

Bath & North East Somerset Council

MEETING: **Planning Committee**

MEETING DATE: **22nd October 2025**

AGENDA
ITEM
NUMBER

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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.

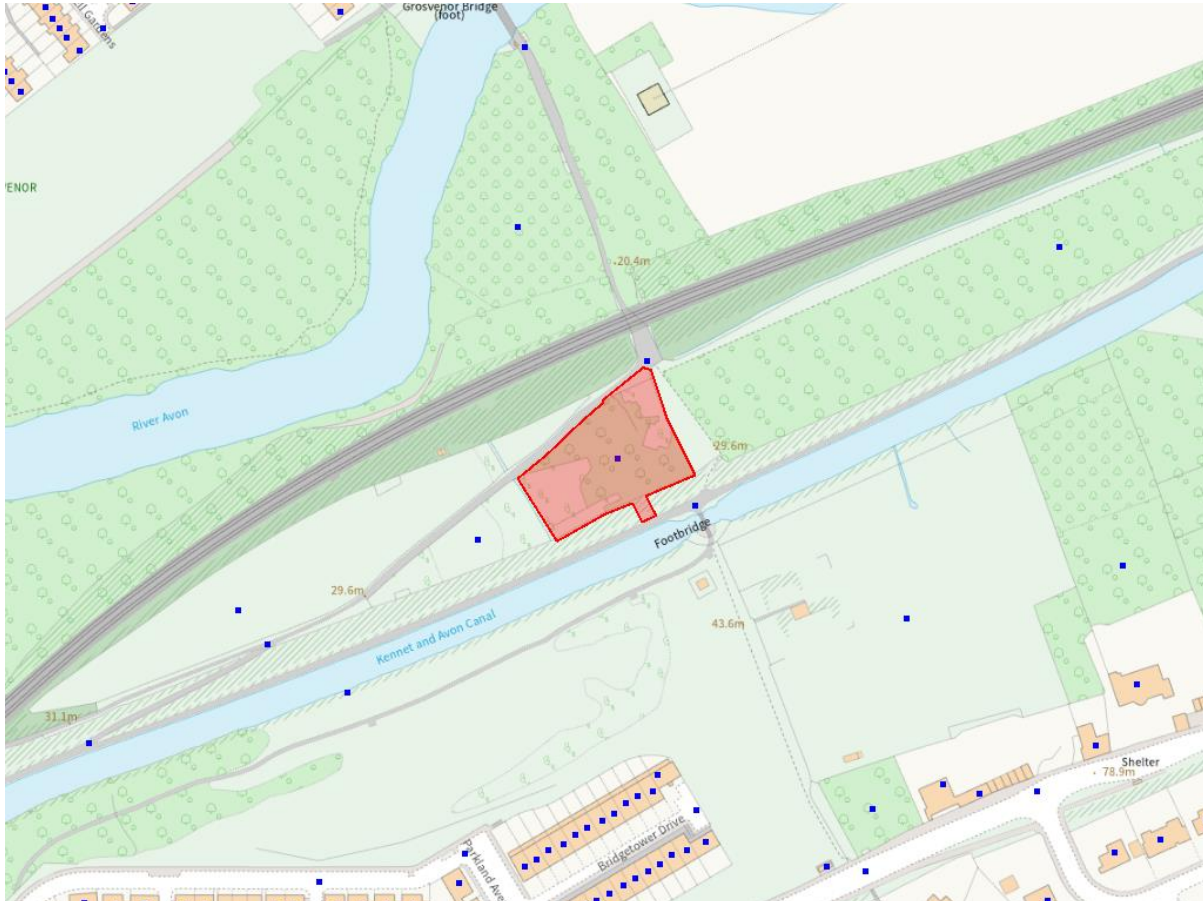
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02	25/02732/FUL 4 September 2025	Mr Simon Rayner Windyridge , High Street, Wellow, Bath, Bath And North East Somerset Erection of 3 bed dwelling on land to the front of Windyridge, associated landscape works, and modification to existing drive entrance.	Bathavon South	Danielle Milsom	REFUSE
03	25/02605/VAR 24 October 2025	Aequus Developments Great Barn Court Block Two, Dane's Lane, Keynsham, Bath And North East Somerset, Variation of conditions 4 (Archaeology Post Excavation and Publication), 10 (Construction Management Plan), 17 (Landscape) and 18 (Plans List) of application 24/04399/VAR (Variation of conditions 5 (Investigation and Risk Assessment), 8 (Materials - Submission of Schedule and Samples), 13 (Biodiversity Gain and Habitat Management Plans), 17 (Fire Hydrants), 19 (Landscape) and 20 (Plans List) of application 23/04190/REG03 (Erection of 10 No. affordable apartments (Class C3) and associated access, drainage and landscaping works)).	Keynsham North	Christopher Masters	PERMIT
04	25/02948/FUL 24 October 2025	Mr Mark Carter Tregonhawke , Packhorse Lane, South Stoke, Bath, Bath And North East Somerset Widen existing balcony	Bathavon South	Christopher Masters	PERMIT

05	25/01551/FUL 23 June 2025	Mrs May Lan Ho 54 Uplands Road, Saltford, Bath And North East Somerset, BS31 3HN, Erection of fence and shed (Retrospective)	Saltford	Pippa Brown	PERMIT
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REPORT OF THE HEAD OF PLANNING ON APPLICATIONS FOR DEVELOPMENT

Item No: 01
Application No: 22/03025/FUL
Site Location: Site Of Former Folly Inn Brewery And Pleasure Ground Lane
Hampton Row To Grosvenor Bridge Bathwick Bath And North East Somerset



Ward: Bathwick **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor Manda Rigby Councillor Toby Simon
Application Type: Full Application
Proposal: Erection of a car free self-build (affordable) dwelling.
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, British Waterways Major and EIA, British Waterways Minor and Householders, Conservation Area, Contaminated Land, Policy CP8 Green Belt, Policy CP9 Affordable Housing, Flood Zone 2, 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, Railway, River Avon and Kennet & Avon Canal, SSSI - Impact Risk Zones,
Applicant: Ms Wendy Zakiewicz

Expiry Date:	24th October 2025
Case Officer:	Christine Moorfield
To view the case click on the link here .	

REPORT

This application is for the erection of a detached dwelling. As initially described in the submitted application the proposal was for the 'erection of a car-free, off-grid, self-build dwelling for local boater family.'

Elements of this description were considered misleading so in agreement with the applicant the description has been changed to :

'The erection of a car free self-build (affordable) dwelling'.

Historic map data shows a building on the site on the 1742 City of Bath map; the buildings are annotated as 'The Folly' on the 1840s Tithe Map of Bath and North East Somerset; and they are annotated as 'Cremorne Gardens', 'PH' (Public House) and 'Malthouse' on the 1844-1888 OS 25" 1st Edition; the 1879 -1888 Town Plan; the 1894-1903 OS 25" 2nd Edition OS Plan; and the 1921 -1943 OS 25" revised edition. However, the 1947-1965 OS National Grid map notes these buildings as 'Ruin' and 'Ruins'.

The Green Belt and World Heritage Site Boundaries run along the eastern edge of the site so that the site lies just outside the Green Belt but lies within the Bath World Heritage site, the Bath Conservation Area and the locally designated landscape setting of the settlement of Bath. The site also forms part of the 'Fields by the Canal and Railway (Hampton Row)' Site of Nature Conservation Interest.

The Site is bounded to the north, east and south by Public Rights Of Way (PROW BC65/3, BA1/1 and BCTOW/04 respectively).

This application was requested to go to committee by Cllr Yukteshwar Kumar when the application was first submitted.

The call in is supported by Cllr Simon.

The Committee Chair, Cllr Ball commented that he appreciated the detailed effort put in, especially considering the complexities and issues surrounding this site. He agreed this should go to committee.

The Vice Chair Cllr Crosseley agreed that this application should be presented to the committee.

HISTORY

DC - 18/00666/TCA - NOOBJ - 21 March 2018 - T1.Horse Chestnut-Crown Reduce the pollard leaving around 4-5m on due to being old. T2.Hazel Group-Coppice.

DC - 20/00451/TCA - NOOBJ - 17 March 2020 - 2no Hazel (T1 and T2) - Coppice the main trunk to approx. 3ft from ground.

DC - 21/01002/TCA - NOOBJ - 1 April 2021 - (T1) ash - fell. (T2) ash - reduce by up to 3m and remove dead limb.

DC - 21/02560/TCA - NOOBJ - 2 July 2021 - 2 x Ash (Ash Dieback)- fell.

DC - 21/03882/TCA - NOOBJ - 14 September 2021 - T1, Goat Willow - Remove. T2, Ash - Remove.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

13 letters of objection, one comment and 76 letters of support have been received:

Objections raised:

Erode and harm the rural character of the area.

Harm caused to AONB

Design is inappropriate

The building is too large and will be overly visible

Over development of the site

The development will harm trees and wildlife including bats on the site

Light pollution and noise on this rural site

Loss of trees and wildlife

The old inn is a historic ruin from the war and should be protected

The access is poor

The development will harm the historic character of the area.

The Widcombe Association have objected

The proposal sets a dangerous precedent

The proposed house is incongruous

The development is contrary to Development Plan Policies NE1, NE2a, NE5, B4 and HE1.

Comment

The proposal will impact on the interests of the River Trust.

Mooring rights will be required for deliveries from the canal.

Support reasons

Improvements to landscape, ecology and biodiversity.

Low impact.

Provides BNG

Using renewable energy sources.

Sustainable development should be encouraged, building materials hempcrete and lime used.

Development should be more prominent.

Responding to climate emergency.

Ongoing land and woodland management, the site has been cleared and maintained by owners.

Community benefit

Promoting sustainable transport.

Non-car development.

Affordable house for local low-income family.

Local connection- school and work.

Complies with BANES policies particularly those in respect of sustainable development reaching net zero targets.

Well-designed building.

The development will contribute to making a safer environment for walkers cyclists etc
The proposal retains the ruins on the site.
Allows a family who are part of and contribute to the community to stay in the area.

CANAL AND RIVER TRUST

The main issue relevant to the Trust as statutory consultee on this application is the structural integrity of the Kennet Avon Canal embankment.

Based on the information available our substantive response is to advise that suitably worded conditions are necessary.

In response to initial concerns the applicant provided a slope stability assessment.

Structural stability

The application site forms part of the Kennet Avon Canal Principal embankment which slopes down from the canal. The embankment has a high consequence of failure rating, not least because of the impact of any potential slippage on the railway line below, as well as possible impact on the canal and towpath above. The proposed house is located some 5m below the level of the canal. The proposed works could destabilise the slope and potentially cause slippage.

A slope stability assessment has now been submitted and discussed with the applicant's geotechnical engineer who provided various clarifications. The slope stability assessment does not appear to have been any updated to reflect those additional discussions, however the conclusions of the report were sound in recommending the house be built on piled foundations. The proposed works construction works should be discussed further with the Canal & River Trust through our Third-Party Works process.

It is requested that, due to the importance of ongoing discussion and monitoring to protect the Kennet Avon canal and its users, an informative is placed on any positive planning decision to bring this to the attention of the applicant.

Construction Management Plan

The Construction Management Plan as originally submitted will now need to be updated so that it adequately reflects the recommendations of the slope stability report and drainage proposals and will need to outline sufficiently how the works will be carried out. This is required as a pre-commencement condition.

Both the CMP and drainage details are required as pre-commencement conditions to ensure that the slope stability is protected throughout all elements of the construction phase.

Drainage

The Trust is concerned that the geology of the site may not make it suitable for a soakaway. The counterfort drainage is agreed in principle as proper drainage will increase slope stability, but we require further detail to be provided and agreed in writing. It is noted that the applicant has suggested that drainage details are required by way of a suitably worded condition, and this is acceptable to the Trust.

Other / landowner Matters

The applicant states the intention to access the site during the course of building works by using the towpath and bringing material to site by canal. The use of the towpath (which is

also a public footpath and Sustrans Route) and canal will have implications for the safety of other users, and this will require ongoing consideration and agreement from the Trust through our Third-Party Works process.

Whilst the Canal River Trust are generally supportive of the use of the canal to bring materials to the site the safety implications for boaters, and for towpath users at loading and unloading points need to be considered and works may only be permitted at certain times of the year. If the development is considered by the Council and/or Highways Authority to be reliant on use of the towpath and/or canal for the delivery of materials because of a perceived lack of road access, the council should consider if the loading and unloading areas need to be included in the red line of the application boundary.

The application masterplan shows a set of existing steps to the site from the canal, crossing land owned by the Canal River Trust and this land is included within the redline site boundary. Any permanent new or altered access route will require agreement from the Canal River Trust. Any temporary access and use of Trust land during the construction phase should be agreed through the Third-party Works process.

A Pre-commencement condition in respect of the need for a Construction Management Plan, risk assessment, drainage and vibration management will be necessary. An informative advising the applicant to comply with the Trusts Code of Practice is needed.

ARCHAEOLOGY

Although the HER records that there were 19th century buildings on this site they were destroyed by a WWII bomb and although remnants such as cellars etc may still survive, these would represent archaeology of very low significance.

Therefore, it is unlikely that it will impact on significant archaeological remains and so we have no objections to the proposal.

PROW

The PROW Team has no objection to the proposal. If planning consent is granted, the PROW Team considers conditions in respect of the following, necessary:

1. Figure 3 of the Construction Management Plan (dated 27th July 2022) shows the "moor and deliver" concept of loading a barge with construction materials at Watership Farm and then unloading at a mooring near the Folly Bridge. The materials will be carried across the towpath (BCTOW/4) to the construction site. The PROW Team has concerns about materials being carried across the towpath. No materials must be stacked on the towpath and users of the towpath must get priority over the passage of construction materials.
2. Beckford Road and Watership Farm have been identified as drop-off points for deliveries which will then be brought to site via e-cargo bikes. Again, cyclists must give way to pedestrians.
3. The landowner is responsible for cutting back any vegetation which overhangs from the property onto the adjoining public footpaths.
4. At Point 3.12.1 of the Planning Design and Access Statement, it states that "Roof water will be collected and utilised for irrigation of the garden areas with excess taken to a soakaway." In the past, surface water has run off the site and onto public footpath BA1/1, causing problems. The soakaway must be robust enough and sited in a suitable place to prevent this occurring in the future

CONTAMINATION

The application has included the following report:

Phase I Environmental Assessment Site of the Old Folly Inn, Bath. 13th May 2020.
Joanna McKay BSc MIEMA

The Phase 1 Environmental Assessment has made the following conclusions and recommendations:

"....Although the potential risks to future residential site users and the environment from contamination is considered low, a potential for localised contamination to be buried in rubble within the footprint of the former buildings (e.g. ashy made ground or asbestos containing materials) cannot be ruled out. The future residential property is intended to be constructed in the south-east of the site (i.e. outside of the footprint of the former buildings); however, in the event future excavations of the former buildings is required, the use of appropriate risk assessment and working procedures (where necessary) will mitigate risks to workers.

Fragments of asbestos cement (if encountered) should be segregated and appropriately stored prior to disposal to a suitably licensed facility.

Should unexpected contamination be encountered during future excavations (e.g. significant quantities of suspected asbestos containing materials, unusual discoloration, staining or odours) the work should cease, and the Local Authority Contaminated Land Department consulted to determine the most appropriate course of action."

Taking account of the findings and recommendations of the environmental assessment report and the small-scale nature of the development (i.e. 1 No. residential dwelling), a condition in respect of the following is necessary: Reporting of Unexpected Contamination

DRAINAGE AND FLOODING

No objection. Proposal will have minimal impact on drainage and flood risk.

BATH PRESERVATION TRUST

The proposed site of works is a parcel of woodland situated between the Kennet and Avon Canal to the south and the GWR line to the north. The site is located within the boundaries of the Bath conservation area and World Heritage Site. It is excluded from the Bath & Bristol Green Belt, the boundary of which runs along the eastern edge of the site.

It is further designated as a Site of Nature Conservation Interest (SNCI) and part of the Ecological Network. In wider landscape views, particularly from areas such as Little Solsbury Hill, the site forms part of the dense tree belt that follows the line of the railway and up towards Bathampton Down, contributing to the perceived transition between the City edge and open countryside.

