

Bath & North East Somerset Council

MEETING: **Planning Committee**

MEETING DATE: **17th December 2025**

AGENDA
ITEM
NUMBER

--

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

TITLE: **APPLICATIONS FOR PLANNING PERMISSION**

WARDS: ALL

BACKGROUND PAPERS:

AN OPEN PUBLIC ITEM

BACKGROUND PAPERS

List of background papers relating to this report of the Head of Planning about applications/proposals for Planning Permission etc. The papers are available for inspection online at <http://planning.bathnes.gov.uk/PublicAccess/>.

- [1] Application forms, letters or other consultation documents, certificates, notices, correspondence and all drawings submitted by and/or on behalf of applicants, Government Departments, agencies or Bath and North East Somerset Council in connection with each application/proposal referred to in this Report.
- [2] Department work sheets relating to each application/proposal as above.
- [3] Responses on the application/proposals as above and any subsequent relevant correspondence from:
 - (i) Sections and officers of the Council, including:
 - Building Control
 - Environmental Services
 - Transport Development
 - Planning Policy, Environment and Projects, Urban Design (Sustainability)
 - (ii) The Environment Agency
 - (iii) Wessex Water
 - (iv) Bristol Water
 - (v) Health and Safety Executive
 - (vi) British Gas
 - (vii) Historic Buildings and Monuments Commission for England (English Heritage)
 - (viii) The Garden History Society
 - (ix) Royal Fine Arts Commission
 - (x) Department of Environment, Food and Rural Affairs
 - (xi) Nature Conservancy Council
 - (xii) Natural England
 - (xiii) National and local amenity societies
 - (xiv) Other interested organisations
 - (xv) Neighbours, residents and other interested persons
 - (xvi) Any other document or correspondence specifically identified with an application/proposal
- [4] The relevant provisions of Acts of Parliament, Statutory Instruments or Government Circulars, or documents produced by the Council or another statutory body such as the Bath and North East Somerset Local Plan (including waste and minerals policies) adopted October 2007

The following notes are for information only:-

- [1] "Background Papers" are defined in the Local Government (Access to Information) Act 1985 do not include those disclosing "Exempt" or "Confidential Information" within the meaning of that Act. There may be, therefore, other papers relevant to an application which will be relied on in preparing the report to the Committee or a related report, but which legally are not required to be open to public inspection.

