moulded mantle shelf, a cast iron oven and a copper furnace. It is likely it was a detached washhouse/ kitchen/ dairy/brewhouse, and it is an important reminder of the functions of the farmhouse. Despite being attached to the kitchen range, it has retained its sense as a separate entity because of its single storey form and varied roof form. The removal of the internal features of this store would not be supported and their retention is recognised. While the roof is modern and the chimney is truncated, the store has retained its sense as a separate entity as stated due to its single storey form and varied roof form, which helps illustrate its historic function.
- The extension will erode the legibility of the service range and outbuildings and impact on the hierarchy of historic development, oversailing the stores and the smaller outbuildings, altering and engulfing them.
- In summary it is inevitable alongside a significant structural intervention that there will be loss of historic integrity to these sensitive areas of survival as a result of the underpinning works commencing. In terms of the extending the kitchen range at first floor level, the key concern has been with the harm to legibility of the service range and outbuildings by oversailing Store 5 and smaller outbuildings and the impact on the hierarchy of historic development.

Works to two storey outshot:

At the rear of the main range there is a two-storey outshot. It appears the ground floor was added in the early 20th century and subsequently the first floor bathroom was added. It is proposed to extend the outshot so that it meets the parapet of the principal range and will intersect the cornice, which is currently uninterrupted. The purpose is to incorporate additional insulation. Whilst this impacts appearance, given that this is a later addition and the impact limited, it is not of concern.

Fire safety works:

The change of use of the farmhouse triggers the requirement for a range of fire protection measures.

- On the lower ground, ground, first and second floor it is proposed to upgrade the 'soffits' There are historic lath and plaster ceilings which could be harmed by such works. The applicant has confirmed that the lath and plaster soffit upgrades will consist of a thin intumescent paint coating and as a rule, it is proposed to replace existing and sometimes asbestos containing modern board with a double layer of fire rated board of similar appearance. Where there is lath and plaster it is proposed that it will be painted thereby minimising the impact on historic fabric. Upgrading to the stairs, shows instrument paint and is accepted as is the painting of ceilings.
- The introduction of a sprinkler system will require the installation of multiple mist heads within the ceilings associated pipework throughout the building, again impacting historic fabric and character.
- Whilst these works could be balanced against benefits of the scheme they add to the cumulative impact of harm all stemming from the proposed change of use.

Opening up of kitchen ceiling:

It is recognised that the fabric of the ceiling is modern and that the original ceiling lining sat higher. However, raising of the ceiling to form a vaulted space has not been adequately justified and the proposed vaulting to the roof will change the character and appearance of the space.

Further explanation of why other traditional approaches could not be achieved in order to justify the modern detailing and impact on the stonework has not been provided.

Works to the roof:

As well as long term lack of maintenance and inappropriate repair, there is indicated to be an inherent problem with the design of the roof and rainwater disposal from the parapet gutters given the impact of heavier rainfall events.

It is proposed as part of the application to change the detailing of the parapet gutters from lead to stainless steel, and hence modern detailing and insulation. Whilst full explanation of the issue and solution and its justification is still needed this aspect could be resolved as acceptable given the circumstances.

It is also proposed to replace the dormers, which are in poor condition and likely a later addition. This will include addition of insulation and hence change in detailing. Again, given the current condition, this aspect could be resolved as acceptable given the circumstances.

Windows in main building:

It is proposed to replace all of the glazing in the main building windows with vacuum glazing in new timber frames or metal frames. As the existing are not of historic interest this is considered acceptable. The omission of the aerogel is acceptable. Fineo window details have been provided and these are seen to be acceptable in principle.

### Works to the stable

This detached two storey dwelling was converted into holiday accommodation in the 1980s. The conversion removed many of the internal and external features, which would have reflected its former function and gave it a domestic character. The proposed internal changes and agreed changes to windows with vacuum glazing are not therefore considered to harm its significance.

### Works to the garage:

The garage, curtilage listed as part of the complex of barns, was altered into a garage in the 20th century. The proposed internal changes and changes to openings are not therefore considered to harm its significance.

### Parking:

The parking is shown to be located in the existing farmyard and will be access via an existing tracked way. As such it is not considered detrimental to the setting of the farmstead.

All information submitted and relevant to the applications have been fully considered by officers. Some of the works to the building and in particular the farmhouse which seek to prevent further damage through water ingress are seen to be a significant heritage benefit, but this is balanced against the totality of the works proposed which cumulatively impact and erode the buildings historic character. In addition, the extension to the building due to its size and impact on the footprint of the farm house and outbuildings is considered unacceptable. The cumulative effect of the large extension and the alterations are such that they would have a significant impact upon the special interest of the listed building.

It is concluded that the harm caused to the designated heritage asset, is, in the language of the NPPF, less than substantial but to the upper end of this given the impact of the proposed extension and the cumulative impact with other changes needed to accommodate the proposed use. In such circumstances, Paragraph 208 of the NPPF (2023) requires that any harm be weighed against the public benefits of the proposal, including securing the optimum viable use of the building.

The public benefits are discussed further in the planning balance section below.

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. Taking account of the above and in this instance the proposed extension and accumulation of associated works would fail to preserve the special interest of the listed building and as such this proposal would fail to meet this requirement.

Taking account of the above it is considered that the proposed development is not consistent with the aims and requirements of the primary legislation, planning policy or guidance. The proposed works would result in an unacceptable level of alteration to the building and a dominant addition to the listed building that would harm its significance as a

designated heritage asset. The proposal would not, therefore, comply with policy HE1 of the Placemaking Plan for Bath and North East Somerset (2017) and part 16 of the NPPF.

## ECOLOGY

As originally submitted the details in respect of ecology matters were not considered to have been adequately addressed. Further information has been submitted.

The new/revised information submitted addresses the majority of previous comments made by the Councils Ecology Officer. No habitat enhancement or creation is proposed. Revisions i.e. habitat enhancement or creation are requested to address comments from Natural England and to accord with Policy D5e.

A Habitats Regulations Assessment is appended which concludes that there is not a credible risk of significant negative impacts on the Bath and Bradford-on-Avon Bats Special Area of Conservation based on the details submitted. The HRA will need to be agreed with Natural England and this has now been sent to them for comment.

Providing that planting is satisfactorily addressed, then conditions should be attached to secure bat and wildlife mitigation scheme (which for bats can be in the form of Natural England licence documentation), wildlife compensation and enhancements, a compliance report and sensitive lighting.

The proposals are seen to comply with the 3 tests in that the purpose of the licence has a valid basis; the proposals indicate a low impact given the existing situation is retained and the area will be retained and therefore, granting the licence won't cause long-term impacts on the species concerned.