From the 19th century, the site was occupied by the Folly Inn. The site is indicated to have been occupied by a public house and a malthouse by at least the late 19th century. In 1861, the setting of the public house was opened as the Cremorne Pleasure Gardens; whilst it is suggested that these fell out of use in the 1880s, the site remains labelled as 'Cremorne Gardens' up until the 1921-1945 OS. The buildings were subsequently destroyed as a result of Blitz bombing, but as indicated in this application the ruined remains of a series of buildings still survive along the eastern boundary of the site. These

retain some attributed historic and evidential significance as a remainder of the original, historic use of this area as well as evidence of industry alongside the canal.

BPT supports the proposals for the development of an innovative low carbon dwelling within Bath. In light of the Climate Emergency and the goal of carbon neutrality across the district by 2030, we welcome opportunities for the implementation and demonstration of different sustainable building materials and technologies within Bath. We consider that this development could constitute an exemplary case study for models of increasingly energy efficient development and living.

BPT would be very interested in working with the applicant to assess the energy benefits and performance of the development, and to create a 'best practice' case study of sustainable new build within the district.

We are further supportive of the associated ecological benefits claimed by the scheme in the ongoing management and enhancement of this woodland parcel. The integration of planting and habitat creation, and the resulting biodiversity gain as set out in the ecology report, as part of the wider scheme (if correctly assessed) is felt to appropriately offset potential ecological and aesthetic concerns with development on this particular site.

There is evidence that the land has historically been developed and in use as part of the Folly Inn and malthouse from the 19th century up until the 1940s. Whilst this use would now be considered "redundant", we conclude that this site would fulfil the designation of previously developed land.

As part of the submitted LVIA, the site clearly forms part of Bath's wooded landscape setting and is visible from key viewpoints over and through the City. However, part of its landscape value is derived from its part within a tree belt with a relatively dense and enclosed canopy. The provided Landscape Planting Plan indicates that the extent of boundary tree/shrub planting would be sustained as part of the development, consequently sustaining the site's contribution to the distinctive appearance and character of its landscape setting. The proposed dwelling would be recessively set down into the steep south-north slope down from the canal footpath towards the river, allowing it to more effectively blend in with surrounding tree cover. We therefore conclude that development would have a very limited impact on landscape views and the setting of the World Heritage Site, although we take the opportunity at this stage to emphasise the importance of integrating the long-term management of the woodland with the occupation and future residence of the proposed dwelling to ensure the continued mitigation of harm to landscape views.

We consider that in this instance; the potential less than substantial harm of development is outweighed by the cumulative weight of the identified public benefits as follows:

Ongoing maintenance and restoration work to the land to reverse harmful measures such as fly-tipping.

Heritage gains through the clearance of, and repairs to, the surviving ruins of the original Folly Inn and malthouse (there could also be further opportunities to showcase and/or interpret the historic interest of the site as experienced from the surrounding public footpaths).

Ecological gains through the ongoing management and enhancement of the site, including compensatory tree planting and provision of wildlife habitat.

Construction of an off-grid, low-carbon home with an innovative approach to low embodied carbon, which would contribute towards B&NES Council's net-zero objectives.

The opportunity to showcase an exceptional example of sustainable architecture in Bath that could inform future approaches to new builds elsewhere in and around the city.

We maintain that the cumulative weight of public benefit would therefore outweigh the less than substantial harm to the character and setting of the Bath conservation area and special qualities of the World Heritage Site. We recognise that this form of development may not be suited to other sensitive areas within Bath's landscape setting, particularly where these form part of the Green Belt and Cotswolds AONB. Consideration as to whether development is appropriate therefore remains to be determined on a case-by-case basis, informed by an assessment of the special characteristics of a site and the planning balance of harm against evidenced public benefit.

We strongly recommend that should planning permission be granted, an accompanying condition is attached to remove permitted development rights for the addition of any extensions or outbuildings, as well as any outdoor lighting. This would therefore allow for any future development on the site to be appropriately managed via the planning process.

NATIONAL HIGHWAYS

National Highways Planning Response- no objection.

HIGHWAYS

The highway authority made initial comments on 9th September 2022, and a query relating to the proposed construction access strategy was raised. The applicant has now provided further details which clarify the location of the intended loading area at Watership Farm.

As noted in the earlier response, the operation of the A36 trunk road is the responsibility of National Highways and if the scheme had a direct impact on this route, there may be a requirement to consult that highway authority. The Watership Farm site access is direct onto the A36 trunk road, and therefore it would be for National Highways to comment on this matter.

Given that all other matters were considered within the earlier highway consultation response, the highway authority now raises no objection to the planning application, although the applicant should be made aware of the advisory below.

Residents' Parking Permits

The applicant shall note that future residents will not be entitled to residents' parking permits in accordance with Single Executive Member Decision E2911, dated 14th November 2016. This is due to the number of existing permits exceeding the supply of parking spaces within the Controlled Parking Zone. This, however, is considered to be at the developer's risk given the sustainable location of this development proposal.

TREES

In summary the Tree Officer has stated that the existing trees forming woodland on site are of wildlife, landscape and amenity value and considered of sufficient value to support

the making of Bath and North East Somerset Council (Site of Former Folly Inn Brewery and Pleasure Ground, Bathwick, Bath No. 328) Tree Preservation Order 2022.

It is not considered that the proposed development could be achieved without having a significant adverse impact on existing trees which contribute towards continuous canopy cover within the site and provide links to green infrastructure beyond the site.

The proposal must be considered in terms of the lifetime of the development and not the occupancy time of the applicant.

There is reasonable risk of unacceptable harm to trees forming the woodland which has wildlife, landscape and amenity value therefore the proposal is not policy compliant.

ENVIRONMENTAL PROTECTION

Comments in respect of the submitted noise and vibration assessment, dated June 2020. The assessment has appropriately considered the impacts of noise and vibration on the proposed development and concludes that any relevant mitigation will be achieved through standard construction and as such further formal controls in this respect are unnecessary. Therefore, no objection to the application is raised.

LANDSCAPE

A further revised LVIA has been received, Rev D dated September 2023.

The dates of photographs under summer and winter conditions have now been clarified.

The angle of view of several of the photographs is inappropriate. In a number of instances, the camera has been angled obliquely rather than directly towards the proposed development where the change in view would be greatest. It is useful for context photographs to be provided in addition to assessment photographs but in this instance the distinction between the two appears to have been blurred.

The LVIA does not assess the effect of the proposals on landscape-related policy so, for example, the effect on the integrity and value of the strategic green corridor identified in Policy NE1 is not assessed, and the effects on Policies NE2, D2 and NE2A are not directly assessed.

The Councils Landscape advisor does not disagree with the LVIA conclusions that there would be negligible effect on the wider landscape context and on long distance views but is of the view that the LVIA underestimates the adverse landscape and visual effects on the site and the local landscape context.

CONSERVATION

The proposal is for the erection of a dwelling on a parcel of land which was previously used as a Pub and Pleasure Gardens. The site is in the Conservation Area of Bath and both World Heritage Sites. To the south of the site is the Kennet and Avon Canal. The site is a former Pleasure Garden, and this is noted as such in the HER. For the most recent WHS inscription, the development of the surrounding areas for cultural facilities and leisure pursuits is a key component of the designation. The former pleasure gardens would be an example of this use.

The main considerations relate to the impact of development upon the designated and undesignated heritage assets listed above.

There is little remaining of the Pleasure Gardens, and it is noted that part of the application relates to how the development would preserve and enhance the remains. It is not clear from the application how these improvements would be secured. The development would not represent enabling development. There are no proposed agreements which would secure works to preserve or enhance remains and as such, in the absence of this I can place little weight on this benefit.

It is also not clear from the proposal why a new dwelling is required in order to protect the remaining assets. The applicants have taken steps to protect the remains; however, if the site was left undeveloped as a residential use, this would not prevent the ongoing protection of any remains. The NPPF is clear that the deteriorated state of the heritage asset should not be taken into account in a decision.

The supporting statement provided by AC Archaeology refers to the level of harm being outweighed by public benefits.

The NPPF is also very clear that 'Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification irrelevant of the level of harm proposed.

In terms of harm to the designated heritage assets (WHS and CA) one of the key concerns is the design and scale of the development and the impact of this isolated development on the character of the area. Whilst there are remnants of structures on the site, it is not considered that this is, in itself, a justification for the separate residential development now proposed.

There are concerns with the design of the dwelling and how it relates to the character of the designated areas.

It is noted that the revised LVIA has been assessed by the Landscape Officer who has concluded that the development would represent harm to the landscape setting of Bath. This green setting is a key aspect of both designations and the development in the setting is managed to avoid harm.

The construction of dwelling of this design has little relationship with its former use of a pleasure garden and rather than preserve this use would change the primary use to residential. There would be no public access to the remains. The associated domestic paraphernalia which cannot be controlled through planning conditions would change the character of the site.

The works are considered to cause less than substantial harm to both designations and therefore the proposal cannot be supported. This harm can be weighed against public benefits rather than personal benefits; however, it is not considered that public benefits have been demonstrated within the application.

There is a duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the preservation or enhancement of the character of the surrounding conservation area. The works for a new dwelling fail to

preserve or enhancement the conservation area and therefore the proposals are not supported.

ECOLOGY

There is an ecological objection in principle due to the scheme giving rise to unavoidable and permanent harm to and loss of habitat from within the SNCI and to a Habitat of Principle Importance, contrary to Policy NE3 and NPPF.

There is also an ecological objection in place due to concerns about the ability of the scheme to be fit for purpose for residential use in this woodland and canal-side location, whilst avoiding habitat loss and harm to ecology, and retaining and maintaining in perpetuity, the required conditions of darkness as detailed in the Habitats Regulations Assessment.

This would need to be demonstrated to be achievable and sufficiently secured (and enforceable) in perpetuity, to meet the requirements of the Habitats Regulations.

Policy NE3 remains applicable due to the SNCI status of the proposed development site and the habitats present within the site, which is woodland and a Habitat of Principle Importance as defined by the NERC Act.

The agent state that the scheme will result in the site "being enhanced" (ecologically), in line with the proposed mitigation as the BNG calculations show (despite BNG not being a requirement of self-build). The Burton Reid report submitted is referenced by the agent, as summarising the mechanisms for delivering mitigation. However, this part of the ecological report only commits to production of a Landscape and Ecological Management Plan (LEMP) - it does not provide details demonstrating that the proposed ecological improvements to the woodland habitat would be achievable and deliverable and that these would be sufficient to compensate for the impacts that will be unavoidable.

The "Additional Ecology Information" document (Burton Reid, May 2023) includes the following statements: It is proposed that the woodland habitat will be excluded from the new dwelling curtilage and protected and managed sensitively as a nature conservation area" "The woodland and Folly Inn area will be protected and enhanced under a nature conservation management plan as part of the provision of a wider Landscape and Ecology Management Plan secured by planning condition/obligation." and "The Defra metric has been re-calculated using Defra Metric 4.0 returning an uplift from 20% to 22% Biodiversity Net Gain based on the proposed avoidance, mitigation, compensation and enhancement measures described."

However, the submitted documents relating to Biodiversity Net Gain (BNG) (BNG Metric; BNG assessment contained within the Ecological report) and plans of existing and proposed habitats, do not demonstrate either that the scheme can avoid a net loss of biodiversity, or deliver a net gain.

The proposed habitat plan and metric / calculation for proposed habitats has not been accepted. The proposed habitats (on which the submitted BNG calculation currently relies) remain unacceptable for a number of reasons: - If the delivery of 10% net gain for biodiversity, and use of the BNG metric, is not a requirement in this case (i.e. if the scheme is exempt due to it qualifying as a self-build scheme) the use of the BNG metric

provides a useful tool via an accepted methodology, to demonstrate the potential ability of the scheme to avoid net loss of BNG and deliver net gain for biodiversity, and the potential ability of the scheme to comply with Policy NE3 - and in this case the use of the BNG metric is being relied upon to try to do so.

It is therefore important that the BNG assessment and BNG metric are completed correctly - to provide confidence in a scheme's ability to achieve net gain for biodiversity the BNG metric and assessment must be carried out in accordance with the national guidance and standards. The submitted BNG calculation (calculated "net gain") and proposed habitats are however not in accordance with the guidance:

- The proposed habitats within the residential curtilage cannot be accepted. All proposed habitats within the residential curtilage (red line boundary for this scheme) can only be proposed as "vegetated garden".

- This is a requirement of the BNG calculation, due to the need to ensure habitats and their retention and long-term maintenance can be secured for a minimum 30 year period and that this is not possible for land within the residential curtilage of a private dwelling. This would have a substantial effect on the calculation and has not yet been correctly factored in.

- There is no evidence to demonstrate the conditions for proposed habitats in the land beyond the red line boundary (within the blue line boundary) are realistic and achievable. A high level of confidence is necessary in the ability of the scheme to deliver the proposed habitats and their condition targets (moving from "moderate" to "good" for woodland habitat, and from "poor" to "good" for the pond) and this would need to be evidenced. A high degree of caution is required when considering ambitious proposed targets for habitat conditions in the absence of evidence of how they can be achieved. National BNG guidance states that limiting factors should also be factored into an assessment of target habitat condition including "habitat size and fragmentation, environmental limits to condition and distinctiveness, and any future use of the area which may degrade habitat type and condition" and highlights that high distinctiveness habitats (which applies to the woodland habitat at the site) can have very specific environmental requirements, which also need to be carefully considered. With regard to the proposed pond target condition moving from "poor" to "good" this proposed target appears unachievable and cannot be accepted without this being fully evidenced as a realistic and achievable target.

PREVIOUS ECOLOGY COMMENTS MADE REGARDING THE SNCI that are still relevant.

The redline boundary of the scheme has been reduced, and fencing this area from the rest of the site is supported. However, two concerns remain; the redline still falls within the SNCI and supports native broadleaved woodland and scrub habitats. Therefore, the scheme will still result in harm to the SNCI, contrary to Policy NE3. An in principle ecological objection remains on these grounds.

As previously stated, NE3 allows a derogation 'where material considerations are sufficient to outweigh the local biological, geological /geomorphological and community/amenity value of the site'. The importance of the development and its need for that location will need to be considered in any decision made and must be sufficient to override the value of the habitat. The woodland is likely to be of disproportionate importance due to its association with other biodiversity features including the Kennet and

Avon Canal SNCI and urban edge location. The site also forms part of an ecological network of importance for green infrastructure and biodiversity, as protected under Local Plan policies NE5, CP6 and CP7.

The second concern, as also raised by the Arboricultural Officer, is in relation to intensification of use of the site. This is unlikely to be removed entirely by hazel boundary fencing as indicated by the proposed additional planting and lack of tree cover and grassland within woodland areas shown on the Landscape Planting Plan. There is a significant amount of ash on site, which may require removal on health and safety grounds in any areas where there is regular human access. Access and safety concerns would be significantly increased by development within the site. Therefore, despite the commitment to an ecologically sensitive LEMP and adapted planting proposals (including species now more suitable to the locality), long-term harm to the woodland SNCI appears likely as a result of the proposals. The wildflower grassland in vicinity to the dwelling remains very unlikely to be managed with high wildlife value if also used for amenity. A detailed Management Plan and/or evidence of how habitats will be protected and futureproofed against any changes in ownership has not been provided.

As stated above in respect of Biodiversity Net Gain it is unclear how the habitat enhancements to surrounding woodland and pond will be delivered. Condition sheets and an indicative habitat restoration/management schedule for created habitats are requested to demonstrate that enhancement to good condition habitats is achievable within a 30-year period.

Concerns are raised that domestic use of the site will result in additional tree felling, habitat clearance and more intensive management and contrived/artificial planting to benefit residents rather than biodiversity. Felling of ash against Forestry Commission guidance is an example of this as expressed by the Tree Officer. Although some felling close to the boundaries may be essential for safety of adjacent footpath users, many of the ash trees would not require felling for safety reasons unless the site is used for domestic purposes.

Although the aims of the project are supported, the reality of residents on site either now or at any point in the future is unlikely to be conducive to providing undisturbed semi-natural habitats for wildlife. For example, use by domestic pets (particularly dogs) may deter use by otter.

Establishment of a native woodland ground flora mix of additional benefit to wildlife will depend on management. It is stated in several places that management will benefit biodiversity, but no detailed management proposals are provided.

PREVIOUS COMMENTS FOLLOWING THE SUBMISSION OF FURTHER INFORMATION

Further to ecology comments dated 6th Sept 2023, issues have been addressed as follows:

Biodiversity Net Gain assessment

- The baseline assessment and plan of baseline habitats is accepted.