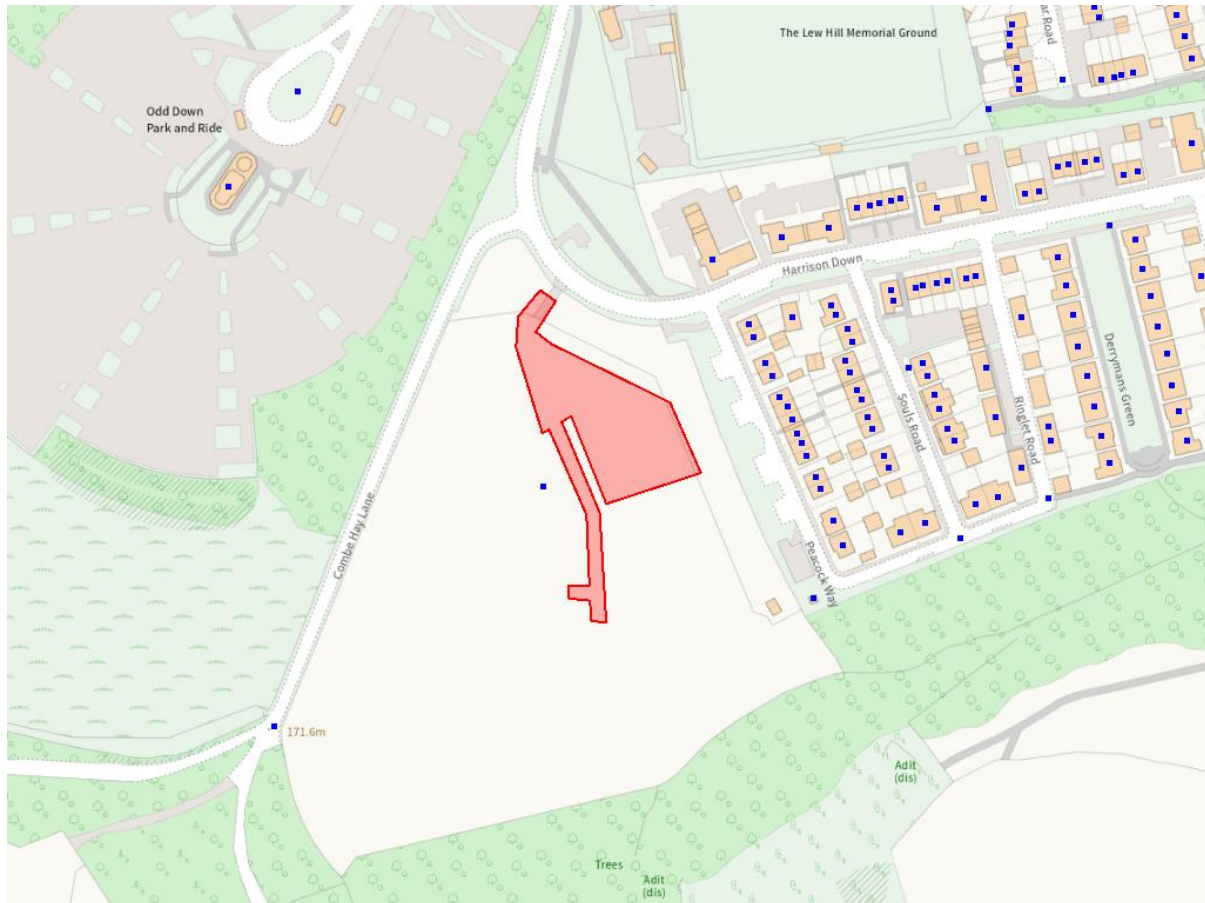
- [2] The papers identified or referred to in this List of Background Papers will only include letters, plans and other documents relating to applications/proposals referred to in the report if they have been relied on to a material extent in producing the report.
- [3] Although not necessary for meeting the requirements of the above Act, other letters and documents of the above kinds received after the preparation of this report and reported to and taken into account by the Committee will also be available for inspection.
- [4] Copies of documents/plans etc. can be supplied for a reasonable fee if the copyright on the particular item is not thereby infringed or if the copyright is owned by Bath and North East Somerset Council or any other local authority.

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ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
01	22/01370/FUL 31 July 2024	Countryside Properties Parcel 4234, Combe Hay Lane, Combe Hay, Bath, Bath And North East Somerset Creation of new allotments including associated facilities and landscaping, including access serving the allotments.	Bathavon South	Chris Griggs-Trevarthen	PERMIT

REPORT OF THE HEAD OF PLANNING ON APPLICATIONS FOR DEVELOPMENT

Item No: 01
Application No: 22/01370/FUL
Site Location: Parcel 4234 Combe Hay Lane Combe Hay Bath Bath And North East Somerset



Ward: Bathavon South **Parish:** Combe Hay **LB Grade:** N/A

Ward Members: Councillor Matt McCabe Councillor Fiona Gourley

Application Type: Full Application

Proposal: Creation of new allotments including associated facilities and landscaping, including access serving the allotments.

Constraints: Colerne Airfield Buffer, Agric Land Class 1,2,3a, Policy B4 WHS - Indicative Extent, Policy CP8 Green Belt, Policy CP9 Affordable Housing, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, Policy NE2 AONB, Policy NE2A Landscapes and the green set, Policy NE3 SNCI, Ecological Networks Policy NE5, Strategic Nature Areas Policy NE5, SSSI - Impact Risk Zones,

Applicant: Countryside Properties

Expiry Date: 31st July 2024

Case Officer: Chris Griggs-Trevarthen

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

REPORT

The application site is located within Derrymans Field, a roughly triangular piece of land to the East of the Odd Down Park and Ride and to the West of the phase 1 Sulis Down development.