Habitats Regulations Assessment (HRA) process has been undertaken and sent to Natural England. They have been reconsulted and their response is awaited.

Policy NE3 of the Local Plan Partial Update has regard to Sites, Species and Habitats and states that development which results in significant harm to biodiversity will not be permitted. For all developments, any harm to the nature conservation value of the site should be avoided where possible before mitigation and/or compensation is considered.

In this instance the applicants have submitted details of the works to be undertaken and this has seen to be acceptable subject to the HRA being agreed by English Nature. The development complies with this policy.

## PLANNING BALANCE

There are a number of key benefits associated with the proposal

1. Retention of the agricultural buildings in agricultural use, which would ordinarily not be economically viable. The optimum viable use of the agricultural buildings and the public benefit arise from the project's charitable work. The associated agricultural benefits connected to good agricultural husbandry.
2. Conservation and enhancement of Landscape
3. Ecological interests
4. Social benefits including benefits relating to groups with protected characteristics.

## PLANNING OFFICER ASSESSMENT OF THE PLANNING BENEFITS



The retention of the agricultural buildings in agricultural use and the diversification of the farm use cumulatively are seen to result in a substantial benefit.

The re-instating of the farmyard to its original use with the instatement of 'regenerative farming practices' is also seen to have the potential to significantly benefit the holding and landscape (AONB) around the farm.

In terms of the benefits to ecology, the proposals primarily retain the existing bat roost and so this benefit is seen to be modest in this respect as it proposes the retention of the existing situation with limited additional benefits. The 'regenerative farming practices' as indicated but not detailed have the potential to have a moderate benefit on ecology within the holding.

The public benefit arising from the charity's work to provide support to young people who are at risk of academic or social exclusion is considered a significant benefit. The social benefits of the proposed development as stated are significant.

The harm identified in this case is that caused to significance of the listed building as set out earlier in the report and for the reasons outlined is, in this case, at the upper end of less than substantial. It should also be noted that paragraph 205 of the NPPF requires that great weight is should be given to the conservation of designated heritage assets, irrespective of the level of harm.

It is acknowledged that consideration of this application is finely balanced however, given the significant impact of the proposed extension, associated harm, potential loss of early historic fabric and changes required to facilitate the proposed change of use, the public benefit would be insufficient to outweigh the less than substantial harm identified. As such, the proposal would not comply with paragraph 208 of the NPPF which requires that any harm be weighed against the public benefits of the proposal, including securing the optimum viable use of the building.

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. Taking account of the above and in this instance the proposed extension and accumulation of associated works would fail to preserve the special interest of the listed building and as such this proposal would fail to meet this requirement.

Taking account of the above it is considered that the proposed development is not consistent with the aims and requirements of the primary legislation, planning policy or guidance. The proposed works would result in an unacceptable level of alteration to the building and a dominant addition to the listed building that would harm its significance as a designated heritage asset. The proposal would not, therefore, comply with policy HE1 of the Placemaking Plan for Bath and North East Somerset (2017) and part 16 of the NPPF.

## **RECOMMENDATION**

**REFUSE**

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

### **1 Heritage**

The proposed rear extension to the kitchen and associated underpinning would result in harm to historic fabric, plan form and character of the listed building. The cumulative alterations to the listed building as a result of works required to facilitate the proposed C2 Use result in harm to the fabric of the Listed Building. As such it is considered that the proposed development would not accord with the duties of the primary legislation, nor the aims or objectives of national and local planning policy and guidance as it relates to the historic environment and would harm the significance of the designated Heritage assets. As such the development does not accord with policy CP6 of the adopted Core Strategy (2014) or Policy HE1 of the Placemaking Plan for Bath and North East Somerset (2017) or Part 16 of the NPPF. In this case it is concluded that the harm caused to the designated heritage asset, is, in the context of the significance of the asset as a whole and in the language of the NPPF, less than substantial. Whilst in this instance there are significant environmental and social benefits and moderate ecological benefits they are not considered to outweigh the considerable importance and weight to be given to the harm to the designated heritage asset. As such, the development would not comply with paragraph 208 of the NPPF.

### **PLANS LIST:**

#### **1 PLANS LIST:**

845- FP- 001B, 003E, 006E, 008C, 100C, 101C, 102C, 103C,115, 211B, 212B, 213C, 214B, 220A, 300A, 401, 403,  
845-A- 01B, 02A, 03A, 10A.  
845-FH-L 301, 310, 311, 312, 314,401, 402, 403,  
845-FH-P 103.01, 305, 801  
845-FH-S 301, 311A, 312, 314  
845 SO L 301

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

**Item No:** 07  
**Application No:** 23/04001/OUT  
**Site Location:** Corner Cottage Frog Lane Ubley Bristol Bath And North East Somerset



**Ward:** Chew Valley      **Parish:** Ubley      **LB Grade:** N/A  
**Ward Members:** Councillor Anna Box      Councillor Dave Harding

**Application Type:** Outline Application

**Proposal:** Erection of a new dwelling in the garden of Corner Cottage (BS40 6PW), formation of garden areas within the development site and the construction of a new vehicle parking area for Corner Cottage (Outline Application with All Matters Reserved).

**Constraints:** Bristol Airport Safeguarding, Agric Land Class 1,2,3a, Policy CP3 Solar and Wind Landscape Pote, Policy CP9 Affordable Housing, Housing Development Boundary, Policy NE2 AONB, Neighbourhood Plan, SSSI - Impact Risk Zones, Policy ST8 Safeguarded Airport & Aerodro,

**Applicant:** Mr & Mrs Thomas Gay

**Expiry Date:** 16th February 2024

**Case Officer:** Danielle Milsom

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

## **REPORT**

Following an objection received by Ubley Parish Council, the application was referred to the Chair and Vice Chair of the Planning Committee. The decision was taken for the application to be decided by the planning committee. The reasons are as follows:

Cllr Ian Halsall (Chair):

This is an outline application which seeks to establish the principle of development and with no reserved matters including means of access details as yet formally presented. I am mindful of the objections of residents and the Parish Council. However, whilst an indicative site plan has been submitted, we do not yet know the detail of what scale, form and design the proposed dwelling will have. Opportunity will be given for all parties to consider the merits of design and impact upon amenity at that stage. The proposal is deemed to be in a reasonably sustainable location and would contribute to a net gain of a house in the village of Ubley. Nevertheless, whilst the number of objections is not material to whether an application should be referred to committee, it would be in the public interests to consider the acceptability of this scheme particularly as Biodiversity Net Gain would have to be achieved off site.