- Proposed habitats are not yet accepted but final details for off-site habitat provision (including, if necessary, purchase of biodiversity units) can if necessary be secured by condition.
- Revisions to proposed habitats onsite or adjacent to the site would still be required, for example,
 - all land within the residential curtilage (which is assumed to be the same as the red line boundary) can only be proposed as "vegetated garden" within the metric (even if it is to be retained as woodland habitat in practice and that were secured via condition). The metric would need to be corrected to account for that.
- Final details of off-site habitat provision at the site (i.e. outside the red line boundary but within the blue line boundary) would also require a S106 agreement and if this were to be used, further revisions to enable agreement to details of what can realistically be delivered at (adjacent to) the site would be required prior to a consent.

Lighting -an updated lighting report was submitted "Lighting Impact Assessment" (The Lighting Bee, March 2023).

The report demonstrates that the lighting design for the proposed residence is capable of avoiding ecologically harmful light spill levels and includes details of design and mitigation measures required to achieve this. Measures include omission of all external lighting; use of recessed light fittings only within the building; and low-transmissivity glazing (at 40% transmissivity). With all measures applied, light spill levels onto surrounding woodland and the adjacent canal are predicted at below 0.5 lux. The report is accepted.

A shadow Habitats Regulations Assessment has been submitted, and Natural England have been consulted, and confirmed their agreement with the conclusions of the Habitats Regulations Assessment providing that "all mitigation measures are appropriately secured in any planning permission given"

This raises the question of how realistic and achievable this would be. In light of this requirement, the Council's Ecologist has advised that in the event of a recommended or potential approval of the scheme, the scheme should not (and cannot lawfully) be approved and the shadow HRA formally adopted by the decision-maker, until it can be demonstrated with confidence that "all mitigation measures are appropriately secured" (as stated in the comments from NE). The Habitats Regulations Assessment should therefore be extended to include assessment also of the means of securing the necessary measures, and ability for all the necessary mitigation measures to be delivered and retained in perpetuity within the scheme. This would in effect require an extension to the HRA which must then also be favourably concluded in consultation with Natural England, prior to any consent being issued.

In carrying out this further assessment, consideration will be required to the nature of the site, which is wooded and immediately adjacent to the canal which is an unfenced water body at this point; and that the required ecological mitigation measures include maintaining dark conditions at the site, and the absence of external lighting to achieve this. Living conditions within the house with low transmissivity glazing also require consideration.

The scheme presents conflicts between what might be considered reasonable and necessary to achieve minimum standards of living, site use, safety and safe access to and around the site for a site of this nature with a residential use, and for a residential dwelling of this nature and scale, alongside the ecological requirements and proposed mitigation

measures as set out in the HRA and ecological and lighting reports. Details of how these conflicts would be resolved have not yet been provided and would need to be demonstrated to inform the HRA, along with full details and wordings of proposed mechanisms (such as conditions, legal agreement, covenant) for securing and enforcing adherence to all measures, in perpetuity. Note: It is understood that covenants cannot be relied upon as their enforcement is the responsibility of the developer and the LPA cannot enforce them.

Permanent resolution of these conflicts may not be possible, and using a precautionary approach, this should be assumed to be the case unless it can be evidenced to the contrary - sufficiently to stand up to scrutiny and further consultation with NE (for the HRA). Therefore, even with use of conditions, legal agreements and covenants, it is not currently clear that the planning process is capable of securing all the necessary measures at the level required and in such a way to provide full confidence that they can realistically all be delivered, remain in place, and remain enforceable in perpetuity. The scheme should not be considered for consent until this issue has been resolved to the satisfaction also of NE.

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:

- Bath & North East Somerset Core Strategy (July 2014)
- Bath & North East Somerset Placemaking Plan (July 2017)
- West of England Joint Waste Core Strategy (2011)
- Bath & North East Somerset saved Local Plan policies (2007) not replaced by the Core Strategy or the Placemaking Plan
- Made Neighbourhood Plans

CORE STRATEGY

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

DW1: District-wide Spatial Strategy

CP2: Sustainable Construction

CP6: Environmental Quality

CP10: Housing Mix

SD1: Presumption in Favour of Sustainable Development

PLACEMAKING PLAN

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

D1: General Urban Design Principles

D2: Local Character and Distinctiveness

D3: Urban Fabric
D4: Streets and Spaces
D.6: Amenity
D7: Infill and Backland Development
HE1: Historic Environment
SU1: Sustainable Drainage
SCR5: Water Efficiency

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:

D5: Building Design
ST2A: Active Travel Routes
ST7: Transport requirements for managing development
NE5: Ecological networks
NE6: Trees and woodlands

NATIONAL POLICY:

The updated National Planning Policy Framework (NPPF) was published in December 2024 and is a material consideration. Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

CONSERVATION AREAS:

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 the development

As submitted the description was considered misleading. Following discussions between the agent and the Case Officer, an amended description has been agreed:

'Erection of a car free self-build (affordable) dwelling.'

The applicants wanted the term 'car free' included as due to the restricted access to the site a car cannot be accommodated on the site. However, it would not be reasonable and or enforceable to restrict any future occupier of the dwelling owning a car and consequently parking it elsewhere in the locality.

The applicants have confirmed that this proposal will be a self build development. The impact that this has on BNG provision is addressed in the Ecology section below.

The applicants wished for the term 'affordable' to be included within the description. It is not proposed that this property would be controlled and or managed by a recognised housing provider in perpetuity. Therefore, this proposal is considered on the basis of it being a detached house which should the applicants wish to move on would/could be sold at market value.

Paragraph 11 of the NPPF sets out that plans and decision should apply a presumption in favour of sustainable development. Subparagraph d) sets out that, where policies which are most important for determining the application are out-of-date, which includes policies involving the provision of housing where an LPA cannot demonstrate a 5-year housing land supply, permission should be granted unless i) the application of policies in the Framework that protect areas or assets of particular importance (listed in footnote 7) provides a strong reason for refusing the development proposed or ii) the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

The proposal will provide some benefits through the provision of additional housing in a sustainable location where the LPA can only demonstrate 2.5 years of housing land supply, as well as some modest economic benefits during the construction phase.

However, the application is found to conflict with numerous development policies as outlined in this report and these adverse impacts are found to significantly and demonstrably outweigh the benefits of the proposal and therefore, whilst having consideration of paragraph 11(d)ii) of the NPPF it is recommended that planning permission should not be granted. It is also considered that policies in the NPPF provide strong reasons for refusal in relation to habitats sites and designated heritage assets contrary to paragraph 11d)i)

The site is within a very sensitive area. The application site is within the Bath Urban Area, Conservation Area, World Heritage Site and a Site of Nature Conservation Interest. Although the provision of residential is acceptable in principle within the urban extent of Bath, the site is an area of woodland adjacent to the canal and whilst there are some ruins on the site the land is predominantly undeveloped. Due to its location, development on this site is heavily constrained and development plan policies in respect of the Conservation Area, World Heritage Site and the impact of development on the SNCIs are pertinent and in respect of the SNCI would normally result in an objection in principle, as development would not be considered to be in accordance with the NPPF and Bath and North East Somerset Placemaking Plan Policies.

Character and Appearance

As stated, it is evident that there were buildings on this site from historic maps. However, the 1947-1965 OS National Grid map notes these buildings as 'Ruin' and 'Ruins'. The remains of buildings as existing on the site now are clearly ruins of historic buildings which retain some attributed historic and evidential significance as a remainder of the original, historic use of this area as well as evidence of industry alongside the canal.

The Green Belt and World Heritage Site Boundaries run along the eastern edge of the site so that the site lies just outside the Green Belt but lies within the Bath World Heritage site, the Bath Conservation Area, and the locally designated landscape setting of the settlement of Bath. The site also forms part of the 'Fields by the Canal and Railway (Hampton Row)' Site of Nature Conservation Interest.

The Site is bounded to the north, east and south by Public Rights of Way (PROW BC65/3, BA1/1 and BCTOW/04 respectively).

The site at present is overgrown with mature vegetation and contributes to the green setting which is the character of the land adjacent to the north side of the canal. Adjacent to the eastern boundary of the site there is a footpath which goes under the railway line across the river and eventually accesses Grovenor Bridge to the North. The site slopes down from the canal to the north.

The detached dwelling is located adjacent to the southern boundary near to the canal. It has a footprint of 97 sq. m, the main part of the house being 11m x 7.5m. The property is substantial and has 4 bedrooms a bathroom, lounge diner/kitchen, a snug, pantry and boot room.

Due to the topography, half the footprint is cut into the site whilst the other half projects out over the site. Given that the rear of the property will be above ground level a 2m deep veranda (13m long) wraps around the northern side of the building and has steps leading down to the garden level.

The roof of the property is split into two elements both with different pitches. The roof form running parallel to the canal has a steep pitch and as it faces south is shown to be covered with solar panels. The property is set into the site by 2.5m and the ridgeline will sit 5m above the level of the footpath. From the northern side the highest ridge line will be 8m above the ground level of the garden.

The DAS states that the design of the property has been inspired by Walter Segal urban fringe homes on difficult sites and designed to reduce the weight of construction elements to enable construction by hand and with limited mechanisation and disruption to the site or the amenity of other local residents in the surrounding streets. The property has been designed as a self-build to meet the needs of the applicant's family. The dwelling has been located in the southeastern corner of the site to minimise disturbance to the trees and wilder areas and to make use of the ruins of the former brewery as a garden area.

It has two sheds for storing tools and bikes within it and the family will tend areas of the site as a garden. The two-story new building will be rendered with off-white lime plaster with natural wood timber framed double glazed windows and doors. Walls to the pantry will be Bath stone to facilitate cooling. The roof will be natural slate with solar Photo

Voltaic panels to the south facing pitch. The north and south facing roof pitches will be separated by a row of clerestory windows to maximise natural light to the upper story. A veranda facing north out over the garden and woodland areas will have an area of roof held on a timber frame. Balustrading to the veranda will be timber.

The house is designed to maximise daylight in this sheltered and enclosed site. The provision of the large veranda will facilitate the applicants indoor/outdoor lifestyle connecting them with the 'wild garden' below.

It is noted that the scheme has been designed to be as sustainable as possible. However, whilst the principle of residential development in this location within the built-up extent of Bath may be acceptable, other development plan policies must be considered. The site is very green with mature vegetation as is the green corridor of land on the north side of the canal running from The George at Bathampton to the footbridge providing access to Hampton Row which is the eastern edge of Bath City. The built environment within the Grovenor Bridge Road area to the north is mixed in character but this area is at a significant distance from the site, being across the river Avon and Bathampton meadows. Development to the south (Holburne Park) is at a higher level and reflects the ashlar terraces as seen on the slopes around Bath. There is no development in proximity of this site to which this development would or could specifically relate. The specifics of the location of this proposed dwelling are that it is a highly visible site adjacent to the canal and one which forms part of the established green corridor adjacent to the canal. The proposed dwelling would be a highly visually, dominant feature within the mature green swath of land to the north of the canal. Whilst some of the dwelling is cut into the slope a significant element of the dwelling will be visible from the canal. The mass, scale and size of the building is significant, and the double roof elements and use of lime render will result in the building being highly visible and a dominant feature within this otherwise verdant area.

In this respect the proposal by reason of its design, siting, scale, massing, layout and materials is not considered acceptable as it does not contribute and respond to the immediate local context and/or maintain the character and appearance of the surrounding area. For this reason, the proposal is not considered to 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.

Impact on Conservation Area and World Heritage Site

The site is in the Conservation Area of Bath and World Heritage Site (WHS). The site is a former Pleasure Garden, and this is noted as such in the HER. For the most recent WHS inscription, the development of the surrounding areas for cultural facilities and leisure pursuits is a key component of the designation. The former pleasure gardens would be an example of this use.

The main considerations relate to the impact of the development upon the designated and undesignated heritage assets listed above.

There is little remaining of the Pleasure Gardens, and it is noted that part of the application relates to how the development would preserve and enhance the remains. Whilst it is stated that the Pleasure Gardens will be maintained and kept free from fly

tipping by the occupiers it is not clear from the application how these improvements would be secured. The development proposed i.e. a detached house would not represent enabling development. There are no proposed agreements which would secure works to preserve or enhance the remains and as such, in the absence of this, little weight can be attributed to this stated benefit.

It is also not clear from the proposal why a new dwelling is required in order to protect the remaining assets. The applicants have taken steps to protect the remains; however, if the site was left undeveloped as a residential use, this would not prevent the ongoing protection of any remains. The NPPF is clear that the deteriorated state of the heritage asset should not be taken into account in making such a decision.

The supporting statement provided by AC Archaeology refers to the level of harm being outweighed by public benefits.

The NPPF is also very clear that 'Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification irrelevant of the level of harm proposed. In terms of harm to the designated heritage assets (WHS and CA) one of the key concerns is the design and scale of the development and the impact of this isolated development on the character of the area. Whilst there are remnants of structures on the site, it is not considered that this is, in itself, a justification for the separate residential development now proposed.

There are concerns with the design of the dwelling and how it relates to the character of the designated areas.

It is noted that the revised LVIA has been assessed by the Landscape Officer who has concluded that the development would represent harm to the landscape setting of Bath. This green setting is a key aspect of both designations and the development in the setting is managed to avoid harm.

It is also noted that comments have been received supporting the proposed ongoing maintenance, restoration and repair work to the land and ruins to reverse harmful measures such as fly-tipping. However, the construction of a dwelling of this design has little relationship with its former use of a pleasure garden and rather than preserve this use would change the primary use to residential. There would be no public access to the remains. The associated domestic paraphernalia which cannot be controlled through planning conditions would change the character of the site.

The works are considered to cause less than substantial harm to both designations and therefore the proposal cannot be supported. This harm can be weighed against public benefits rather than personal benefits; however, it is not considered that public benefits have been demonstrated within the application.

There is a duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the preservation or enhancement of the character 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 not preserve the character and appearance of this part of the Conservation Area and its setting. The

proposal does not accord with policy CP6 of the Core Strategy, policy HE1 of the Placemaking Plan and part 16 of the NPPF.

The proposed development is within the Bath World Heritage Site; therefore, consideration must be given to the effect the proposal might have on the outstanding universal value of the World Heritage Site. In this instance, due to the size and location, of the proposed development and the resulting loss and interruption of the green it is considered that it will result in harm to the outstanding universal value of the World Heritage Site. The proposal does not accord with policy B4 of the Core Strategy, policy HE1 of the Placemaking Plan, and part 16 of the NPPF.

It should be noted that application number 16/02246/FUL which was for the erection of a single dwelling adjacent to the canal, was refused, for the reason it would cause harm to the Conservation Area, World Heritage Site and nearby listed buildings/structures. The subsequent appeal was dismissed.

There are recognisable similarities between this proposal and the proposal in 2016. The appeal site and this site are both located within the Conservation Area and World Heritage Site. In his decision statement the inspector identified the main issue to be whether the development would preserve or enhance the character or appearance of the Bath Conservation Area and the effect the proposal would have on numerous structures of special architectural and historic interest. This is a material consideration in respect of this application.

The appeal site and the site the subject of this report are similar in that both are sited adjacent to the canal. Due to the similarity of the sites in terms of location and appearance the Inspectors views are seen to be relevant to the proposal now being considered. Both sites previously had buildings on them the appeal site had historically had cottages on it whilst this application site has some ruins still on the site.

The appeal site was a vegetated area of scrub and trees, the site the subject of this application is a well vegetated site with numerous trees, both sites therefore, being undeveloped and vegetated. The appeal site was located relatively close to the canal, lock, bridge and residential properties and was in closer proximity to buildings and structures than this site. The site the subject of this application is located within the strategic green corridor identified in Policy NE1 which runs along the northern side of the canal and is seen to impact on the integrity and value of this area. This green setting is a key aspect of both the Conservation Area and World Heritage Site. In his decision statement the Inspector specifically identified that the appeal site formed part of a swathe of green land running north alongside the Canal, and this swathe of land was seen to contribute to the character and appearance of this part of the Conservation Area, the green area providing visual relief from the built form. The Inspector considered the proposed dwelling would damage the sense of openness that the site contributed to. The proposed dwelling was seen to be sited in a relatively isolation location. The considerations in respect of the site the subject of this report are in this respect the same as those considered by the Inspector in relation to the 2016 appeal.

Of note is the Inspectors comment that 'conditions could not effectively limit the build-up of domestic paraphernalia around it and, as a consequence, further detract from the important contribution the green space makes to the Conservation Area'. The contribution

that the green space makes to the Conservation Area is equally relevant to this application and the concerns raised by the Inspector in relation to the fact that conditions would be ineffective to prevent the future erosion of the space by the introduction of 'domestic paraphernalia' is also relevant to this application.