It lies within the Cotswolds National Landscape (formerly known as Areas of Outstanding Natural Beauty), the Bristol and Bath Green Belt and It also forms part of the Fuller's Earth Works - Southstoke complex Site of Nature Conservation Interest (SNCI). The is just outside the strategic site allocation B3a - Land adjoining Odd Down and also falls within the indicative extent of the Bath World Heritage Site setting. There is a public right of way (PROW) which runs along the southern boundary of Derrymans Field (BA7/2)

The proposal seeks the creation of new allotments including associated facilities and landscaping, including access serving the allotments. This comprises 1,180sqm of total allotment area, 1,889sqm of meadow and a communal shed (approximately 4.2m by 2.1m).

REASON FOR REPORTING TO COMMITTEE

The application was referred to the chair/vice chair of committee following a call-in request from Cllr. Fiona Gourley. The chair determined that the application should be decided by committee making the following comments.

"After reviewing the proposal for allotments near Sulis Down, I believe it would be prudent to refer this matter to the committee. The proposal has sparked considerable controversy and has attracted numerous negative comments from parish councils and other bodies. Given the contentious nature of the application, it would be best to test this at committee and ensure all perspectives are thoroughly considered."

PLANNING HISTORY

Planning application 17/02588/EFUL

Full planning permission for the erection of 171 residential units, open space, green infrastructure, landscaping and associated works including provision of vehicular access from Combe Hay Lane

Status: Permitted 15th August 2019

Planning application 21/02214/EVAR

Variation of Condition 24 (Plans List) of application 17/02588/EFUL (Full planning permission for the erection of 171 residential units, open space, green infrastructure, landscaping and associated works including provision of vehicular access from Combe Hay Lane)

Status: Permitted 6th September 2021

Planning application 22/02169/EOUT

(i) Outline application for Phases 3 and 4 for up to 290 dwellings; landscaping; drainage; open space; allotments; footpaths and emergency access; all matters reserved, except

access from Combe Hay Lane via the approved Phase 1 spine road (details of internal roads and footpaths reserved);

(ii) Detailed application for the continuation of the spine road (from Phase 1), to and through Sulis Manor and associated works comprising: the demolition of existing dilapidated buildings and tree removal; drainage; landscaping; lighting; boundary treatment; and, the erection of 4 x Bat Night Roosts; to enable construction of the spine road; with the ecologic mitigation on Derrymans and the field known as 30Acres (edged blue on the Location Plan).

Status: Refused 12th April 2024

Appeal Status: DISMISSED 14th March 2024

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

All consultation responses have been reviewed by officers. The below summaries of consultation responses have been prepared with the assistance of Microsoft CoPilot and checked by officers. The full text of all consultation responses is available on the Council's website.

Ecology: Objection

Maintain an ecological objection in principle due to a loss of habitats of high diversity/ecological value within the Fuller's Earth Works-Southstoke Complex SNCI.

Greener Places (formerly Parks): Scope for revision

The revised proposals address several matters raised in earlier comments and the Planning Statement confirms that the proposals meet the requirements of the Allotment Specification set out in the S106 agreement associated with the first phase of development at Sulis Down. There are a couple of matters that need to be addressed including need for robust, all-weather footpath construction and the position of the gates and estate fencing around the perimeter of the gravel path.

Landscape: No objection, subject to conditions

Highways: Scope for revision

Highways have a preference to retain the cycle parking but note that it may be difficult to sustain an objection on this basis as there are no specific standards for this land use and due to the proximity to the adjacent new community.

Cllr Fiona Gourley:

Cllr Joel Hirst and Cllr Steve Hedges: Objection

Concerned that Derryman's Field is not within the area of development within the original application and so consider this an unwanted extension of the development. The allotments should be within the allocation site.

Concerned about the impact to ecology on the wider site, in particular slow worms, bats and nesting skylarks. The Council has declared an ecological emergency. This seems to be being disregarded

Parking on the proposed site is totally unnecessary and creates an unwanted urbanisation of this area and is also out of keeping with other allotment sites in the Odd Down area.

Combe Hay Parish Council: Objection

The council objects to the proposed allotments being sited in Derryman's Field, stating this location is not within the land allocated for residential development and associated infrastructure as required by policy B3a. The parish argues that the same reasoning used to relocate allotments for Phases 3 and 4 should apply to Phase 1, and the application should therefore be rejected.