Cllr Lucy Hodge (Vice-chair):

This application should be heard in public by the Planning Committee, noting the Parish Council's Objection, to give the Committee a chance to debate the following planning reasons - overdevelopment of the site manifest in the need to secure offsite BNG, whether Highways issues in terms of access can be fully resolved (scope for revision noted with concerns about visibility in relation to access from the South) and also whether impacts on the residential amenity of neighbours, can, through a potential single storey design and alterations in ground levels coming forward, realistically mitigate the amenity issues given the topography of the site and surroundings.

The application refers to the garden area of Corner Cottage, a detached dwelling sited within the village of Ubley. The site falls within the Housing Development Boundary. It is not within the Green Belt.

Outline planning permission is sought for the erection of a new dwelling in the garden of Corner Cottage (BS40 6PW), formation of garden areas within the development site and the construction of a new vehicle parking area for Corner Cottage (Outline Application with All Matters Reserved).

The application is being reported to committee because the Parish Council have objected to the application contrary to the officer recommendation. In accordance with the scheme of delegation the application has been referred to the chair/vice chair of planning committee who have decided that the application should be determined by committee.

Relevant Planning History:

20/02909/FUL - permit - Provision of a first floor terrace and garden access, a flat roof replacing a first floor lean-to roof and external wall insulation to the east and south walls of the property.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Consultation Responses :

Highways: scope for revision

Drainage: no objection subject to condition

Ubley Parish Council: Objection. The main points of objection are:

1. The site is too small for an infill property to satisfactorily be positioned without overcrowding the immediate locality.
2. The parking area proposed for Corner Cottage is not sufficient in size for a 4 bedroom house, the detail of which is identified in the previously permitted planning application 20/02909/FUL. In fact, the proposed application does not meet the parking requirements of either B&NES or the CVNP (HDE8b) policies, where three and a half spaces are required for a property with four bedrooms.
3. Furthermore, the parking proposed for Corner Cottage would have vehicles entering a narrow section of Squire Lane with no pavements and immediately after a 90-degree bend. Vehicles cannot turn around in the space provided. This stretch of the lane is a busy school walking route and a main route for traffic into the village.
4. Whilst the proposed new build is set lower than the current ground level it will still have a significant impact on neighbouring properties, including Corner Cottage itself, with potential for reductions in privacy.
5. The reduction in height of the ground level would leave the adjoining land (part of Three Steps not White Cottage as wrongly noted on the plan) markedly higher. This is neither acknowledged nor identified for management as part of the development.
6. The heavily reduced garden area proposed for Corner Cottage is felt to be insufficient for this four-bedroom property. A further point is that the proposed dwelling has a combined floor area that is large for a 2-bedroom property, especially given the tightness of the site. There is concern the development could be able to be expanded internally at a later date, as this floor area is typically that of a 3-bedroom house elsewhere in the country.

In addition, there are several inaccuracies in the application including:

- The neighbouring land for most of the proposed infill property is part of Three Steps not White Cottage.
- It is stated that Corner Cottage "has frontage onto both Squire Lane and Frog Lane." This is not true as it only has frontage on Squire Lane.
- It is stated that "The site is to the north of Squire Lane and to the west of Corner Cottage." In fact it is to the west of Squire Lane and to the south west of Corner Cottage.
- The Application Form wrongly states that Corner Cottage is a 2-bedroom property whereas it is actually a 4-bedroom one

Representations Received :

15 objections received. A summary is as follows:

- o Contrary to policy ST7 regarding parking spaces and visibility
- o Previous application required a minimum of two parking spaces with proposals revised which would have been refused
- o Only one parking space proposed
- o Visibility splays do not regard pedestrian safety, assessment carried out only on speed of cars
- o Visibility cannot be achieved due to location of corner cottage itself

- o Parking needs to be moved which would remove significant amount of stone walling having a negative effect of character
- o Risk of cars reversing onto the highway
- o Highways failed to identify the SPD requires a minimum aisle width behind the spaces of 6m
- o Significant risk of collision
- o Tirkky corner plot with no pavement
- o Site traffic would block the main road into the village
- o Green space is crucial for biodiversity, building onto garden would be a loss
- o Density in the location is high, a large new house will be detrimental to the privacy of surrounding dwellings
- o Incorrect ownership shown on plans
- o Dwelling is not self-build as it is stated for use as employees
- o Corner cottage is a 4 be property
- o Previous application for corner cottage not in compliance with approved plans
- o Site plan indicates a 3 or 4 bed dwelling
- o It is a market house, not affordable
- o No services or buses, occupants reliant on car use
- o No justification for use of employees as required by policy RE4
- o Overdevelopment of the site
- o Inadequate bin storage
- o Design will be extremely contrived to overcome problems of overdevelopment
- o Close proximity to dwellings will cause privacy issue
- o Loss of light to neighbours
- o Any north elevation windows would directly face neighbours
- o Corner cottage left with very small garden
- o Against neighbourhood plan
- o Not compliant with policy RA2
- o Limited separation between properties
- o Unsustainable location for a dwelling
- o Village has a flooding issue

## **POLICIES/LEGISLATION**

The Development Plan for Bath and North East Somerset comprises:

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

## **CORE STRATEGY:**

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

CP6: Environmental Quality

SD1: Presumption in favour of sustainable development

## PLACEMAKING PLAN:

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

SV1: Somer Valley Spatial Strategy  
D1: General urban design principles  
D2: Local character and distinctiveness  
D3: Urban fabric  
D4: Streets and spaces  
D6: Amenity  
D7: Infill and backland development  
RA1: Development in the villages meeting the listed criteria

## LOCAL PLAN PARTIAL UPDATE:

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

DW1: District Wide Spatial Strategy

NE1: Development and green infrastructure  
NE2: Conserving and enhancing the landscape and landscape character  
NE3: Sites, species, and habitats  
NE3a: Biodiversity Net Gain  
NE5: Ecological networks  
NE6: Trees and woodland conservation

SCR6: Sustainable Construction Policy for New Build Residential Development  
ST7: Transport requirements for managing development

## SUPPLEMENTARY PLANNING DOCUMENTS:

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

Sustainable Construction Checklist Supplementary Planning Document (January 2023)

Transport and Development Supplementary Planning Document (January 2023)

## NEIGHBOURHOOD PLANS:

The following Neighbourhood Plan is relevant to the determination of this application:

Chew Valley Area

## NATIONAL POLICY:

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

## LOW CARBON AND SUSTAINABLE CREDENTIALS

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

## **OFFICER ASSESSMENT**

### PRINCIPLE OF RESIDENTIAL DEVELOPMENT:

Policy RA1 states that for villages located outside of the Green Belt, proposals for residential development of a scale, character and appearance appropriate to the village and its setting will be acceptable within the housing development boundary provided the proposal is in accordance with the spatial strategy for the District set out under policy DW1 and the village has:

A: a primary school and at least 2 of the following key facilities within the village: post office, community meeting place and convenience shop, and

B: at least a daily Monday-Saturday public transport service to main centres.