National Landscapes

The LVIA does not assess the effect of the proposals on landscape-related policy so, the effect on the integrity and value of the strategic green corridor identified in Policy NE1 is not assessed, and the effects on Policies NE2, D2 and NE2A are not directly assessed.

Whilst it is agreed that proposal would have a negligible effect on the wider landscape context and on long distance views as concluded in the submitted LVIA it is considered the proposed development would have a significant adverse impact on the appearance of the site and the local landscape context, which as described above is quite specific in this location given the green corridor which runs parallel to the canal for a significant length.

The proposed development by virtue of its design, scale, massing, position, and use of external materials would adversely affect the natural beauty of the immediate landscape and would not therefore, be in accordance with policy NE2 of the Local Plan Partial Update and part 15 of the NPPF.

Residential Amenity

During the construction period there would be likely to be some inconvenience to tow path users as the canal is proposed to be used for the delivery of materials etc. Such matters could be the subject of conditions and are under the control of the Canal and Rivers Trust.

Concerns have been raised in respect of the impact that a dwelling in this location is likely to have on light pollution of this otherwise dark corridor. In particular light pollution is addressed in the Ecology section below as this is a material consideration.

There are no residential properties adjacent to the site. However, there will be a continual stream of narrow boats/barges etc moored adjacent to the site but given the design, scale, massing and siting of the proposed development the proposal would not be considered to 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.

Canal and River Trust

The main issue relevant to the Trust as statutory consultee on this application is the structural integrity of the Kennet and Avon Canal embankment.

The trust have advised that based on the information available suitably worded conditions are necessary.

Structural stability

The embankment has a high consequence of failure rating, not least because of the impact of any potential slippage on the railway line below, as well as possible impact on

the canal and towpath above. The proposed house is located below the level of the canal and the works could destabilise the slope and potentially cause slippage.

The slope stability assessment submitted is considered to be sound in its conclusions in recommending the house be built on piled foundations. The proposed works construction works would need to be discussed further with the Canal and River Trust through their Third-Party Works process. This would need to be the subject of an informative should permission be granted.

A pre commencement condition would be necessary requiring a Construction Management Plan to be agreed which outlines sufficiently the details of how the works will be carried out to protect the stability of the slope throughout the development phase.

The Trust is concerned that the geology of the site may not make it suitable for a soakaway. The counterfort drainage is agreed in principle as proper drainage will increase slope stability, but further detail will need to be provided and agreed in writing and this can be the subject of a condition.

The applicant states the intention to access the site during the course of building works by using the towpath and bringing material to site by canal. The use of the towpath (which is also a public footpath and Sustrans Route) and canal will have implications for the safety of other users, and this will require ongoing consideration and agreement from the Trust again through their Third-Party Works process.

Whilst the Canal and River Trust are generally supportive of the use of the canal to bring materials to the site the safety implications for boaters, and for towpath users at loading and unloading points need to be considered and works may only be permitted at certain times of the year. If the development is considered by the Council and/or Highways Authority to be reliant on use of the towpath and/or canal for the delivery of materials because of a perceived lack of road access, the council should consider if the loading and unloading areas need to be included in the red line of the application boundary.

The application masterplan shows a set of existing steps to the site from the canal, crossing land owned by the Canal and River Trust and this land is included within the redline site boundary. Any permanent new or altered access route will require agreement from the Canal and River Trust. Any temporary access and use of Trust land during the construction phase should be agreed through the Third-party Works process.

A Pre-commencement condition in respect of vibration management will also be necessary.

In response to the concerns of the Canal and River Trust the applicant's state that there is no intention to store materials on the tow path, although the materials will be moved across the tow path to be stored within the site area. Access for materials from the canal and towpath has been agreed in principle, with full confirmation only available when specific dates can be supplied if the planning application is approved. The applicant is aware that any temporary access and use of the CRT land during the construction phase needs to be agreed with the CRT through their Third-party Works process and permitted times/dates for use of the tow path will also be agreed with the CRT.

Archaeology

As it is unlikely that the proposal will impact on significant archaeological remains no objections in relation to archaeology are raised to the proposal.

Public Rights of Way

The PROW Team has raised no objection to the proposal. However, if planning consent is granted, the PROW Team considers conditions in respect of the following to be necessary:

- a Construction Management Plan is necessary which must address the issue of materials being carried across the towpath (BCTOW/4) to the construction site. No materials must be stacked on the towpath and users of the towpath must get priority over the passage of construction materials. E-cargo bikes delivering goods to site must give way to pedestrians.

- The landowner must be responsible for cutting back any vegetation which overhangs from the property onto the adjoining public footpaths.

- As surface water has run off the site and onto public footpath BA1/1, causing problems the soakaway system must be robust enough and sited in a suitable place to prevent this occurring in the future.

Contamination

The application has included the following report on potential contamination (Phase I Environmental Assessment Site of the Old Folly Inn, Bath. 13th May 2020. Joanna McKay BSc MIEMA). In the light of the conclusions and recommendations reached, the Contaminated Land Officer has no objections subject to a condition requiring the reporting of unexpected Contamination

Drainage and Flooding

The proposal will have minimal impact on drainage and flood risk and therefore no objection has been raised.

Highways

Following an initial concern raised by the Highway Engineer relating to the proposed construction access strategy the applicant confirmed the location of the intended loading area at Watership Farm.

The Watership Farm site access is direct onto the A36 trunk road, and therefore it is for the National Highways to comment on this matter. It should be noted the National Highways in their Planning Response raised no objection to the proposals.

It is considered necessary for the applicant to be advised that future residents will not be entitled to residents' parking permits due to the number of existing permits exceeding the supply of parking spaces within the Controlled Parking Zone should permission be granted. As this development is a car free development this is unlikely to cause an issue.

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.

Trees

The proposal is objected to by the Council's Tree Officer. The development can not be achieved without having a significant adverse impact on existing trees which contribute towards continuous canopy cover within the site and provide links to green infrastructure beyond the site.

The proposal must be considered in terms of the lifetime of the development and not the occupancy time of the applicant.

The applicant refers to previous comments being based on speculation however, the issue of future occupant perceptions to trees following developments is sufficiently significant because of post occupancy enquiries and complaints received by the local authority.

Having regard to paragraph 090 of Planning Practice Guidance for Tree Preservation Orders (TPO) and trees in conservation areas, an application to prune or remove a protected tree which is stated to be causing an adverse impact on the living conditions and use of gardens; causing apprehension, inconvenience and nuisance may be hard to resist in the future.

The woodland which has developed in the site contributes towards the visual amenity of the area and green infrastructure and ecological network beside the Kennet and Avon Canal. The woodland is within the Fields by the Canal and Railway (Hampton Row) Site of Nature Conservation Interest (SNCI). An aerial view indicates continuous canopy cover which extends beyond the boundaries and which forms part of the woodland strategic network identified by the West of England Nature Partnership. It is considered likely that further tree removals are likely such 3 - 9 and 42 - 50 shown on the survey plan due to their locations within the ruins where gardens are proposed and proximity to the proposed dwelling. The aspirations of the current owners to live 'low impact, environmentally considerate lives' is applauded, and it is noted that the intention is to erect fencing to assist in securing the woodland. However, this may not be the same for future occupants of the site who may wish to have more land available to them and space uninfluenced by tree canopy spread, shading and root growth. The retention of the fencing is unlikely to be enforceable beyond the finite period of the landscaping compliance conditions. The gradual and incremental erosion in canopy cover to accommodate other activities including the usual garden paraphernalia such as clothes lines, play equipment and potentially sheds/summer houses/ offices, which appear to have become more prevalent, is seen as a real threat to this site. Future development proposals may be harder to resist in future and incrementally result in less open space and compromised canopy cover in the area. The Tree Officer remains concerned that the proposed new planting would not be possible without pre-emptive felling of the ash. A comparison between the coverage on the tree constraints plan and the landscape planting plan appears to highlight more tree losses.

There is reasonable risk of unacceptable harm to trees forming the woodland which has wildlife, landscape and amenity value therefore the proposal is not policy compliant. Policy NE1 of the Placemaking Plan: Development and Green Infrastructure states:

1 Within the context of Policy CP7 development will be permitted provided:

- a. it can be demonstrated that opportunities have been maximised to design Green Infrastructure (GI) into the proposed development;
- b. it does not adversely affect the integrity and value of strategic GI corridors;
- c. the scheme makes a positive contribution to the GI network through the creation, enhancement and management of new, and existing GI assets; and

2 Proposals for major developments should also be accompanied by:

- a. a plan of the existing green infrastructure assets within and around the development site; and
- b. a GI "proposal" demonstrating how GI has been incorporated into the scheme in order to increase function and improve connectivity of GI assets including links to existing the local and strategic networks.

Policy NE6 of the Placemaking Plan: Trees And Woodland Conservation states: 1 Development will only be permitted where:

- a. it seeks to avoid any adverse impact on trees and woodlands of wildlife, landscape, historic, amenity, productive or cultural value; and
- b. it includes the appropriate retention and new planting of trees and woodlands; and

2 If it is demonstrated that an adverse impact on trees is unavoidable to allow for appropriate development, compensatory provision will be made in accordance with guidance in the Planning Obligations SPD (or successor publication) on replacement tree planting.

3 Development proposals directly or indirectly affecting ancient woodland or ancient trees will not be permitted.

The proposal fails to comply with Policies NE1 b and NE6 a.

Ecology

In summary there is an in-principle objection to the proposal due to the unavoidable permanent loss of habitat and ecological value from within a designated SNCI, contrary to Policy NE3 and the NPPF.

There is also an ecological objection in place due to concerns about the ability of the scheme to be fit for purpose for residential use in this woodland and canal-side location, whilst avoiding habitat loss and harm to ecology, and retaining and maintaining in perpetuity, the required conditions of darkness as detailed in the Habitats Regulations Assessment. This would need to be demonstrated to be achievable and sufficiently secured (and enforceable) in perpetuity, to meet the requirements of the Habitats Regulations which it is not considered can be done.

Policy NE3 remains applicable due to the SNCI status of the proposed development site and the habitats present within the site, which is woodland and a Habitat of Principle Importance as defined by the NERC Act.

The agent state that the scheme will result in the site "being enhanced" (ecologically), in line with the proposed mitigation as the BNG calculations show (despite BNG not being a requirement of self-build). The Burton Reid report submitted is referenced by the agent, as summarising the mechanisms for delivering mitigation. However this part of the ecological report only commits to production of a Landscape and Ecological Management Plan (LEMP) - it does not provide details demonstrating that the proposed ecological improvements to the woodland habitat would be achievable and deliverable and that these would be sufficient to compensate for the impacts that will be unavoidable.

The "Additional Ecology Information" document (Burton Reid, May 2023) includes the following statements:

"It is proposed that the woodland habitat will be excluded from the new dwelling curtilage and protected and managed sensitively as a nature conservation area"

"The woodland and Folly Inn area will be protected and enhanced under a nature conservation management plan as part of the provision of a wider Landscape and Ecology Management Plan secured by planning condition/obligation." and

"The Defra metric has been re-calculated using Defra Metric 4.0 returning an uplift from 20% to 22% Biodiversity Net Gain based on the proposed avoidance, mitigation, compensation and enhancement measures described."

However, the submitted documents relating to Biodiversity Net Gain (BNG) (BNG Metric; BNG assessment contained within the Ecological report) and plans of existing and proposed habitats, do not demonstrate either that the scheme can avoid a net loss of biodiversity, or deliver a net gain.

The proposed habitat plan and metric / calculation for proposed habitats has not been accepted. The proposed habitats (on which the submitted BNG calculation currently relies) remain unacceptable for a number of reasons. If the delivery of 10% net gain for biodiversity, and use of the BNG metric, is not a requirement in this case (i.e. if the scheme is exempt due to it qualifying as a self-build scheme) the use of the BNG metric provides a useful tool via an accepted methodology, to demonstrate the potential ability of the scheme to avoid net loss of BNG and deliver net gain for biodiversity, and the potential ability of the scheme to comply with Policy NE3 - and in this case the use of the BNG metric is being relied upon to try to do so.

It is therefore important that the BNG assessment and BNG metric are completed correctly to provide confidence in a scheme's ability to avoid net loss and to achieve net gain for biodiversity the BNG metric and assessment must be carried out in accordance with the national guidance and standards. The submitted BNG calculation (calculated "net gain") and proposed habitats are, however, not in accordance with the guidance.

Firstly, the proposed habitats within the residential curtilage cannot be accepted. All proposed habitats within the residential curtilage (red line boundary for this scheme) can only be proposed as "vegetated garden". This is a requirement of the BNG calculation, due to the need to ensure habitats and their retention and long term maintenance can be secured for a minimum 30 year period and that this is not possible for land within the residential curtilage of a private dwelling. This would have a substantial effect on the calculation and has not yet been correctly factored in.

Secondly, there is no evidence to demonstrate the conditions for proposed habitats in the land beyond the red line boundary (within the blue line boundary) are realistic and achievable. A high level of confidence is necessary in the ability of the scheme to deliver the proposed habitats and their condition targets (moving from "moderate" to "good" for woodland habitat, and from "poor" to "good" for the pond) and this would need to be evidenced. A high degree of caution is required when considering ambitious proposed targets for habitat conditions in the absence of evidence of how they can be achieved. National BNG guidance states that limiting factors should also be factored into an assessment of target habitat condition including "habitat size and fragmentation, environmental limits to condition and distinctiveness, and any future use of the area which may degrade habitat type and condition" and highlights that high distinctiveness habitats (which applies to the woodland habitat at the site) can have very specific environmental requirements, which also need to be carefully considered. With regard to the proposed pond target condition moving from "poor" to "good" this proposed target appears unachievable and cannot be accepted without this being fully evidenced as a realistic and achievable target.

The submitted BNG calculation is not accurate nor does it meet the national guidance and standards. While the scheme may be exempt from BNG requirements, it must be noted that the the applicant is using the BNG documents as a way of trying to demonstrate ecological benefits of the scheme. This is misleading and no weight should be given to the BNG being proposed / claimed as a benefit of the scheme. If this scheme required BNG to be delivered on-site habitats, the number of units claimed to be delivered by the scheme would not be possible for the LPA to accept.

Site of Nature Conservation Interest

The site is within the Fields by the Canal and Railway (Hampton Row) Site of Nature Conservation Interest (SNCI). The SNCI is designated for a variety of habitats including broadleaved woodland. Notable plant species have been recorded. The woodland survey was completed in July 2020. The site clearly meets the criteria under which the SNCI is designated and as a Habitat of Principal Importance under the NERC Act 2006. As such, an ecological objection in principle is raised.

The redline boundary of the scheme has been reduced, and fencing this area from the rest of the site is supported. However, two concerns remain; the redline still falls within the SNCI which supports native broadleaved woodland and scrub habitats. Therefore, the scheme will still result in harm to the SNCI, contrary to Policy NE3. An in principle ecological objection remains on these grounds.

As previously stated, NE3 allows a derogation 'where material considerations are sufficient to outweigh the local biological, geological /geomorphological and community/amenity value of the site'. The importance of the development and its need for that particular location will need to be considered in any decision made and must be sufficient to override the value of the habitat. The woodland is likely to be of disproportionate importance due to its association with other biodiversity features including the Kennet and Avon Canal SNCI and urban edge location. The site also forms part of an ecological network of importance for green infrastructure and biodiversity, as protected under Local Plan policies NE5, CP6 and CP7.

The second concern, as also raised by the Arboricultural Officer, is in relation to intensification of use of the site. This is unlikely to be removed entirely by hazel boundary fencing as indicated by the proposed additional planting and lack of tree cover and grassland within woodland areas shown on the Landscape Planting Plan. There is a significant amount of ash on site, which may require removal on health and safety grounds in any areas where there is regular human access. Access and safety concerns would be significantly increased by development within the site. Therefore, despite the commitment to an ecologically-sensitive LEMP and adapted planting proposals (including species now more suitable to the locality), long-term harm to the woodland SNCI appears likely as a result of the proposals. The wildflower grassland in vicinity to the dwelling still remains very unlikely to be managed with high wildlife value if also used for amenity. A detailed Management Plan and/or evidence of how habitats will be protected and futureproofed against any changes in ownership has not been provided.

As stated above in respect of Biodiversity Net Gain, it is unclear how the habitat enhancements to surrounding woodland and pond will be delivered. Condition sheets and an indicative habitat restoration/management schedule for created habitats were requested to demonstrate that enhancement to good condition habitats is achievable within a 30 year period.