Derryman's Field is within the Green Belt and is ecologically sensitive. The Ecology Department of BANES has requested that Derryman's not be used for allotments due to its ecological value. The parish emphasises that allotments should be situated on the site set aside for development, not in Derryman's.

Revised plans propose removing sheds, picnic tables, parking spaces, and street lighting, replacing them with fruit trees. The parish notes this would leave allotment users without essential facilities such as tool storage and parking, raising concerns about how the allotments would be managed. They suggest high deer fencing would be required.

The parish insists that further public consultation is needed to ensure all parties are aware of the proposed changes and have the opportunity to comment.

The siting of allotments in Derryman's is considered contrary to Policy B3a.

The parish finds the inclusion of plans for future allotment expansion inappropriate for phase one and recommends these be withdrawn. Future allotments should be sourced within future allocation land, not Derryman's.

The number of proposed car parking spaces (seven for nine allotments) is considered excessive. The parish suggests reducing this number to encourage walking and cycling. They also question the need for hard landscaping (grasscrete road) and recommend a farm track instead.

The parish requests that allotment rules be included in the application to ensure ecological protection, particularly regarding lighting, paraphernalia, and noise.

Concerns are raised about the visual impact from Combe Hay Lane, with inadequate screening proposed. The parish recommends more effective screening, such as improved hedging, and suggests boundary hedges be made higher to mitigate visual harm.

The parish questions references to play structures and facilities in the maintenance plan, stating these should not be part of the allotments.

South Stoke Parish Council: Objection

The Parish Council objects in principle to the application, citing that Local Plan Policy B3a requires all allotments, public open spaces, and community facilities for the Sulis Down development to be provided within the allocated land, not on adjacent or off-site locations.

The parish is critical of the earlier planning decision that allowed 171 dwellings without allotment provision, which they see as a serious oversight.

The proposed allotments are on Derrymans Field, which is in the Green Belt, the Cotswold AONB, and within the setting of the Bath World Heritage Site making it a highly sensitive landscape.

The parish notes that the site is in Combe Hay Parish, not South Stoke, but would serve South Stoke residents, raising further policy and jurisdictional concerns.

They highlight that the use of Green Belt land for allotments is only acceptable if harm to openness is minimal and outweighed by benefits, which they argue is not demonstrated here.

The parish objects to the scale and design of the proposed facilities, particularly the inclusion of multiple buildings, car parking, and a picnic area, which they believe increase harm to the Green Belt.

They advocate for a single, modest community building and minimal car parking (two spaces plus a disabled bay), with an expectation that users walk or cycle in line with climate policy.

There should be no external lighting to protect foraging bats and maintain dark skies.

The parish insists that management and letting of the allotments should be contractually established by the developer, not the Parks Department.

The parish notes that recent revisions to the application (removal of parking, picnic area, storage, sheds, and other infrastructure, replaced by an orchard) represent a significant change in how the allotments would be managed and let.

These changes would likely limit the allotments' appeal to only those living nearby, as access would now be on foot only.

The parish requests further public consultation on these substantial revisions before any determination is made.

The parish requires clarity on enforcement of the ban on above-ground structures (e.g., sheds, greenhouses, polytunnels).

They seek assurance that a management structure will be established for ongoing maintenance.

The site should be used solely for Phase 1 of Sulis Down, not future phases.

References to on-site parking and possible future expansion in the application documents need to be removed or clarified.

The parish notes a lack of facilities for disabled users.

They criticise the piecemeal approach to development, attributing it to the absence of a comprehensive masterplan.

While the parish recognises some merit in the revised application, they maintain their objection unless the above issues are fully addressed.

Cotswold Landscape Board: Objection

The site is within the Cotswolds National Landscape, and the local planning authority must explicitly address its statutory duty to conserve and enhance natural beauty when making decisions.

The Board recommends decisions be consistent with national/local policy and specific Board publications, including the Management Plan, Landscape Character Assessment, and Position Statements.

The Board objects to the proposal because the applicant has not justified why allotments must be located outside the site boundary allocated by Policy B3a of the BANES Core Strategy and Placemaking Plan.