Ubley Church of England Primary School is located to the east of the site, along 'The Street'. Also sited in close proximity is Ubley Hall, a community hall. The village also benefits from the Church of St Bartholomew. Criteria A is therefore passed.

The village however is not supported by a regular public transport service. Whilst a the Sawmills bus stop is located on the A368, any service utilising the stop is not considered to be regular enough to pass criteria B.

Policy RA2 is therefore of relevance. In villages outside the Green Belt, with a housing development boundary defined on the Policies Map and not meeting the criteria of Policy RA1, proposals for some limited residential development will be acceptable where:

a they are of a scale, character and appearance appropriate to the village



b: in the case of residential development they lie within the housing development boundary

This is an application for outline consent, therefore details of scale and design are not yet known. However, it is considered that a suitable scale and design could be achieved at reserved matters stage. This is discussed further within the following section. The site is also set within a housing development boundary. The proposal is therefore considered to be compliant with policy RA2 and as such, the principle of development is accepted.

Objection comments have raised concern regarding the lack of information regarding justification to comply with policy RE4, essential dwelling for rural workers. Policy RE4 is not relevant in this instance due to the proposals compliance sited within the housing development boundary as discussed above. Policy RE4 is an exceptions policy for consideration should a proposed dwelling be sited outside of a housing development boundary. As this is not the case here, policy RE4 is not of relevance.

#### 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. Development will only be supported where, amongst other things, it responds to the local context in terms of appearance, materials, siting, spacing and layout and the appearance of extensions respect and complement their host building.

The proposal seeks outline consent with all matters reserved. An indicative site plan has been submitted which provides an illustration of where the proposed dwelling could be sited. The site plan shows a dwelling within the current garden space of Corner Cottage. Currently, this garden space is elevated from the ground level of properties to the north. To accommodate a dwelling at this site, the garden would be excavated to lower the ground level to match that of the northern dwellings and the road level.

The northern portion of the site would be separated to provide continued garden space for Corner Cottage, and the dwelling is shown at this stage to be sited within the middle portion of the site, with garden space to the south, and to utilise the existing off-street parking space. A new parking space is proposed to serve Corner Cottage to be sited to the south of the existing property.

The western side of Ubley does presents a loose pattern and grain of development. Dwellings designs and scales also differ, with a mix of detached semi-detached and terraced dwellings. Most dwellings are two-storey, with some displaying a rural character with use of stone and render. Others have a simpler residential form of semi-detached dwellings.

Within the last 10 years, development has been present within Ubley, to the south-west of the proposed site, involving the construction of dwellings in a terraced, 'L' shape form.

Due to the above, it is considered that there is scope to accommodate a dwelling within the garden of Corner Cottage, without causing disruption to the pattern of development of

this area of Ubley. The lowering of the ground level would allow the dwelling to sit at the same level to the road.

No elevation drawings have been provided at this stage, and the scale of the dwelling is also not confirmed at this stage. It is noted that the site is constrained by its relationship with properties to the north, and this would therefore dictate the scale which could be achieved. In accordance with policy D7, backland development must be respectful of frontage plots with regards to its scale and design. At reserved matters stage, it is considered that a single storey dwelling could be acceptable, as it would appear subservient to the neighbouring dwellings. A lessened scale to the indicate plan provided could also allow for increased widths from the neighbouring properties and increased garden space.

It is therefore considered that an appropriate scale and design could be achieved at reserved matters stage and therefore a dwelling within this location would not result in overdevelopment of the site, having regard to the varied plot sizes of the neighbouring units. The site presents an opportunity to provide a small dwelling and this is supported by officers.

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 Core Strategy, policies D1, D2, D3, D4 and D5 of the Placemaking Plan and part 12 of the NPPF, and policy HDE2 of the Chew Valley Neighbourhood Plan.

#### RESIDENTIAL AMENITY:

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

Concerns have been raised with regards to the impact upon residential amenity, primarily to the dwelling sited directly to the north of the site. The indicative site plan shows a dwelling formed in an 'L' shape. The dwelling is shown to be separated by the garden space for Corner Cottage. The layout is indicative and therefore would be decided at reserved matters stage. The location of the dwelling could be moved further south to increase the distance between the proposed dwelling and neighbour to the north.

In addition, the ground level as discussed above would be lowered. The proposed dwelling and the neighbour would therefore have the same ground level. The scale of the proposed dwelling is not confirmed, but it is considered that only a single storey dwelling could be achieved. The scale of the dwelling, in addition to the distance between the proposed and neighbouring dwellings would therefore not cause significant levels of overshadowing. Whilst the dwelling could move further south, the location as shown would not result in a level of overshadowing which would be significant enough to result in refusal.

At design stage, issues regarding overlooking can be overcome by locating windows on elevations which do not directly face onto neighbours. The distance between the dwellings

and considering it would be single storey limits direct overlooking between habitable rooms.

It is therefore considered that at reserved matters stage, a suitable design and layout could be achieved to mitigate residential amenity issues.

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

#### HIGHWAYS SAFETY AND PARKING:

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

Revised plans show a visibility splay showing 2.4m x 25m which is the required measurements for a stopping sight distance for a 20mph road. The visibility to the north is acceptable given the context of the site, low traffic speeds, and geometry of the road layout. Motorist would be able to see vehicles emerging from the proposed access point.

Plans have also been revised to show that the boundary wall to be adjusted to improve visibility to the south. It is noted that the parking area for Corner Cottage would not provide a turning area for a vehicle to exit in forward gear, however as the plans have been amended to show an adjusted boundary treatment, this increases visibility for all motorists to exist the access point safely given the context of the site and noting that neighbouring properties have similar driveway access.

The proposed dwelling and existing dwelling would be provided with one off-street parking space each. The proposed dwelling would utilise the existing parking space to the south, with Corner Cottage using the proposed space. The Transport and Development Supplementary Planning Document (SPD) sets maximum parking spaces for new dwellings. The site is located within Zone D of the parking standards policy. Whilst the number of bedrooms is unknown at this stage for the proposed dwellings, the provision of 1 space per dwelling would not exceed maximum standards. This is therefore acceptable and compliant with the SPD standards.