Habitat Regulations Assessment

A shadow Habitats Regulations Assessment has been submitted and Natural England have been consulted, and confirmed their agreement with the conclusions of the Habitats Regulations Assessment providing that "all mitigation measures are appropriately secured in any planning permission given"

This raises the question of how realistic and achievable this would be. In light of this requirement, the Council's Ecologist has advised that in the event of a recommended or potential approval of the scheme, the scheme should not (and cannot lawfully) be approved and the shadow HRA formally adopted by the decision-maker, until it can be demonstrated with confidence that "all mitigation measures are appropriately secured" (as stated in the comments from NE). The Habitats Regulations Assessment should therefore be extended to include assessment also of the means of securing the necessary measures, and ability for all the necessary mitigation measures to be delivered and retained in perpetuity within the scheme. This would in effect require an extension to the HRA which must then also be favourably concluded in consultation with Natural England, prior to any consent being issued.

In carrying out this further assessment, consideration would be required to the nature of the site, which is wooded and immediately adjacent to the canal which is an unfenced water body at this point; and that the required ecological mitigation measures include maintaining dark conditions at the site, and the absence of external lighting to achieve this. Living conditions within the house with low transmissivity glazing also require consideration.

The scheme presents conflicts between what might be considered reasonable and necessary to achieve minimum standards of living, site use, safety and safe access to and around the site for a site of this nature with a residential use, and for a residential dwelling of this nature and scale, alongside the ecological requirements and proposed mitigation

measures as set out in the HRA and ecological and lighting reports. Details of how these conflicts would be resolved have not yet been provided and would need to be demonstrated to inform the HRA, along with full details and wordings of proposed mechanisms (such as conditions, legal agreement, covenant) for securing and enforcing adherence to all measures, in perpetuity. Note: Covenants cannot be relied upon as their enforcement is the responsibility of the developer and the LPA cannot enforce them.

Permanent resolution of these conflicts may not be possible, and using a precautionary approach, this should be assumed to be the case unless it can be evidenced to the contrary - sufficiently to stand up to scrutiny and further consultation with NE (for the HRA). Therefore, even with use of conditions, legal agreements and covenants, it is not currently clear that the planning process is capable of securing all the necessary measures at the level required and in such a way to provide full confidence that they can realistically all be delivered, remain in place, and remain enforceable in perpetuity. The scheme should not be considered for consent until this issue has been resolved to the satisfaction also of NE.

Low Carbon and Sustainable Credentials:

The application is accompanied by the sustainable construction checklist which demonstrates that it will achieve an emissions reduction of at least 21.84%. It should be noted that given the off-grid nature of the development all energy use will be 100% renewable.

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 these policies and these have been fully taken into account in the recommendation made.

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.). In this instance the presence of numerous trees immediately adjacent to the building may make local food growing difficult. However, the proposal includes a veranda and as such this would be able to provide the opportunity for compliance with policy LCR9.

Housing Balance

The Council cannot currently demonstrate a 5 year housing land supply. Therefore, the most important policies for determining this application are considered out of date. As such para 11(d) of the NPPF is applicable which sets out:

d) where there is no relevant development plan policies, or policies which are most important in determining the application are out of date, granting permission unless:

i) The application of policies in this Framework that protect areas or assets of particular importance provides a strong 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 this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well designed places and providing affordable homes, individually or in combination.

The benefits of the application include the creation of one new dwellings which would make a very modest contribution towards the Council's housing supply. The off-grid and sustainable energy elements of the scheme are also considered to matters which attract weight in favour of the application. However, it is considered that the adverse impacts of the scheme as identified would significantly and demonstrably outweigh the benefits of permitting the scheme and as such, the application is recommended for refusal. It is also considered that policies in the NPPF provide strong reasons for refusal in relation to habitats sites and designated heritage assets contrary to paragraph 11d)i).

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.

Conclusion

"Section 70(2) of the Town and Country Planning Act (1990) makes clear that a Local Planning Authority must have regard to "the provisions of the development plan, so far as

material to the application" and "ant other material considerations". Further, 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".

In this case, it is considered that the proposals conflict with a significant number of policies and are contrary to the development plan as a whole. Material considerations do not indicate that permission should be granted. It is therefore recommended that planning permission is refused.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 Ecology

The scheme will result in unavoidable and permanent changes to the nature of the site and its habitats and ecology, including net loss of woodland habitat (A Habitat of Principle Importance) from the site, net loss of habitat area from the Fields by the Canal and Railway (Hampton Row) Site of Nature Conservation Interest (SNCI), and reduced habitat connectivity. The scheme is therefore contrary to development plan, in particular Policy NE3, and the National Planning Policy Framework.

2 Habitat Regulations Assessment

The proposal is not demonstrated to be fit for purpose for residential use in this woodland and canal-side location, whilst avoiding habitat loss and harm to ecology, and retaining and maintaining in perpetuity, the required conditions of darkness as detailed in the Habitats Regulations Assessment. This would need to be demonstrated to be achievable and sufficiently secured (and enforceable) in perpetuity, to meet the requirements of the Habitats Regulations. In the absense of this information, the proposal is contrary to the development plan, in particular policy CP6 of the Core Strategy and NE5, NE3 and D8 of the Local Plan Partial Update, and is contrary to the The Conservation of Habitats and Species Regulations 2017.

3 Character and appearance

By virtue of its form, scale, mass, siting and design, the proposed two storey, detached house would appear as a dominant and incongruous built form within the locality, thereby having a detrimental effect upon the character and appearance of the canal side and wider area. The proposed development is therefore contrary to the development plan, in particular policy CP6 of the adopted Core Strategy (2014) and policies HE1, D1, D2, D4 and D5 of the Placemaking Plan and Local Plan Partial Update, and part 12 the National Planning Policy Framework.

4 Heritage impact

By virtue of its form, scale, mass, siting materials and design, the proposed two storey, detached house would appear as a dominant and incongruous built form within the locality, thereby having a detrimental effect upon the character and appearance of the Conservation Area and World Heritage Site. The proposal would cause less than substantial harm to designated and undesignated heritage assets that would not be outweighed by the public benefits of the scheme. The proposal is therefore contrary to the development plan, in particular policy B4 and CP6 of the adopted Core Strategy and policy HE1 of the Placemaking Plan, and part 16 of the National Planning Policy Framework.

5 Trees and woodland

There is risk of unacceptable harm to trees forming the woodland which has significant wildlife, landscape and amenity value. The proposal adversely affects the integrity and value of strategic Green Infrastructure corridors and will adversely impact on trees and woodlands of wildlife, landscape, historic, amenity, productive or cultural value. Therefore the proposal is therefore contrary to the development plan, in particular policy NE1 and policy NE6 of the Placemaking Plan.

PLANS LIST:

1 ASP-1657-1

BR0671-200C, 201 D, 600 A and 601 o

TPG-59-E 550 A, P 301A, P 450 A, P300 and X 602 B

2 In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 39 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: 02
Application No: 25/02732/FUL
Site Location: Windyridge High Street Wellow Bath Bath And North East Somerset



Ward: Bathavon South **Parish:** Wellow **LB Grade:** N/A

Ward Members: Councillor Matt McCabe Councillor Fiona Gourley

Application Type: Full Application

Proposal: Erection of 3 bed dwelling on land to the front of Windyridge, associated landscape works, and modification to existing drive entrance.

Constraints: White Ox Mead Air Strip 3km buffer, Agricultural Land Classification, Conservation Area, Policy CP3 Solar and Wind Landscape Pote, Policy CP8 Green Belt, Policy CP9 Affordable Housing, Policy GB2 Infill Boundary, Policy NE2 AONB, Ecological Networks Policy NE5, SSSI - Impact Risk Zones,

Applicant: Mr Simon Rayner

Expiry Date: 4th September 2025

Case Officer: Danielle Milsom

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

REPORT

Following the support received from Wellow Parish Council which is contrary to officer recommendation to refuse, in addition to the call to committee request received by Cllr Matt McCabe, the application was referred to the Chair and Vice-Chair of Planning committee. The decision was made for the application to be heard by planning committee. Comments are as follows:

Cllr Tim Ball (Chair):

After reviewing the details, I believe it is appropriate for this application to come to committee. The committee has the capacity to reach a different conclusion from the officer's recommendation, and it is worth noting that the application has the support of both local members. Furthermore, it appears to be largely compliant with policy.

This application relates to the area to the front of Windyridge, located on Wellow High Street. The site is set within the Green Belt, Conservation Area and National Landscape (formerly AONB).

Planning permission is sought for the erection of 3 bed dwelling on land to the front of Windyridge, associated landscape works, and modification to existing drive entrance.

Relevant Planning History:

22/00864/FUL - Permit - Proposed erection of a three-bedroom detached dwelling following the demolition of garage in the grounds of Windyridge. Widening and modification of drive entrance.

25/00308/FUL - Permit - Erection of three bedroom dwelling on land to the front of Windyridge, associated landscape works, and modification to existing drive entrance.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation Responses :

Wellow Parish Council: Support

Wellow Parish Council held an extraordinary meeting on 23 July at which it was decided to SUPPORT this planning application subject to the following caveat: The applicant is requested to review the choice of materials, especially the extensive use of 'orange brickwork' and to select materials which are more in keeping with neighbouring properties in the Conservation Area"

"In addition to Wellow Parish Council's support of this application please could I ask that if you are minded to refuse the application it should be referred to the Planning Committee for their consideration

Two support comments received. A summary is as follows:

- o Whilst the design may appear contemporary it does incorporate elements of other houses in Wellow and I feel we should allow differences and personalisation rather than conforming to a norm. The alternative is identikit houses that all new estates seem to be. My own house did not conform to a perceived standard for Wellow, and that was in 1947, but now has become part of the overall look of Wellow.

- o I agree with the Wellow Parish Council on consultation on the bricks / colour but that can be resolved post planning approval. I feel this should be approved in the current submitted design.
- o Design responds well to the context providing 21st century transition
- o Building carefully sited to be lower than both terraces
- o Front gable creates interest
- o Suitable for modern family living
- o Design allows for future occupation for disabled or elderly
- o Low energy use using high quality materials
- o Reduced carbon footprint
- o Extant permission is in a forced arrangement and does not allow for future occupation by residents of reduced mobility
- o Material issues to be resolved
- o Several new houses in Wellow which this house will contribute to

1 objection comment received:

- o Contradiction with Local Plan on Character and distinctiveness
- o Located within a Conservation Area where design is required to preserve and enhance
- o Inconsistency with predominant local materials
- o Lack of contextual fit with nearby building materials
- o Failure to preserve or enhance conservation area by introduction of materials

Representations Received :

Cllr Matt McCabe:

Given the support of the Parish Council, and the aesthetic nature of the officer's concerns, could this please be considered at Committee

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

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:

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
GB1: Visual amenities of the Green Belt
HE1: Historic environment
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
D5: Building design
D8: Lighting
GB2: Development in Green Belt villages
NE3: Sites, species, and habitats
NE3a: Biodiversity Net Gain
NE5: Ecological networks
RE1: Employment uses in the countryside
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)

The Existing Dwellings in the Green Belt Supplementary Planning Document (October 2008)

NATIONAL POLICY:

The updated National Planning Policy Framework (NPPF) was published in December 2024 and is a material consideration. Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

CONSERVATION AREAS:

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.

NATIONAL LANDSCAPE:

There is a duty placed on the Council under Section 85 of the Countryside and Rights of Way (CROW) Act 2000 to seek to further the purpose of conserving and enhancing the natural beauty of the National Landscape.

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

Paragraph 154 of the NPPF states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate, however paragraph 159 outlines exceptions to this where buildings may not be inappropriate providing that it preserves openness and does not conflict with the purposes of including land within it. One of the exceptions is limited infilling in villages.

To determine whether the proposed dwelling would constitute limited infilling an assessment is required in relation to local plan policy GB2. GB2 states that development will not be permitted unless it is limited to infilling and in the case of residential development the proposal is within the defined Housing Development Boundary. The preamble of GB2 describes infilling as consisting of the filling of small gaps within existing housing development, including the building of one or two houses on a small vacant plot in an otherwise built up frontages, generally surrounded on at least three sides by developed sites or roads.

The proposed development site is located within the housing development boundary. The proposed dwelling is also considered to consist of infilling given that it occupies a small plot and is surrounded on three sides by other dwellings, including Windyridge to the north, 4 West End Cottages to the east and 1 Hungerford Terrace to the west and therefore meets with the definition of infilling. Due to the siting of the proposed dwelling amongst the built environment, it is considered that the openness of the Green Belt will not be harmed.

The proposal accords with policy CP8 of the adopted Core Strategy and policy GB2 of the Placemaking Plan for Bath and North East Somerset (2017) and part 13 of the NPPF.

DESIGN, CHARACTER AND APPEARANCE:

Policies D1, D2 and D3 of the Placemaking Plan and Policy D5 of the Local Plan Partial Update 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.

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 dwelling is to be sited on a raised area of land, between two terraces. The character of Wellow High Street is quite distinct, with terraced dwellings lining the northern strip with Hungerford Terrace. The terraced dwellings to the east of the site have dual pitched roofs with side facing gables. The properties are traditional in their form, with natural stone and sash windows. The terrace is considered to be a positive part of the High Street and Conservation Area, reflecting typical terraced form and natural materials such as local limestone. Dwellings opposite the site also make a strong and positive contribution to the sites setting, with use of natural materials and gable ends. A front facing gable exists to a single storey ancillary looking part of the dwelling, which lines the street. Generally, the northern side of the High Street is set back from the road edge, with the southern side being more closely related to the road.

The Wellow Conservation Area appraisal sets out of the significance of the Conservation Area. It acknowledges that unlisted buildings are of merit in their form of humble cottages and terraces, whilst there are examples of less successful modern developments, such as to the west of the site, over all the hierarchy of structures contributes to the exceptional value of the village.

The site lends itself to the construction of a single dwellings, as determined by previous consents for its construction. Given that the site is in isolation to its neighbouring terraces, any dwelling sited here would be viewed on its own and separate to the existing built form. Also given its elevation from the road, the siting of a dwelling would visually be prominent within the street scene and against neighbouring's dwellings.

The proposed dwelling is two storey and is arranged with a front facing gable. To the west lies a two-storey flat roof section. The length of the dwelling runs from south to north. With regards to the form and shape of the dwelling, there is little reference to existing architectural patterns. The pattern of roofing is not followed through the creation of a front facing gable. The gable end elevates the appearance of the dwelling amongst the existing roof scape of the side facing gable of West End Cottages, and the hip of Hungerford Terrace. The proposed dwelling would therefore sit proud in the middle of terraces which creates an unusually prominent feature. The flat roof proposed is contrived in its form in relation to the rest of the dwelling and surrounding area where this is not a common feature. Proposed windows are large and are at odds with the traditional character. This is further emphasised by the stone features which protrude.

As stated within the Conservation Area appraisal, there is a pleasing variation in the hierarchy of building types. Proposed development should seek to enhance or preserve the characteristics of the Conservation Area. In this instance, given the design of the dwelling and it conflict with existing building patterns and styles, it is considered that it fails to retain the hierarchy of development and instead would make the site stand out through its inconsistent form. The use of natural materials welcomed, however it is unsuccessful at disguising the incongruous form and shape of the building. It is therefore considered that the proposed dwelling is of an unacceptable design and does not suit the location or compliment the existing character and appearance of the street scene.

The proposal by reason of its design, siting, scale, massing and layout is unacceptable and does not contribute or respond to the local context and does not maintain the character and appearance of the surrounding area. The proposal fails to accord with policy CP6 of the Core Strategy (2014), policies D2 and D3 of the Placemaking Plan (2017), Policy D5 of the Local Plan Partial Update (2023) and part 12 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. As discussed above, the development does not preserve or enhance the special interests of the Conservation Area as set out with the Conservation Area character Appraisal. The development is as such considered to result in less than substantial harm to the Conservation Area. 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. Public benefits of the proposal are considered within the planning balance section of this report.

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 within the National Landscape (formerly known as Area of Outstanding Natural Beauty or AONB). There is a duty under Section 85 of the Countryside and Rights of Way (CROW) Act 2000 which states that, "Any relevant authority exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.

The dwelling is to be retained within the site and within the built extent of Wellow village. In comparison to the previous permission, the proposed does not protrude further into the roofscape. The proposed dwelling would not effect the wider landscape which encompasses Wellow.