There is a reasonable likelihood that the required allotments could be provided within the site boundary, making the current application non-compliant with Policy B3a and paragraph 189 of the National Planning Policy Framework (NPPF), which states development in National Landscapes should be limited.

The proposed allotments are on 'Derrymans', an agricultural field outside the allocation boundary, within the National Landscape and Green Belt, and adjacent to the Bath World Heritage Site.

Previous related applications (notably 22/02169/EOUT for Phases 3 and 4) initially proposed allotments at Derrymans but were revised to provide all allotments within the site boundary, which the Board supported.

The Board notes that the appeal scheme for 22/02169/EOUT proposes sufficient allotment provision within the site boundary for all phases. If this appeal is allowed, the current application's allotments would not be needed.

If the appeal is dismissed, future proposals are likely to again provide allotments within the boundary.

The Board recommends deferring determination of the current application until the appeal decision is known, to clarify allotment provision.

The Board highlights new legal duties under the Levelling Up and Regeneration Act 2023, requiring authorities to actively seek to further the statutory purposes of protected landscapes, going beyond mere mitigation.

Authorities must demonstrate with evidence how decisions further these purposes and record their reasoning for legal compliance

Bath Preservation Trust: Objection

Derrymans Field lies within the Green Belt, Cotswolds AONB, and the World Heritage Site setting.

It contributes to Bath's rural transition and views towards Combe Hay and Cam Brook Valley.

Development would harm openness and rural character, contrary to NPPF Section 13 and local policies (B1, CP6, CP8, GB1, NE2, NE2a, HE1).

Derrymans Field is not part of the Sulis Down allocation (Policy B3a) and remains Green Belt.

Allotments and associated infrastructure (tool sheds, seating, parking) should be within the allocated site, not outside it.

No "special circumstances" have been demonstrated for using Green Belt land.

Current proposal adds to piecemeal expansion beyond the defined site boundary. Indicates overdevelopment of Sulis Down, pushing amenity provision onto protected land to maximise housing numbers.

Proposals require an LVIA and mitigation to assess harm to Green Belt and AONB. Future expansion plans (up to 3,532.5m² plus orchard and parking) would further erode openness.

Policy B3a requires green infrastructure and allotments within the development site. The Core Strategy stresses no safeguarded land at Odd Down due to environmental sensitivity.

A financial contribution as a fallback for allotments is considered inappropriate.

Derrymans Field forms part of Bath's landscape buffer and rural setting. Development would domesticate the site, conflicting with its agrarian character.

South of Bath Alliance (SOBA): Objection

SOBA consistently objects to the absence of a Comprehensive Masterplan for the South Stoke plateau, as required by Policy B3a of the B&NES Local Plan. This policy mandates

that a masterplan should be prepared through public consultation and agreed by the Council before any applications are considered.

The failure to produce such a plan has led to piecemeal and incremental development, which SOBA argues is precisely what the policy was designed to prevent.

Previous attempts at a masterplan (2017 and subsequent proposals) were either rejected or deemed inadequate and outside the parameters set by Policy B3

The current proposal places the required allotments on Derryman's field, which is outside the area allocated for development and remains within the Green Belt. SOBA argues this is contrary to Policy B3a, which requires allotments to be within the allocated development area.

SOBA views this as an attempt to extend development beyond what is permitted in the Local Plan and stresses that the Green Belt should be protected from such encroachment.

The facilities proposed for the allotments on Derryman's field are described as minimal and inadequate (e.g., only a small shed and wire mesh fencing), especially compared to what could be provided within the allocated land (such as community buildings, raised beds, WCs, cycle parking, and family-friendly features).

SOBA highlights that better facilities and a more cohesive allotment community could be achieved if the allotments were sited within the main development area, as originally envisaged.

SOBA points out inconsistencies between different planning applications (22/01370/FUL and 22/02169/EOUT), with different versions of the 'Masterplan' being used for each.

The lack of a unified approach is seen as evidence of poor planning and a failure to comply with the Local Plan's requirements.