Policy HDE8b of the Chew Valley Neighbourhood Plan requires two spaces per dwelling up to three bed dwellings, and three spaces per four bed dwelling and above. The proposal would conflict with this policy in relation to the existing dwelling. However, the adopted SPD as part of the Local Plan Partial Update (2023) was adopted after the neighbourhood plan. The standards in the SPD are therefore afforded more weight. On balance, it is considered that the proposed parking spaces are compliant with the development plan as a whole

Policy HDE7 of the Chew Valley Neighbourhood Plan states that developers of any residential development this is not infill will be required to complete a traffic impact assessment. The proposed dwelling is akin to an infill site and therefore does not require an impact assessment.

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

#### 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 applicant indicates that they intend to manage surface water onsite by infiltrating into the ground using a soakaway. However, BGS 2016 indicates that the site is likely to be poorly draining.

Infiltration testing to BRE Digest 365 standard is required to be undertaken at the location and depth of the proposed soakaways.

Should the investigations reveal that soakaways are not viable, the alternate method of discharge into the public sewer network, will need to be confirmed as acceptable in writing by Wessex Water. This information can be dealt with at reserved matters stage.

#### ECOLOGY:

Policy NE3 of the Local Plan Partial Update has regard to Sites, Species and Habitats and states that development which results in significant harm to biodiversity will not be permitted. For all developments, any harm to the nature conservation value of the site should be avoided where possible before mitigation and/or compensation is considered.

In addition, Policy NE3a of the Local Plan Partial Update relates to Biodiversity Net Gain (BNG).

In the case of minor developments, development will only be permitted where no net loss and an appropriate net gain of biodiversity is secured using the latest DEFRA Small Sites Metric or agreed equivalent.

The current site is of low ecological value due to its maintenance as a residential garden. The proposed development would result in all remaining green space to also be used as a private garden. The development on site would therefore result in a loss of BNG. The proposal is therefore to provide off-site BNG, within New Manor Farm. Grassland is proposed to be enhanced and this is proposed to achieve an BNG gain of 34% which is considered to be appropriate. The off-site BNG is to be secured by a s106 agreement.

## SUSTAINABLE CONSTRUCTION AND RENEWABLE ENERGY:

Policy SCR6 of the Local Plan Partial Update has regard to Sustainable Construction for New Build Residential Development. The policy requires new residential development to achieve zero operational emissions by reducing heat and power demand, then supplying all energy demand through on-site renewables. A sustainable construction checklist (SCC) is submitted with an application, evidencing that the prescribed standards have been met.

As this application is for outline consent with all matters reserved, it is not a requirement at this stage to complete the sustainable construction checklist. The application at reserved matters stage will be required to demonstrate compliance with policy SCR6.

## 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 Outline Time Limit (Compliance)

The development hereby approved shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the latest.

Reason: As required by Section 92 of the Town and Country Planning Act (as amended), and to avoid the accumulation of unimplemented planning permissions.

### 2 Reserved Matters (Pre-commencement)

Approval of the details of the Access, Layout, Scale, Landscaping and Appearance; of the site (hereinafter called the reserved matters) shall be obtained from the Local Planning Authority before any development is commenced.

Reason: This is an outline planning permission and these matters have been reserved for the subsequent approval of the Local Planning Authority under the provisions of Section 92 of the Town and Country Planning Act (as amended) and Parts 1 and 3 of the Development Management Procedure Order 2015.

### 3 Reserved Matters Time Limit (Compliance)

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: As required by Section 92 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permissions.

### 5 Ecological and Biodiversity Net Gain Compliance 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 site

visit and inspection, and confirming and demonstrating, using photographs, completion and implementation of ecological measures as detailed in the approved Biodiversity Net Gain Plan has been submitted to and approved in writing by the Local Planning Authority. These details shall include:

1. Findings of any necessary pre-commencement or update survey for protected species and mitigation measures implemented;
2. Confirmation of compliance with the method statements referenced above including dates and evidence of any measures undertaken to protect site biodiversity; and
3. Confirmation that proposed measures to enhance the value of the site for target species and habitats have been implemented.

All measures within the scheme shall be retained, adhered to, monitored and maintained thereafter in accordance with the approved details.

Reason: To prevent ecological harm and to ensure that biodiversity net gain is successfully provided in accordance with policy D5e of the Bath and North East Somerset Placemaking Plan and policies NE3, NE3a and NE5 of the Bath and North East Somerset Local Plan Partial Update.

#### **6 Biodiversity Gain and Habitat Management Plans (Pre-commencement)**

No development shall commence until full details of a Biodiversity Gain Plan for delivery and monitoring of Biodiversity Net Gain, and a Habitat Management Plan have been submitted to and approved in writing by the Local Planning Authority. The Plans shall at least deliver 0.2604 habitat units. The Plans shall be in accordance with the approved Biodiversity Net Gain Assessment and with current best practice guidelines and shall include the following:

1. An up-to-date BNG habitat map for on-site proposed habitats.
2. Habitat Management Plan- long-term management and protection measures for all retained habitats and species, including fencing and boundary details.
3. Long term aims and objectives for habitats (extents, quality) and species.
4. Detailed management prescriptions and operations for newly created habitats; locations, timing, frequency, durations; methods; specialist expertise (if required), specialist tools/machinery or equipment and personnel as required to meet the stated aims and objectives.
5. A detailed prescription and specification for the management of boundary habitats including hedgerows, woodland and scrub.
6. Details of any management requirements for species-specific habitat enhancements.
7. Annual work schedule for at least a 30 year period.
8. A list of activities and operations that shall not take place and shall not be permitted within the HMP Plan area (for example use of herbicides; disposing of grass cuttings / arisings in "compost" heaps on-site or in hedgerows (or other on-site waste disposal); routinely cutting ivy where there is no specific arboricultural justification; inappropriate maintenance methods; storage of materials; machine or vehicle access).
9. Detailed monitoring strategy for habitats and species and methods of measuring progress towards and achievement of stated objectives.
10. Details of proposed reporting to the Local Planning Authority and proposed review and remediation mechanism.
11. Proposed costs and resourcing, and legal responsibilities.

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

Reason: To protect and enhance ecological interests in accordance with policy D5e of the Bath and North East Somerset Placemaking Plan and policies NE3, NE3a and NE5 of the Bath and North East Somerset Local Plan Partial Update.