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 proposed dwelling sits between existing dwellings. Front and rear elevation windows are unlikely to result in overlooking due to distance. Side elevations windows to the east are large, however they are directed towards a blank elevation of the neighbouring property. The perception of overlooking may increase however this is unlikely to be significant enough to warrant refusal in this regard. The design of the property largely reduces privacy impacts through window placements and elevational changes.

The distances between the neighbouring dwellings and the siting within the plot and its staggered approach is unlikely to result in significant additional shading to habitable spaces of neighbouring occupiers.

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.

Access

Pedestrian and vehicular access to the site will be via the existing driveway within the curtilage of Windyridge. It is noted that the land title grants the site owners the right to use this driveway. The proposal includes modifications to widen the existing access, which will improve visibility when exiting the site.

Parking

The proposal includes provision for two off-street parking spaces, which complies with the standards set out in the Transport and Development SPD. Access to the parking area will be via the shared driveway with Windyridge. The layout allows vehicles to enter and exit the site in a forward gear.

Cycle and Waste Storage

Secure storage for three bicycles will be provided. The proposal also includes an outbuilding with space for recycling boxes and a 140-litre wheelie bin.

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 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.

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 application is for a self-build dwelling. The development is as such exempt from the BNG mandatory and local requirements.

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.

In this case the submitted SCC shows that the prescribed standards have been met with regards to space heating, total energy use and on site renewable energy and this is achieved through passive design and renewable and low carbon features.

Therefore, the proposed development is compliant with Local Plan Partial Update policy SCR6 in this instance.

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.

PLANNING BALANCE:

Assessment of public benefits

The proposed development is considered to result in less than substantial harm to the character and appearance of the Conservation Area. Development, including any proposed demolition, within or affecting the setting of a conservation area will only be permitted where it will preserve or enhance those elements which contribute to the special character or appearance of the conservation area.

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.

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). The proposal would result in the provision of one dwelling. As will be discussed below, the Council are unable to demonstrate a 5 year housing land supply. The dwelling would contribute to the demand for housing within the district. In this instance, an extant permission remains on site for the erection of a single dwelling. This application, if granted, would not provide a net increase of dwellings permitted on site. The addition of one dwelling, whilst considered to be a public benefit, when viewed in the context of extant approvals, and the level of contribution made by a single dwelling, is considered to not be significant enough to outweigh the harm caused. Public benefits of the provision of a single dwelling is considered in this instance to not outweigh the less than substantial harm caused to the Conservation Area and is as such contrary to policy HE1 of the Placemaking plan and part 16 of the NPPF.

Presumption in favour of sustainable development:

Section 70(2) of the Town and Country Planning Act (1990) makes clear that a Local Planning Authority must have regard to "the provisions of the development plan, so far as material to the application" and "any other material considerations". Furthermore, 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.

The proposal has been found to conflict with the provisions of the development plan, in particular policies D2, D3, D5 and HE1 of the Placemaking Plan.

The Council cannot currently demonstrate a 5-year housing land supply. Therefore, the most important policies for determining this application are to be considered out-of-date. As such, paragraph 11(d) of the NPPF is applicable which sets out:

"d) where there are no relevant development plan policies, or the policies which are most important in determining the application are out-of-date, granting permission unless:

- i) The application of policies in this Framework that protect areas or assets of particular importance (7) provides a strong 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 this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination."

As set out in this report, there is a strong reason for refusing the development proposed due to its impact upon the Conservation Area, of which is an asset which the Framework seeks to protect as identified in footnote 7 as a heritage asset.

The benefits of the scheme include the contribution to the housing supply within the district, however, this benefit is considered in the context of an extant permission remaining on site for the provision of a single dwelling. It is considered that the adverse impacts of the scheme would significantly and demonstrably outweigh the benefits of permitting the scheme and as such, the application is recommended for refusal.

CONCLUSION:

The proposal by reason of its design, siting, scale, massing and layout is unacceptable and does not contribute or respond to the local context and does not maintain the character and appearance of the surrounding area. The proposal fails to accord with policy CP6 of the Core Strategy (2014), policies D2 and D3 of the Placemaking Plan (2017), Policy D5 of the Local Plan Partial Update (2023) and part 12 of the NPPF.

The proposal by reason of its design, siting, scale, massing and layout fails to preserve or enhance the Conservation Area, resulting in less than substantial harm. The harm identified is considered not to be outweighed by public benefits. The proposal is as such contrary to policy HE1 of the Placemaking Plan (2017) and part 16 of the NPPF.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 Character and appearance

The proposal by reason of its design, siting, scale, massing and layout is unacceptable and does not contribute or respond to the local context and does not maintain the character and appearance of the surrounding area. The proposal fails to accord with policy CP6 of the Core Strategy (2014), policies D2 and D3 of the Placemaking Plan (2017), Policy D5 of the Local Plan Partial Update (2023) and part 12 of the NPPF.

2 Harm to Conservation Area

The proposal by reason of its design, siting, scale, massing and layout fails to preserve or enhance the Conservation Area, resulting in less than substantial harm. The harm identified is considered not to be outweighed by public benefits. The proposal is as such contrary to policy HE1 of the Placemaking Plan (2017) and part 16 of the NPPF.

PLANS LIST:

1 This decision relates to the following plans:

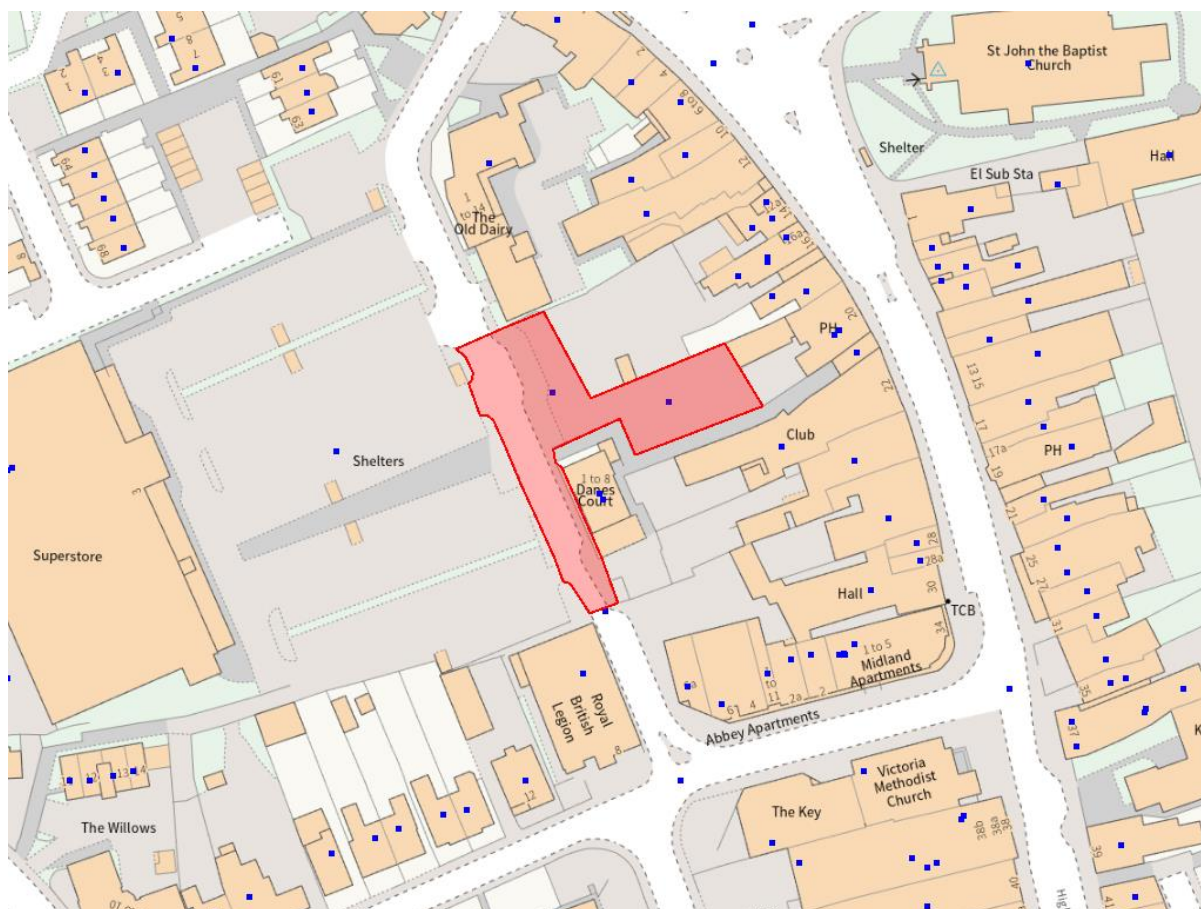
Revised Drawing	30 Sep 2025	1250C	PROPOSED	ELEVATIONS	-
NORTH AND SOUTH					
Revised Drawing	30 Sep 2025	1251B	PROPOSED	ELEVATIONS	
PROPOSED ELEVATIONS					
Drawing	10 Jul 2025	PROPOSED ELEVATIONS - OUTBUILDINGS			
Drawing	10 Jul 2025	PROPOSED FIRST FLOOR AND ROOF PLANS			
Drawing	10 Jul 2025	PROPOSED GROUND FLOOR PLAN			
Drawing	10 Jul 2025	PROPOSED SECTION A-A			
Drawing	10 Jul 2025	PROPOSED SECTIONS Z-Z AND Y-Y			
OS Extract	10 Jul 2025	SITE LOCATION PLAN			

2 In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 39 of the National Planning Policy Framework. Notwithstanding informal advice offered by the Local Planning Authority the submitted application was unacceptable for the stated reasons and the applicant was advised that the application was to be recommended for refusal. Despite this the applicant chose not to withdraw the application and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision. In considering whether to prepare a further application the applicant's attention is drawn to the original discussion/negotiation.

3 Community Infrastructure Levy

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

Item No: 03
Application No: 25/02605/VAR
Site Location: Great Barn Court Block Two Dane's Lane Keynsham Bath And North East Somerset



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

Ward Members: Councillor Alex Beaumont Councillor George Leach

Application Type: Application for Variation of Condition

Proposal: Variation of conditions 4 (Archaeology Post Excavation and Publication), 10 (Construction Management Plan), 17 (Landscape) and 18 (Plans List) of application 24/04399/VAR (Variation of conditions 5 (Investigation and Risk Assessment), 8 (Materials - Submission of Schedule and Samples), 13 (Biodiversity Gain and Habitat Management Plans), 17 (Fire Hydrants), 19 (Landscape) and 20 (Plans List) of application 23/04190/REG03 (Erection of 10 No. affordable apartments (Class C3) and associated access, drainage and landscaping works)).

Constraints: Agric Land Class 3b,4,5, Conservation Area, Policy CP12 Bath City Centre, Policy CP9 Affordable Housing, Policy CR3 Primary Shopping Areas, Housing Development Boundary, LLFA - Flood Risk Management, Policy NE1 Green Infrastructure Network, Ecological Networks Policy NE5, Neighbourhood Plan, Public Right of Way, SSSI - Impact Risk Zones, Policy ST8 Safeguarded Airport & Aerodro,

Applicant: Aequus Developments

Expiry Date: 24th October 2025

Case Officer: Christopher Masters

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

REPORT

Details of location and proposal and Relevant History

The site is an irregular shape site partially fronting onto Danes Lane, a private road serving Tesco car park and partially a back land site behind the properties fronting Keynsham High Street. The site is bounded to the south by a public right of way connecting through to the High Street from Danes Lane.

Permission has previously recently been granted for the erection of 10 No. affordable apartments (Class C3) and associated access, drainage and landscaping works.

Planning permission is sought for the variation of conditions 4 (Archaeology Post Excavation and Publication), 10 (Construction Management Plan), 17 (Landscape) and 18 (Plans List) of application 24/04399/VAR (Variation of conditions 5 (Investigation and Risk Assessment), 8 (Materials - Submission of Schedule and Samples), 13 (Biodiversity Gain and Habitat Management Plans), 17 (Fire Hydrants), 19 (Landscape) and 20 (Plans List) of application 23/04190/REG03 (Erection of 10 No. affordable apartments (Class C3) and associated access, drainage and landscaping works)).

The proposed changes can be summarised as:

- o Construction management plan updated to show site huts and other elements moved due to constraints of the construction.
- o Updated Block two plot position and Finished Floor Levels
- o Updated boundary wall design
- o Updated surface finish to car park
- o Discharge of condition 4 (Archaeology Post Excavation and Publication)

Reasons for Reporting to Committee

The application has been reported to Committee as the application is submitted on behalf of Aequus Developments Limited. The Council's Scheme of Delegation sets out that "any applications for which the Council or ADL (Aequus Developments Limited) is the applicant, involving more than two properties, will be reported to the Planning Committee unless the Chair and Vice-Chair of the Planning Committee deem them not to raise any significant planning concerns, in which case they will be dealt with under officer delegation."

The application has been referred to the Chair and Vice Chair of the Planning Committee who have confirmed the application shall be determined by Planning Committee.

Relevant Planning History

23/04190/REG03 - PERMIT - 9 May 2024 - Erection of 10 No. affordable apartments (Class C3) and associated access, drainage and landscaping works

24/04189/COND - DISCHARGED - 13 February 2025 - Discharge of conditions 2 (Affordable Housing Scheme), 3 (Archaeology Controlled Excavation), 10 (Construction Management Plan) and 18 (Site Specific Targeted Recruitment and Training) of application 23/04190/REG03 (Erection of 10 No. affordable apartments (Class C3) and associated access, drainage and landscaping works)

24/04399/VAR - PERMIT - 19 February 2025 - Variation of conditions 5 (Investigation and Risk Assessment), 8 (Materials - Submission of Schedule and Samples), 13 (Biodiversity Gain and Habitat Management Plans), 17 (Fire Hydrants), 19 (Landscape) and 20 (Plans List) of application 23/04190/REG03 (Erection of 10 No. affordable apartments (Class C3) and associated access, drainage and landscaping works)

25/01578/NMA - APPROVE - 24 April 2025 - Non Material Amendment to application 24/04399/VAR (Variation of conditions 5 (Investigation and Risk Assessment), 8 (Materials - Submission of Schedule and Samples), 13 (Biodiversity Gain and Habitat Management Plans), 17 (Fire Hydrants), 19 (Landscape) and 20 (Plans List) of application 23/04190/REG03 (Erection of 10 No. affordable apartments (Class C3) and associated access, drainage and landscaping works)).

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation Responses :

ARCHAEOLOGY:

16th July 2025: No objection.

HIGHWAYS:

14th July 2025: No objection.

KEYNSHAM TOWN COUNCIL:

5th August 2025: To SUPPORT the variations with a comment - There are no planning reasons to object to this application: - Keynsham Town Council consider that the proposal variations are in accordance with Bath and North East Somerset Council Policies D1 - D6 of Bath and North East Somerset adopted Placemaking Plan 2017 and Local Plan (Core Strategy) Partial Update Jan 2023. Comment - Keynsham Town Council request a condition in respect of the variation 10 (Construction Management Plan) that the bus stop be re-instated or an alternative stop within the site of the Tesco Car Park be put in place as soon as possible on completion of the construction of the development. Prior to the construction phase an alternative bus stop, close to Tesco Store, be agreed with the bus operator and Local Authority.

Representations Received :

None received

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
 CP9: Affordable housing
 CP10: Housing mix
 SD1: Presumption in favour of sustainable development

PLACEMAKING PLAN:

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

D1: General urban design principles
 D2: Local character and distinctiveness
 D3: Urban fabric
 D4: Streets and spaces
 D5: Building design
 D6: Amenity
 D7: Infill and backland development
 HE1: Historic environment
 LCR9: Increasing the provision of local food growing
 NE2A: Landscape setting of settlements
 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 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:

DW1: District wide spatial strategy
 KE1: Keynsham spatial strategy
 D8: Lighting
 H7: Housing accessibility
 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
SCR9: Electric vehicles charging infrastructure
ST7: Transport requirements for managing development

SUPPLEMENTARY PLANNING DOCUMENTS:

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

The following Supplementary Planning Documents (SPDs) are relevant in 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).

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.

OFFICER ASSESSMENT

Officer Assessment:

The application seeks to amend conditions 4 (Archaeology Post Excavation and Publication), 10 (Construction Management Plan), 17 (Landscape) and 18 (Plans List) of application 24/04399/VAR (Variation of conditions 5 (Investigation and Risk Assessment), 8 (Materials - Submission of Schedule and Samples), 13 (Biodiversity Gain and Habitat Management Plans), 17 (Fire Hydrants), 19 (Landscape) and 20 (Plans List) of application 23/04190/REG03 (Erection of 10 No. affordable apartments (Class C3) and associated access, drainage and landscaping works)).