Derryman's field is within the Green Belt and, in some proposals, overlaps with land designated for ecological mitigation and enhancement. SOBA argues it cannot simultaneously serve as both allotments and biodiverse neutral grassland.

The sensitive nature of the South Stoke Plateau, lying within the Cotswold AONB and forming part of the Bath World Heritage Site's landscape setting, is repeatedly emphasised as a reason for strict adherence to planning protections

SOBA notes that the landowners (Hignett Family Trust) have indicated that future phases of development could provide a single, well-appointed allotment site for the whole Sulis Down development.

There is provision for the developer (Vistry) to make a financial contribution towards a future allotment site, which SOBA sees as a preferable solution.

SOBA criticises the public consultation process as flawed, with leading questions, incomplete information, and a short response window. The overwhelmingly negative feedback from the community was not reflected in subsequent proposals.

Campaign for the Protection of Rural England: Objection

Land removed from the Green Belt is allocated for housing and infrastructure, including allotments. Derrymans remains in the Green Belt and is outside this allocation, so it should not host allotments.

The s106 agreement allowed allotments to be delivered in later phases. Countryside should have planned for this within the allocated site, not Derrymans.

The proposal shows poor comprehensive planning and conflicts with Policy B3a principles.

Plans for more allotments suggest future phases could accommodate them, raising doubts about the need for Derrymans.

Third Parties/Neighbours

A total of 91 representations were received. All comments received have been reviewed and considered by the case officer. The summaries below have been generated with the assistance of Microsoft CoPilot and reviewed by the case officer for accuracy.

1 SUPPORT comment was received. The main points raised were:

One comment described the proposal as a "brilliant idea" and a "wonderful space," emphasising the need for more community facilities and making use of unused land.

The supporter noted that with a growing population, expansion is necessary and that the site is suitable as it is currently an empty field.

There was a call for less negativity and more focus on community benefit.

86 OBJECTION comments were received. The main points raised were:

Many objectors argue that the proposed allotments are outside the land allocated for development in the B&NES Core Strategy (Policy B3a).

Derrymans Field is within the Green Belt and was not released for development; allotments should be within the allocated development land.

The application is seen as contrary to both local and national planning policy, and some suggest it could be open to judicial challenge.

The field is valued as a green buffer, wildlife habitat, and part of the Area of Outstanding Natural Beauty (AONB) and World Heritage Site setting.

Concerns about loss of wildflower meadows, impact on bats, birds, slow worms, and other wildlife.

Objections to further removal of trees and green infrastructure for access.

Several comments criticise the lack of a comprehensive masterplan and proper public consultation, as required by policy.

The application is seen as piecemeal and not in line with agreed strategies.

The site is considered too far from the homes it is meant to serve, making it unsustainable.

Concerns about increased traffic, parking, and loss of open space for walking and recreation.

Some objectors believe the development will lead to further urbanisation and set a precedent for more building on green belt land.

Multiple comments allege that the developer is motivated by profit, seeking to maximise housing numbers by relocating allotments outside the allocated area.

There is scepticism about the accuracy of statements made in the application and frustration over perceived disregard for previous commitments.

Objections to the inclusion of sheds, parking, and other infrastructure, which are seen as urbanising and harmful to the openness of the green belt.

Some amendments (removal of sheds, etc.) are viewed as making the allotments less viable.

Potential impact on water supply and quality

Risk of anti-social behaviour if allotments are isolated from residential areas.

Loss of views and negative visual impact.

5 GENERAL COMMENTS were received. The main points raised were:

The Bath Allotments Association and others raise concerns about the long-term management of the site, suggesting it should be run by the Council and open to all residents, not just new home buyers.

There is a call for plots to be offered to those on the Council's waiting list if not taken up by new residents.

Suggestions for the site to be managed organically, with regenerative growing principles to support biodiversity.

Recommendations for improved layout, inclusion of fruit trees, wildlife ponds, and better facilities (e.g., composting toilets, deer-proof fencing).

Concerns about increased traffic and road safety in the area.

Some general comments support the idea of more allotments due to local undersupply, but stress that they must be provided in the right location and managed appropriately.