### **7 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:  
OS Extract 03 Jan 2024 TG PLN 001A BLOCK AND LOCATION PLANS

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

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

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

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

**Do not commence development** until you 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.

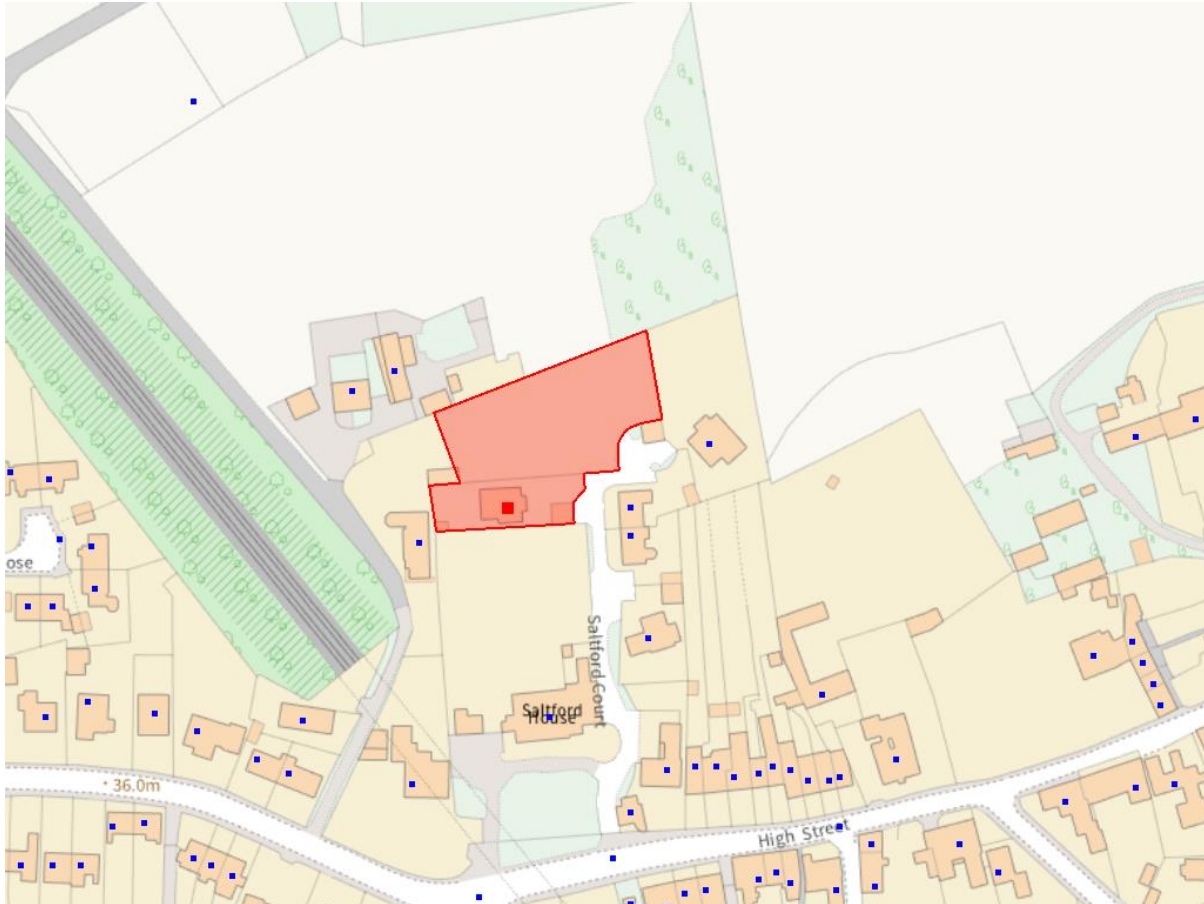
Full details about the CIL Charge including, amount and process for payment will be sent out in a CIL Liability Notice which you will receive shortly. Further details are available here: [www.bathnes.gov.uk/cil](http://www.bathnes.gov.uk/cil). If you have any queries about CIL please email [cil@BATHNES.GOV.UK](mailto:cil@BATHNES.GOV.UK)

#### **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.



**Item No:** 08  
**Application No:** 24/00360/FUL  
**Site Location:** Staddle Stones 5 Salford Court Salford Bath And North East Somerset BS31 3EB



**Ward:** Salford                      **Parish:** Salford                      **LB Grade:** N/A  
**Ward Members:** Councillor Duncan Hounsell                      Councillor Alison Streatfeild-James

**Application Type:** Full Application

**Proposal:** Erection of two storey side extension, new front gable facade, first floor rear balcony and associated works.

**Constraints:** Colerne Airfield Buffer, Salford Airfield 3km buffer, Agric Land Class 3b,4,5, Conservation Area, Policy CP3 Solar and Wind Landscape Pote, Policy CP8 Green Belt, Policy CP9 Affordable Housing, Housing Development Boundary, LLFA - Flood Risk Management, MOD Safeguarded Areas, Policy NE2A Landscapes and the green set, SSSI - Impact Risk Zones,

**Applicant:** Mr/s Selwood

**Expiry Date:** 26th March 2024

**Case Officer:** Ed Allsop

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

## **REPORT**

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

Chair comments: "This proposal represents a substantial increase in volume from the original house. Although not located within the greenbelt, it is adjacent to it and the extension will see the expansion of the curtilage into albeit confirmed residential garden which is within the greenbelt. There are also planned to be substantial changes to the external appearance of the host dwelling when married with its extension. Mindful of the Parish Council's objection and those raised by neighbours it is considered that this application should be discussed by the Committee to discuss the impact of the scale of the proposal and debate whether there will be potential harm to the conservation area conflict with greenbelt policy".

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

This application relates to a detached residential property at the end of Saltford Court, which is a private drive north of the High Street serving a number of other properties. The existing dwelling is located within the Housing Development Boundary and is outside of the Green Belt. However, a portion of the proposed two storey side extension will be located in the Green Belt. The site is located within the Saltford Conservation Area.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Consultation responses:

Saltford Parish Council- Objection to loss of green belt land and overlooking from the proposed 1st floor balcony.

Representations:

5no. objections have been received. The objections relate to building on Green Belt land, design and character, impact on conservation area, increase in traffic and disturbance

Officer comments:

The above matters are mostly covered under the officer's assessment below. Some comments have touched on restrictions in potentially relevant Deed(s), however, these do not form part of the planning application process and would be for the applicant to deal with, outside of the planning process, if relevant. Similarly, this would be the case for any issues in relation to access from the private drive from a legal standpoint. It was also mentioned that there was objection to the repositioning of a listed wall, but this is not proposed as part of the application.

## **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:
- o Made Neighbourhood Plans

#### Core Strategy:

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

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

D1: General urban design principles  
 D2: Local character and distinctiveness  
 D.3: Urban fabric  
 D.4: Streets and spaces  
 D.5: Building design  
 D.6: Amenity  
 HE1: Historic Environment  
 GB1: Visual amenities of the Green Belt  
 GB3: Extensions and alterations to buildings in the Green Belt  
 NE5: Ecological networks and nature recovery

#### Local Plan Partial Update (LPPU):

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

#### National Policy:

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

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.