The proposed changes can be summarised as:

- o Construction management plan updated to show site huts and other elements moved due to constraints of the construction.
- o Updated Block two plot position and Finished Floor Levels
- o Updated boundary wall design
- o Updated surface finish to car park
- o Discharge of condition 4 (Archaeology Post Excavation and Publication)

Section 73 of the Town & Country Planning Act (1990) states that: 'on such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted'.

Therefore, a re-assessment of the scheme, as a whole, is unnecessary and beyond the scope of this application. The only matters that may be considered in respect of the current application are therefore those planning issues raised by the amendments.

HERITAGE, DESIGN, CHARACTER AND APPEARANCE:

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 site lies partially within the Keynsham Conservation Area and within close proximity to a number of listed buildings. Most notably these include the Conservative Club and The Old Bank both adjoining the site and Grade II Listed and the Grade II* Listed St John The Baptist Church which has a clear visual connection with Danes Lane and the PROW passing the site.

Policy D1, D2, D3 and D5 of the Placemaking Plan have regard to the character and appearance of a development and its impact on the character and appearance of the host building and wider area. Development proposals will be supported, if amongst other things they contribute positively to and do not harm local character and distinctiveness.

The proposed amendments include relocating Block 2 500mm further west and 200mm to the south of the previously approved position, increasing the finished floor level of Block 2

by 350mm, altering the surfacing material from permeable brick to permeable paving and altering the proposed boundary treatments.

The proposed amendments by reason of their design, siting, scale, massing, layout and materials are acceptable and do not alter the conclusions previously reached. The proposal accords with policy CP6 of the adopted Core Strategy (2014) and policies D1, D2, D3, D4 and HE1 of the Placemaking Plan for Bath and North East Somerset (2017), Policy D5 of the Local Plan Partial Update (2023) and Parts 12 and 16 of the NPPF.

RESIDENTIAL AMENITY:

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

Given the nature and scale of the amendments the proposed changes 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.

ARCHAEOLOGY:

Policy HE1 seeks, within the scope of Core Strategy policies B4 and CP6, to enhance and better reveal the significance and setting of heritage assets, including archaeological assets.

The applicant has submitted evidence that the post-excavation analysis and publication of results of the archaeological excavation has been commissioned. South West Heritage Trust have been consulted on the application and advise there is no objection to this application as both conditions relating to archaeology on permission 23/04190/REG03 have now been fulfilled.

The development therefore accords with policy HE1 of the Placemaking Plan and Part 16 of the NPPF.

HIGHWAYS:

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 submission includes an updated Construction Management Plan. Having reviewed the Plan, the Highway Team raise no significant concerns relating to the approach given it follows the principles established by earlier work.

The Highway Team notes that the footway along the site frontage would need to be temporarily closed to facilitate the works. As it is not adopted highway the footway closure

and diversion will need to be agreed by the applicant with the relevant landowner. The applicant shall also need to review the bus services that could be affected by the proposed temporary bus stop closure (it appears that the stop is used by the WESTlink service), and this would need to be agreed direct with the bus operator and the public transport authority. The submitted construction management plan notes that the bus stop and footway shall be reinstated on completion of works.

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, and part 9 of the NPPF.

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.

CONCLUSION:

Section 70(2) of the Town and Country Planning Act (1990) makes clear that a Local Planning Authority must have regard to "the provisions of the development plan, so far as material to the application" and "any other material considerations". Furthermore, 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".

In this instance the submitted details are acceptable and the proposed changes are not considered to impact upon the conclusions previously reached. It is therefore recommended that permission be granted.

The original conditions will be removed, repeated or amended where necessary.

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 permission of 23/04190/REG03.

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 Affordable Housing Scheme (Compliance)

An Affordable Housing Scheme to secure 100% affordable housing has been submitted to and approved in writing by the Local Planning Authority via application 24/04189/COND.

Unless purchased under Right to Buy or other legislative scheme that compels the sale of residential units to a person for uses other than affordable housing, each of the affordable housing units on the site shall be permanently retained as affordable housing in accordance with the approved Affordable Housing Scheme and shall not be occupied otherwise than in accordance with that scheme.

Reason: To ensure that the affordable housing is retained on site in perpetuity in accordance with Policy CP9.

3 Archaeology Controlled Excavation (Compliance)

The works shall take place in accordance with the archaeological Written Scheme of Investigation (Project Design) for archaeological excavation approved via application 24/04189/COND.

Reason: The site is within an area of major 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 (Compliance)

The programme of post-excavation analysis shall be carried out by a competent person(s) and completed in accordance with the approved publication plan (Post Excavation Works letter and Project Design for an Archaeological Excavation both received 3rd July 2025) or as otherwise agreed in writing with the Local Planning Authority.

Reason: The site may produce 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 Remediation Scheme and Further Monitoring (Compliance)

The remediation works shall take place in accordance with the following reports, unless otherwise agreed in writing:

- o Letter Report dated 20th January 2025. Re: Danes Lane, Keynsham - Landfill gas assessment. Forge Environmental Management Ltd.

o Proposed Remedial Strategy. Dane's Lane, Keynsham, BS31 2FL. Forge Environmental Management Ltd. DAN495.D/RS/001. Revision :1. October 2024 (Previously submitted with earlier application)

o Geo-Environmental Site Investigation Report. Danes Lane Keynsham BS31 2FL. By Earth Environmental & Geotechnical (Southern) Ltd Report Ref: B2902/23. May 2023

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 15 of the National Planning Policy Framework. This is a condition precedent because the works comprising the development have the potential to uncover harmful contamination. Therefore these details need to be agreed before work commences.

6 Verification Report (pre-occupation)

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

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

7 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 15 of the National Planning Policy Framework.

8 Materials - Submission of Schedule and Samples (Compliance)

The development shall be carried out in complete accordance with the submitted Materials Schedule (Mitchell Eley Gould, 26th Nov 2024).

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.

9 Noise (Pre-Occupation)

On completion of the works but prior to any occupation of 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 the development has been constructed to provide sound attenuation against external noise in accordance with BS8233:2014. 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.

Reason: To protect future occupants from exposure to environmental noise.

10 Construction Management Plan (Compliance)

The development shall take place in complete accordance with the Construction Management Plan details submitted and approved via application 24/04189/COND as amended by the Proposed Construction Management Plan (AL(0)70 REV D, 2nd October 2025) submitted with this application.

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.

11 Dwelling Access (Compliance)

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.

12 Nesting Bird Protection (Bespoke Trigger)

No removal of trees hedges or shrubs shall take place between 1st March and 31st August unless a Survey to assess the nesting bird activity on the site during this period and a Scheme to protect the nesting birds has been submitted to and approved in writing by the Local Planning Authority. No tree hedge or shrub shall be removed between 1st March and 31st August other than in accordance with the approved bird nesting protection scheme.

Reason: To protect nesting birds and prevent ecological harm 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.

13 Biodiversity Gain and Habitat Management Plans (Compliance)

The development shall take place in accordance with the Habitat Management and Monitoring Plan (Ethos, Nov 2024) and Biodiversity Net Gain details, 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.

14 Sustainable Construction 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 for approval to the local planning authority together with the further documentation listed below.

The development must comply with the requirements of SCR6.

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

Major (or larger) Residential Development:

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

All Residential Development:

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

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

15 Water (Compliance)

The dwellings hereby approved 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.

16 Site Specific Targeted Recruitment and Training (Compliance)

The development shall take place in accordance with the site specific Targeted Recruitment and Training Statement submitted and approved via application 24/04189/COND.

Reason: In the interests of promoting and delivering employment, training and regeneration opportunities that can contribute to a reduction in the health and social inequalities across the District, in accordance with policy SD1 of the Bath and North East Somerset Core Strategy and NPPF.

17 Landscape (Compliance)

The proposed landscaping works shall take place in accordance with the Proposed Landscape Plan (AP(0)50_Rev M, received 3rd October 2025) submitted with this application.

Any trees or plants indicated on the approved soft landscaping 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 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.

18 Plans List (Compliance)

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

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

PLANS LIST:

1 This decision relates to the following plans:

25/02605/VAR

Received 3rd October 2025

AP(0)50 REV M PROPOSED LANDSCAPE PLAN

Received 2nd October 2025

AL(0)70 REV D PROPOSED CONSTRUCTION MANAGEMENT PLAN

Received 3rd July 2025

AP(0)10 REV F PROPOSED SITE PLAN

AP(1)10 REV C PROPOSED BLOCK ONE GROUND FLOOR PLAN

AP(1)11 REV C PROPOSED BLOCK ONE FIRST FLOOR PLAN

AP(1)12 REV C PROPOSED BLOCK ONE SECOND FLOOR PLAN

AP(1)13 REV C PROPOSED BLOCK ONE ROOF FLOOR PLAN

AP(2)10 REV F PROPOSED BLOCK TWO GROUND FLOOR PLAN

AP(2)11 REV F PROPOSED BLOCK TWO FIRST FLOOR PLAN

AP(2)12 REV E PROPOSED BLOCK TWO ROOF PLAN

AP(2)20 REV E PROPOSED BLOCK TWO NORTH SOUTH ELEVATIONS

AP(2)21 REV E PROPOSED BLOCK TWO EAST WEST ELEVATIONS

AP(2)30 REV D PROPOSED BLOCK TWO SECTIONS

24/04399/VAR

Received 28th November 2024

AP(1)20_REV B PROPOSED BLOCK ONE NORTH SOUTH ELEVATIONS
AP(1)21_REV B PROPOSED BLOCK ONE EAST WEST ELEVATIONS
AP(1)30_REV B PROPOSED BLOCK ONE SECTIONS

Received 26th November 2024

1363 SK007 VEHICLE TRACKING OPTIONS

23/04190/REG03

Received 20th March 2024

22043_Np_Xx_Xx_Dr_A_1005_P2 Temporary Hoarding Plan

Received 30th January 2024

22043_Np_Xx_00_Dr_A_1001_P4 Site Location Plan

Received 7th November 2023

Tree Constraints Plan

A_1002_P3 Existing Site Plan

D-0005 Existing Impermeable Area Plan

D-0010 Existing Flood Exceedance Plan

D-0015 Existing Drainage Plan

D-0017 Enlarged Existing Drainage Plan - Sheet 2

D-0016 Enlarged Existing Drainage Plan - Sheet 1

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 or post to Planning Services, Lewis House, Manvers Street, Bath, BA1 1JG.

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 have been notified in writing by the Council that you have complied with CIL; failure to comply with the regulations can result in surcharges, interest and additional payments being added and will result in the forfeiture of any instalment payment periods and other reliefs which may have been granted.

Community Infrastructure Levy - Exemptions and Reliefs Claims

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

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

4 Responding to Climate Change (Informative):

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

5 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.

6 Civil or legal consents

This permission does not convey or imply any civil or legal consents required to undertake the works.

7 Permit/Consent Decision Making Statement

In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 39 of the National Planning Policy Framework.

Item No: 04
Application No: 25/02948/FUL
Site Location: Tregonhawke Packhorse Lane South Stoke Bath Bath And North East Somerset



Ward: Bathavon South **Parish:** South Stoke **LB Grade:** N/A

Ward Members: Councillor Matt McCabe Councillor Fiona Gourley

Application Type: Full Application

Proposal: Widen existing balcony

Constraints: Colerne Airfield Buffer, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Conservation Area, Policy CP3 Solar and Wind Landscape Pote, Policy CP8 Green Belt, Policy CP9 Affordable Housing, Policy GB2 Infill Boundary, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, Policy NE2 AONB, Policy NE2A Landscapes and the green set, Policy NE3 SSCI 200m Buffer, Ecological Networks Policy NE5, NRN Grassland Strategic Netwo Policy NE5, Strategic Nature Areas Policy NE5, NRN Woodland Strategic Networ Policy NE5, SSSI - Impact Risk Zones,

Applicant: Mr Mark Carter

Expiry Date: 24th October 2025

Case Officer: Christopher Masters

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

REPORT

The application refers to a detached dwelling known as 'Tregonhawke', which is located within the Bristol / Bath Green Belt and South Stoke conservation area.

Planning permission is sought to enlarge the existing balcony at the front of the dwelling.

Reasons for Reporting to Committee

The application has been reported to Committee as the Officer's recommendation is contrary to comments provided by South Stoke Parish Council. In line with the Council's Scheme of Delegation the application was referred to the Chair of the Planning Committee, who stated:

"Thank you for sending over the Chair Referral Form for application 25/02948/FUL at Tregonhawke, Packhorse Lane, South Stoke. I've taken a closer look at the application and, although it appears straightforward at first glance, I believe there are some underlying objection issues that need further examination.

Given the circumstances, I feel it would be prudent for the committee to review this matter. It's important to ensure that all aspects are thoroughly considered and any objections are addressed appropriately."

In addition, the Vice Chair commented:

"Having now read all the documentation on this Chair Referral Form for application 25/02948/FUL at Tregonhawke, Packhorse Lane, South Stoke I consider that there are matters raised by the parish that would benefit from open discussion and consideration at the planning committee."

Relevant Planning History:

03/00064/FUL - REFUSED - 17 February 2003 - Conversion of loft including flat-roofed dormer to rear

03/01092/FUL - PERMIT - 23 June 2003 - Conversion of loft with rear dormer (re-submission).

21/00762/FUL - PERMIT - 14 April 2021 - External improvements to the fenestration, replacement of existing external stair and installation of log burning flue to side elevation.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation Responses :

South Stoke Parish Council - OBJECT - The proposed balcony is in the very centre of the South Stoke Conservation Area and will be highly visible and prominent, (more so than the existing balcony, which is primarily the access to the property), because it projects much further beyond the host dwelling. There is no discussion of what lighting is proposed, and we do not believe that this will be none. The centre of the Village is an important Bat Corridor and the issue of lighting must be addressed within the application

in order that appropriate protection is in place for this and other important species. From the plans provided it is now clear that there exist lines of sight from the front of the proposed balcony to both the immediate neighbouring properties of Upper Cottages and Sumus In Summo. Also there will be increased visibility into to the gardens of the opposite properties such as the Priory. When this was proposed for Churchview, the third of these bungalows, there were fewer privacy issues, and extensive screening has been installed for both the privacy of the Residents of Churchview itself, and particularly the adjoining property Sumus In Summo. Furthermore, the Undercroft of the Churchview Balcony was considered to count as volume increase to the property and duly considered accordingly.

Representations Received :

None received

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

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:

D1: General urban design principles

D2: Local character and distinctiveness

D3: Urban fabric

D4: Streets and spaces

D6: Amenity

GB1: Visual amenities of the Green Belt

HE1: Historic environment

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

D5: Building design

GB3: Extensions and alterations to buildings in the Green Belt

NE2: Conserving and Enhancing the Landscape and Landscape Character

ST7: Transport requirements for managing development

SUPPLEMENTARY PLANNING DOCUMENTS:

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

The Existing Dwellings in the Green Belt Supplementary Planning Document (October 2008)

NATIONAL POLICY:

The updated National Planning Policy Framework (NPPF) was published in December 2024 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.

OFFICER ASSESSMENT

The main issues to consider are:

Green Belt
Character and Appearance
Residential Amenity
Heritage Impacts

Green Belt

The dwelling appears to have been previously enlarged by approximately 51.41m³. The proposed extension to the balcony represents a further volume increase of 36m³, equivalent to a cumulative increase of 30.82% over and above the original building volume of 283.58m³. The proposed development does not represent inappropriate development in the Green Belt and it would not be harmful to openness or the purposes of including land within the green belt. The proposal accords 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.

Character and Appearance

The dwelling is set up and away from the road. The intervening curtilage comprises of numerous terraces separated by stone retaining walls. A single storey flat roofed garage sits at the front of the plot. The proposed enlargement is of lightweight appearance and visually would be read amongst the stone retaining walls of the terraces. The proposal shall utilise materials to match the existing balcony. Given its scale, design and positioning the proposed addition would not serve to harm the character and appearance of the host dwelling or surrounding area.

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, and D4 of the Placemaking Plan, policy D5 of the Local Plan Partial Update and part 12 of the NPPF.

Residential Amenity

Regard has been given to the potential for the development to result in a loss of privacy for nearby residential occupiers. In this instance the addition is located at the front of the dwelling. Any windows it faces would be on the fronts of properties and visible from the public realm. Furthermore, given the existing context and degree of separation from other dwellings the proposed development is not considered to result in increased overlooking or a reduction in privacy for occupiers of dwellings to the south. It is therefore considered that the proposal would not cause unacceptable levels of overlooking or result in a significant loss of privacy for nearby residential occupiers.

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

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.

World Heritage Site Setting

The proposed development is within the Bath World Heritage Site setting; therefore, consideration must be given to the effect the proposal might have on the outstanding universal value of the World Heritage Site and its setting. 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 value or the setting of the World Heritage Site. The proposal accords with policy B4 of the Core Strategy, policy HE1 of the Placemaking Plan, and part 16 of the NPPF.

Conservation Area

As outlined above, the scheme is not found to harm the character or appearance of the surrounding area. Accordingly, no harm is identified to the South Stoke Conservation Area.

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.

National Landscapes

The applicant has confirmed that no external lighting is proposed as part of the application and no additional lighting is shown on the submitted drawings. Given the absence of external lighting as well as the nature and scale of the development, the proposal will not harm the intrinsic darkness of the National Landscape.

The proposed development by virtue of its design, scale, massing, position, and use of external materials would not adversely affect the natural beauty of the landscape of the designated National Landscapes in accordance with policy NE2 of the Local Plan Partial Update and part 15 of the NPPF.

Planning Application in Respect of Listed Buildings

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.

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.

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.

Other Matters

Concern has been raised that external lighting may affect light sensitive species of bats. The applicant has confirmed that no external lighting is proposed as part of this application. No additional lighting is shown on the submitted drawings. Given its siting, scale and nature the proposed development is not considered reasonably likely to impact any protected species.

Conclusion

Section 70(2) of the Town and Country Planning Act (1990) makes clear that a Local Planning Authority must have regard to "the provisions of the development plan, so far as material to the application" and "any other material considerations". Furthermore, 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".

In this instance it is considered that the proposal complies with the relevant planning policies as outlined above. As there are no material considerations which indicate an alternative conclusion should be reached it is concluded the application is recommended for approval.

RECOMMENDATION

PERMIT

CONDITIONS

1 Standard Time Limit (Compliance)

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

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

2 Plans List (Compliance)

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

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

PLANS LIST:

1 This decision relates to the following plans:

Received 28th July 2025

AH2025/61 SITE LOCATION PLAN AND PROPOSED ENLARGED BALCONY

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.

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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

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4 Responding to Climate Change (Informative):

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

5 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.

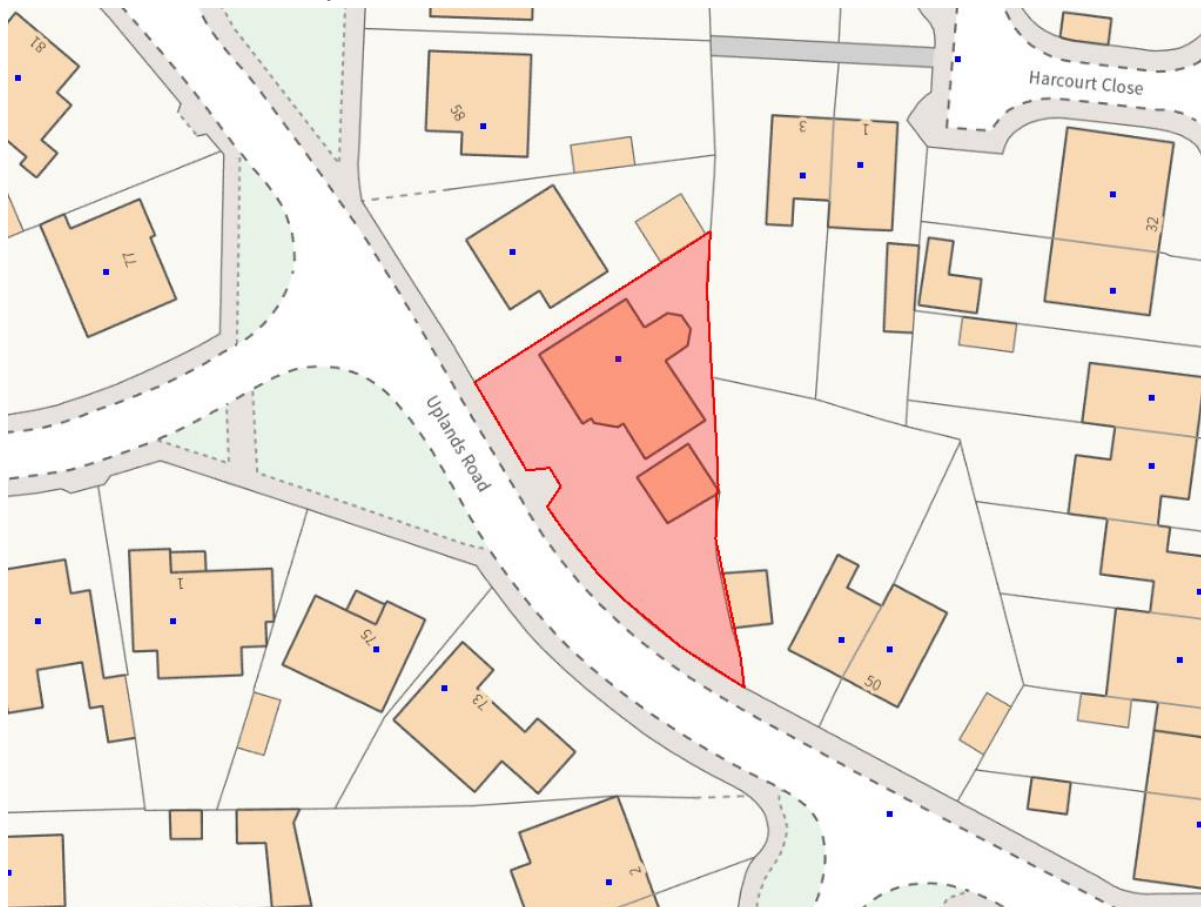
There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are set out in the Biodiversity Gain Requirements (Exemptions) Regulations 2024 and The Environment Act 2021 (Commencement No. 8 and Transitional Provisions) Regulations 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.

6 Permit/Consent Decision Making Statement

In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 39 of the National Planning Policy Framework.

Item No: 05
Application No: 25/01551/FUL
Site Location: 54 Uplands Road Saltford Bath And North East Somerset BS31 3HN



Ward: Saltford **Parish:** Saltford **LB Grade:** N/A
Ward Members: Councillor Duncan Hounsell Councillor Chris Warren
Application Type: Full Application
Proposal: Erection of fence and shed (Retrospective)
Constraints: Colerne Airfield Buffer, Saltford Airfield 3km buffer, Agricultural Land Classification, Policy CP3 Solar and Wind Landscape Pote, Policy CP9 Affordable Housing, Housing Development Boundary, MOD Safeguarded Areas, NRN Woodland Strategic Networ Policy NE5, Other Please specify, SSSI - Impact Risk Zones,
Applicant: Mrs May Lan Ho
Expiry Date: 23rd June 2025
Case Officer: Pippa Brown
To view the case click on the link [here](#).

REPORT

The application refers to 54 Uplands Road, a single storey dwelling, in Saltford. The property is located on a road with a range of dwelling styles and is not within a Conservation Area.

Planning permission is sought for the erection of a boundary fence and outbuilding in the front garden of the property. The application is retrospective, however some alterations to the fencing have been proposed through this planning application.

Following objection comments from Saltford Parish Council, contrary to the Officer's recommendation, the application was referred to the Chair and Vice Chair of the Planning Committee, who have decided that the application be taken to the committee for consideration. Full comments can be found in the representations section below.

Relevant Planning History:

08/00667/FUL PERMIT - Erection of a front porch.

07/01063/FUL PERMIT - Erection of a single storey side extension and new dormers.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation Responses :

Saltford Parish Council - OBJECTION:

Saltford Parish Council does not support planning applications for high front garden walls or fences facing the highway or for the addition of garages or other outbuildings in front gardens where these are at variance with the pattern of development and/or the character, appearance and setting of residential roads in Saltford.

The use of a tall fence, in this case using feather-edge fence boards, looks incongruous compared to neighbouring properties and reduces the openness of the street scene at this location. The fence's overbearing effect on the street scene might be mitigated if a more open, lattice style, fence or iron railings is used as in other parts of Saltford's housing area. In this particular case, the high fence also blocks the view for vehicles exiting the neighbouring property, No. 52, that have to drive up a steep slope to enter the highway where this is also on a bend in the road so that oncoming vehicles will not see No. 52's emerging vehicles until the last moment, so this is also an issue of highway and footpath safety.

The new shed on this plot, where much of the front garden has been paved as a hard-standing for vehicles and the rear garden is very compact in size, appears to result in an over-development of the site. Front garden sheds or garages do not fit with the street scene in this part of Saltford; the Parish Council reminds BaNES Council that in October 2021 it refused a planning application, 21/04078/FUL, for a front garden garage immediately opposite this property at 73 Uplands Road as the development would "fail to preserve the character and appearance of the surrounding area, etc.". The applicant's appeal to that refusal was dismissed by the Planning Inspectorate as the proposal was determined to be "contrary to Policy CP6 of the Bath and North East Somerset Core Strategy 2014 and Policies D1, D2, D3 and D5 of the Bath and North East Somerset Placemaking Plan 2017, which together seek to ensure that development proposals are designed to a high quality that contribute positively to local character and distinctiveness".

Highways:

"The proposal is for a retrospective fence and shed for the existing property. The plans show the site is bounded by a fence set inside of a small wall which runs along the footway.

The access into the dwelling is wide and does not provide any issues for access and egress from the highway. The fence extends to the neighbouring property to which the concerns for access visibility derives from.

The geometry of the highway inclines to the east, with the property in question situated on the inside of the curve of the road.

The highway includes a pedestrian footway that runs along the front of both properties, and site observations indicate that vehicles are frequently parked along the road. Considering these factors, along with the low traffic speeds in this 20mph residential area, it is considered that adequate emerging visibility can be achieved.

To address potential risks to pedestrian and highway safety and to ensure clear visibility, it would be advisable to maintain visibility to the west of the neighbouring property. This would involve implementing a 2m x 2m visibility splay and lowering the fence to 0.9 metres in height to achieve the visibility required. Given the position of the existing shed, this adjustment is unlikely to affect the property's privacy or security."

Further clarification was sought from the Highways Officer whether the imposition of a condition requiring a visibility splay, as outlined above, would be essential to maintain highway safety and the following comments were received:

"It isn't essential, given the low speeds within the residential area and the footway the note and condition were to alleviate any concerns over pedestrian or vehicle visibility from the driveway."

Representations Received :

The application was publicised through the use of neighbour notification letters for a period of 21 days and no letters of representation were received.

Chair referral - Following the objection from the Parish Council, against the Officer's recommendation, the application was referred to the Chair and Vice Chair of the Planning Committee. The Chair and Vice Chair both reviewed the report and recommended that the application be reviewed and determined by the Planning Committee. Their comments are below:

o Cllr Tim Ball (Chair) - received 06.10.2025

"Given that this application appears to be quite controversial within the local neighbourhood, I believe it would be best for it to come to the committee for further discussion and review."

o Cllr Paul Crossley (Vice Chair) - received 06.10.2025

"Having looked at google earth and read the report and the objection this seems to me a retrospective application for work that is out of character with its neighbours.

As the Chair has now instituted a site visit for all applications prior to the meeting I feel that this application would benefit for being viewed by the committee and a debate at committee.

Therefore I consider this should not be delegated but referred to committee."

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:

D1: General urban design principles

D2: Local character and distinctiveness

D3: Urban fabric

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

D5: Building design

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)

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

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OFFICER ASSESSMENT

The main issues to consider are:

- The impact on the character and appearance of the area.
- Residential amenity
- Highways impacts.
- Ecology
- Public Sector Equality Duty

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.

By virtue of its length and height, the proposed fencing is a visually prominent feature in this location. However, there are other examples of similar close boarded fencing in the locale, such as at 73 and 77 Uplands Road, which are both lawful, through being granted planning permission and through the passage of time respectively. In addition, the alterations to the scheme which have been proposed show a reduction in height of the close boarded section of the fencing and installation of timber trellis on top, similar to that which is opposite the fence, on the other side of Uplands Road. The proposed trellis is welcomed as this breaks up the bulk of the fence, softening its appearance.

As such, the fencing does not appear a wholly alien feature in the context and it is considered that with the proposed alterations, the fencing will be acceptable.

The outbuilding is located in close proximity to the fencing and is of a considerable scale. Whilst it is noted that sheds of this scale are not commonly seen in front gardens in the local area and this is something that Saltford Parish Council seek to resist, the shed proposed is well screened by the fencing and set down slightly due to the difference in land levels on either side of the fencing. It is therefore not highly visible in the street scene.

The fencing provides adequate screening of the shed from views from Uplands Road, mitigating the visual impact of the shed on the local area. It is important that the development, including the shed and fence is considered as one, and officers intend to secure the retention of the fencing in perpetuity via condition, if the application is approved.

The comments from Saltford Parish Council in this regard are noted, however given the orientation of the plot and the small area of land that lies to the rear of the principal elevation of the dwelling, there are limited options in terms of siting a shed to have a lesser visual impact and even less areas where a shed could be considered permitted development. It is therefore reasonable that a shed would be sited in this location and this is not unduly harmful in the context.

The Parish Council have raised concerns that the shed represents overdevelopment of the site. Whilst this is noted, the dwelling sits within a spacious plot, which is considered sufficient to accommodate the proposed shed, along with the existing garage.

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.

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.

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.

Uplands Road is a 20mph road and therefore, whilst concerns have been raised by the Parish Council over the possible highway safety implications of the development, vehicles would be entering and exiting the driveway of the property and that of the adjacent dwellings at an extremely slow speed, which would mean the likelihood of the fencing having an undue impact on the safety of users of the highway would be minimal.

In addition, the driveway of 52 Uplands Road slopes towards the house and away from the highway. As such, any vehicles pulling off the driveway and onto Uplands Road would need to do so at a slow speed, further minimising the potential impact of the fencing on highway safety.

It is noted that the application site lies on a bend in the road and therefore this could have implications for visibility, however it would be possible for a substantial hedge or trees to be planted within the curtilage of the dwelling, along the same boundary without the need for planning permission and vehicles of varying sizes could park within the application site or along Uplands Road itself. These situations would have a similar impact in terms of blocking visibility and therefore the installation of the fencing would unlikely have a significant adverse impact over and above this.

The entrance to the host dwelling (54 Uplands Road) is over 4m wide, and it is considered that the development does not adversely impact visibility for vehicles entering or exiting the driveway of the property due to the speed of vehicles on road.

The Council's Highways Team have recommended that the fencing be reduced in height to 0.9m in the area closest number 52 Uplands Road, to provide a visibility splay of 2m to allow for safe emergence onto the highway. However, it is important to note that a fence could be constructed in this location at 1m in height under permitted development. As such, clarification was sought from the Highways Team as to whether this alteration to the scheme would be essential to make the scheme acceptable and it was concluded that it would not be, due to the low speeds that vehicles would be travelling in the residential area. As such, no amendments to this effect were sought from the applicants.

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.

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). This application is for a householder development and is also retrospective meaning BNG is not required by Policy NE3a.

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.

CONCLUSION:

"Section 70(2) of the Town and Country Planning Act (1990) makes clear that a Local Planning Authority must have regard to "the provisions of the development plan, so far as material to the application" and "any other material considerations". Further, 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".

In this case it is considered that the application complies with the relevant planning policies as discussed in the report above is therefore recommended for permission.

RECOMMENDATION

PERMIT

CONDITIONS

- 1 Installation of trellis (Bespoke Trigger)**

Within 6 months of the date of this decision, the existing fencing shall be amended and the fence top trellis installed, in accordance with the approved plans.

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.

2 Retention of fencing (Compliance)

The fencing hereby approved, shall be retained whilst the shed hereby approved is in situ. In the event that the shed is removed, then the fencing can also be removed.

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.

PLANS LIST:

1 This decision relates to the following plans:

- Retrospective fence elevation (PROPOSED) - received 25.06.2025
- Retrospective site plan - received 28.04.2025
- Location plan - received 17.04.2025
- Retrospective shed plan and elevation - received 28.04.2025

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 or post to Planning Services, Lewis House, Manvers Street, Bath, BA1 1JG.

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.

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- (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.

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 39 of the National Planning Policy Framework.