## LOW CARBON AND SUSTAINABLE CREDENTIALS

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

## OFFICER ASSESSMENT

Principle of development in the Green Belt:

The NPPF states that the local planning authority should regard the construction of new buildings in the Green Belt as inappropriate, subject to the exemptions listed. The proposed works are extensions to an existing house which constitute a new 'building' for these purposes. However, extension to buildings in the Green Belt are not a form of inappropriate development (paragraph 154 C NPPF) provided that they do not represent disproportionate additions to the original building

The existing property is not located within the Green Belt, but part of the proposed extension (the new 'building') would be. The relevant policies are paragraph 154 C of the NPPF and policy GB3 of the placemaking plan.

Paragraph 154 of the NPPF notes that the extensions to existing buildings are acceptable, as long as they are proportionate to the size of the original dwelling (Paragraph 154 c). This is echoed in the placemaking plan under policy GB3, where it is advised that an increase in volume of approximately one third is generally considered acceptable or 'proportionate'.

Volume increase:

Policy GB3 aims to ensure that proposals are not disproportionate over and above the size of the original building. Although the original building is located outside of the Green Belt, it is still the original building to which the extension (new building) would be attached.

Therefore, previous additions to the original building will be included in a cumulative assessment, to ensure the original dwelling is not disproportionately extended.

A review of historic aerial imagery would indicate that the double garage is original, with the house. Therefore, it is included as forming the original volume. Case Law (Sevenoaks DC v SSE & Dawe) demonstrates that existing outbuildings can form part of the 'existing dwelling'. Officers have also taken into consideration the siting of the garage and how it physically and visually relates to the main dwelling. Officers generally agree with the applicant's volume increase calculations.

Officers consider there to be an increase of approximately 66%. This includes the previous additions to the house located outside of Green Belt, and the proposed additions now proposed under this application, including parts both inside and out of the Green Belt.

Although in numerical terms, 66% is in excess of the one third guideline, it is important to consider the visual and spatial aspects of the proportionality assessment. In determining whether the extension is disproportionate or not, it is important to take into account the size, scale, siting and design of the proposed, as well as how it is experienced on the ground, taking into account topography, site context, land form, boundary treatments etc.

The position of most of the house outside of the green belt means that it is viewed as part of an existing cluster of large buildings comprising Saltford Court. The extension itself would be positioned, partly on land which has been confirmed to be residential garden and therefore the enlargement of the building (despite the change to the boundary) would appear to remain within the residential curtilage. The successful use of a glazed link and subservient design (see character and appearance section below) further reduce the visual size of the extension in relation to the original house.

Considering the visual and spatial aspects of the above, the proposed extension, in this instance, would not appear disproportionate .

Consideration has also been given to the fact that the extent of built works in the Green Belt is actually rather small in percentage terms. In this instance, the proposals are considered proportionate to the original dwelling and the proposals do not represent inappropriate development in the Green Belt. Furthermore, the proposals would not be harmful to openness or the purposes of including land within the green belt. The proposal accords with policy CP8 of the adopted Core Strategy and policies GB1 of the Placemaking Plan for Bath and North East Somerset (2017) and LPPU and part 13 of the NPPF.

Residential garden:

The majority of the proposed 2 storey side extension will be sited on land associated with 'Selwood Farm' (neighbouring site). Although, this is under the same ownership as the application site. This land has been considered to be residential garden and this was formalised through planning application 05/02884/FUL. Although, this conclusion of the land being residential garden was in relation to 'Selwood Farm', not the application site.

However, as the applicant owns both sites, this is not a problem in planning terms. The applicant will need to take any necessary legal and land registry steps outside of the planning process as well as serving the any appropriate notices.

Character, appearance and impact on the Conservation Area:

The majority of the two side storey extension will be relatively traditional, following materials and design of the existing house. The glazed link is more modern and it will be introducing a new design element into the immediate area. This in itself is not harmful, and overall a glazed link can be achieved. This is because of it's siting and the location of the plot which is 'tucked away' where it would be masked from a number of angles, until in close proximity to the house. Similarly, the proposed changes to the existing house,

outside of the Green Belt respond positively to the character and appearance of the original house and also the appearance of the wider area.

Therefore, the proposals would be considered to preserve the character and appearance of this part of the Conservation Area and would preserve the setting of the Grade II listed 'Saltford House' which is located a considerable distance away to the south.

The proposed works by reason of their design, siting, scale, massing, layout and materials is acceptable and contributes and responds positively to the local context and maintains the character and appearance of the surrounding area and this part of the Conservation Area. The proposal accords with policy CP6 of the adopted Core Strategy (2014) and policies D1, D2, D3, D4, D5 and HE1 of the Placemaking Plan and LPPU for Bath and North East Somerset (2017) and part 12 and part 16 the NPPF.

Residential amenity:

The proposed 1st floor rear balcony is set further back than the existing 1st floor rear balcony, the positioning and siting of the new balcony is also further away from the neighbouring house. Therefore, the proposed 1st floor rear balcony is not considered to result in an increase in overlooking compared to that may already exist.

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 part 12 of the NPPF.

Ecology:

The submitted lighting assessment demonstrates that no light spill over 0.5 lux would fall onto adjacent hedgerows.

Other:

Given that the extension is partly located in the Green Belt and outside of the housing development boundary, a condition would be attached to ensure that the extension is tied to the main house and does not become a separate living unit.

## **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 Ancillary Use (Compliance)**

The two storey side extension hereby approved shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Staddle Stones, 5 Saltford Court; and shall not be occupied as an independent dwelling unit.

Reason: The creation of a new independent dwelling unit in the green belt and outside of the housing development boundary would be contrary to the Council's housing strategy and also national green belt policy.

### **3 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:

Site location plan- 001  
Existing site plan- 002  
Existing ground floor plan- 003  
Existing first floor plan- 004  
Existing roof plan- 005  
Existing north and east elevations- 006  
Existing south and west elevations- 007  
Existing sections AA and BB-008

Proposed site plan- 012  
Proposed ground floor plan- 013  
Proposed first floor plan- 014  
Proposed roof plan- 015  
Proposed north and east elevations- 016  
Proposed south and west elevations- 017  
Proposed sections CC and DD- 018  
Lighting assessment

### **2 Biodiversity Net Gain - Exempt/Not required**

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are set out in the Biodiversity Gain Requirements (Exemptions) Regulations 2024 and The Environment Act 2021 (Commencement No. 8 and Transitional Provisions) Regulations 2024.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements is/are considered to apply.

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

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

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

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

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

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

### **4 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.

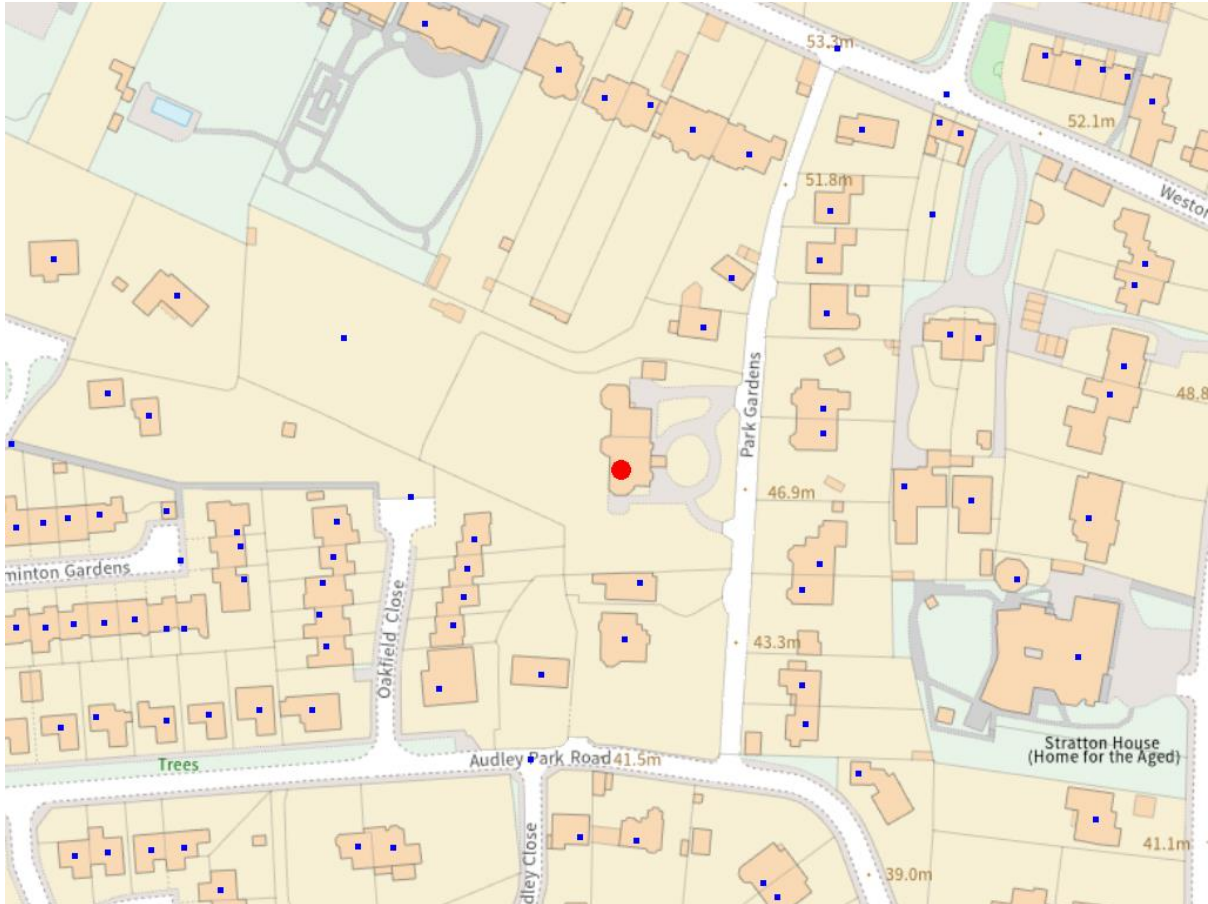
## **5 Responding to Climate Change (Informative):**

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 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:** 09  
**Application No:** 24/01330/TCA  
**Site Location:** Audley House Park Gardens Lower Weston Bath Bath And North East Somerset



**Ward:** Weston                      **Parish:** N/A                      **LB Grade:** II  
**Ward Members:** Councillor Ruth Malloy      Councillor Malcolm Treby  
**Application Type:** Tree Works Notification in Con Area  
**Proposal:** T1 - Sequoia - Section fell Co-Dominant stem growing from base of Redwood tree.  
T2 - Cedar - Tip reduce limb which reaches over garden to N and has a poor union with main trunk, by up to 1.5m, to reduce end weight whilst retaining a natural shaped crown.  
Tip reduce 1 branch which reaches over Magnolia tree by up to 1.5m, to reduce end weight, sail area and blend canopy into a natural shape following tip reduction to North  
**Constraints:** Conservation Area,  
**Applicant:** Hodge  
**Expiry Date:** 23rd May 2024  
**Case Officer:** Jane Brewer  
To view the case click on the link [here](#).

## **REPORT**

### **REASON FOR REPORTING NOTIFICATION TO COMMITTEE:**

The notification is associated with a Councillor.

### **DESCRIPTION:**

This notification relates to two trees located within the Bath Conservation Area.

The proposals are to remove a secondary stem growing from the base of a Wellingtonia and to undertake selective tip pruning of two branches by up to 1.5m on a Cedar.

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

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

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

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

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

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

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

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

No public comments have been received

## **POLICIES/LEGISLATION**

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

## **LOW CARBON AND SUSTAINABLE CREDENTIALS**

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the

policies as identified and these have been fully taken into account in the recommendation made.

### **OFFICER ASSESSMENT**

The secondary stem proposed for removal from the Wellingtonia is much smaller than the main stem and not readily visible from the public domain. The removal of the secondary stem will remove competition from the main stem for resources and is not expected to impact on the amenity or health of the tree as a whole.

The second tree included in the tree notice is a mature Cedar which is a significant tree forming the verdant character of Park Gardens and is considered to have a historic link with the property. The proposal is for the selective tip pruning of two branches by up to 1.5m. The works relate to a low long limb which extends out parallel with the frontage of the property in a northerly direction and a limb growing in a westerly direction above a notable magnolia beside the house. The minor extent of the works is not expected to impact on the amenity or health of the tree as a whole.

Recommendation:

No objection

Advisory notes to be included in the Council's response:

While this letter refers to planning controls, your attention is drawn to the Wildlife and Countryside Act 1981 as amended and the Countryside and Rights of Way Act 2000. Under these Acts all species of wild birds, their eggs, nests and chicks, are legally protected until the young have fledged. Tree work is best carried out outside the bird nesting season, which typically extends from March until September, although it may begin earlier than this. If work must be carried out within the bird nesting season, a qualified ecological consultant should carry out a detailed inspection to ensure that birds are not nesting in the trees that you are proposing to work on. If nesting birds are present the work must not proceed.

### **RECOMMENDATION**

NO COMMENT