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)

RELEVANT CORE STRATEGY POLICIES

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

- B4 Bath World Heritage Site
- CP6 Environmental Quality
- CP8 Green Belt
- B3a Land adjoining Odd Down, Bath Strategic Site Allocation

RELEVANT PLACEMAKING PLAN POLICIES

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

- D1 General urban design principles
- D2 Local character and distinctiveness
- D3 Urban Fabric
- D4 Streets and Spaces
- D6 Amenity
- D10 Public realm
- HE1 Historic Environment
- GB1 Visual amenities of the Green Belt
- LCR9 Increasing the provision of local food growing
- NE2A Landscape setting of settlements

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
- D8 Lighting
- NE3 Sites, species and habitats
- NE3a Biodiversity Net Gain
- ST7 Transport requirements for managing development

SUPPLEMENTARY PLANNING DOCUMENTS

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

The City of Bath World Heritage Site Setting SPD (January 2023)
Transport and Development SPD (August 2021)

NATIONAL POLICY

The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) can be awarded significant weight.

CLIMATE AND ECOLOGICAL EMERGENCIES

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

LOW CARBON AND SUSTAINABLE CREDENTIALS

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

OFFICER ASSESSMENT

The main issues to consider are:

1. Background
2. Principle of development
3. Green Belt
4. Landscape
5. Heritage
6. Highways and parking
7. Ecology
8. Allotment provision
9. Other matters
10. Public sector equality duty
11. Planning Balance
12. Conclusion

1. BACKGROUND

Phase 1 of the Sulis Down development for 171 dwellings was granted under planning permission 17/02588/EFUL (subsequently varied under 21/02214/EVAR) in 2019. Whilst no allotments were shown within the approved plans of phase 1, the s106 agreement accompanying that permission includes an obligation for the provision of allotments prior to occupation of 50% of the dwellings.

The obligations required the developers to agree with the Council the location for the allotments within specific parameters, those being that the allotments must be within the B3a allocation and within 800m by highway from phase 1. The developer then had to apply for planning permission for the allotments and, if approved, deliver the allotments.

The s106 agreement provided that if that application was refused, then they would have to agree an alternative location for the allocations within the same parameters and apply again for planning permission.

If this second application was refused, then the developers were required to identify an alternative location for the allotments that may be outside of the B3a allocation but must be within 800m of the development with unencumbered access by car from a public highway. They must then apply for planning permission and, if approved, must procure the transfer of the land to the Council at nil cost and pay an allotment contribution of £35,400 (index linked). If refused, then the developer must repeat this exercise until a suitable alternative location is found.

A further clause within the s106 agreement set out that the above obligations can be satisfactorily discharged by a planning permission for residential development on other parts of the B3a allocation which showed suitable provision for allotments.

In 2020, agreement was sought for an allotment location within the allocation site (ref: 20/04647/D6A) but these were both deemed to be unsuitable for allotments and were rejected as they would have conflicted with land illustrated as 'additional green infrastructure' in the allocation concept diagram. No further agreement that complies with the process set out in the obligations above has been sought, and the phase 1 development is currently in breach of these obligations.

The current application on Derrymans Field was submitted in 2022, in an effort by the developer of phase 1 to find an alternative location for the allotments. However, the application site falls outside of the B3a allocation and therefore does not meet the requirements of the s106 agreement to first make at least two attempts to seek approval on land within the allocation site.

At a similar time, an application was submitted for a spine road and residential development on phases 2, 3 and 4 of the allocation (ref: 22/02169/EOUT). This proposal for up to 290 dwellings eventually also included the provision of an allotment site within the north-west corner of phase 3, immediately to the east of Sulis Manor. This proposal sought to provide all the allotment requirements (phases 1-4) for the allocation within a single location and would have met the requirements of the s106 agreement attached to the phase 1.

Officers considered that the solution offered by 22/02169/EOUT was preferable to the current application as it would allow all the allotments to be provided together with additional benefits arising from their co-location, such as the sharing of facilities and creating a greater sense of activity and community.

However, application 22/02169/EOUT was refused in April 2024 and subsequently dismissed at appeal in March 2025.

The current application therefore remains to be determined. Whilst it would not strictly comply with the obligations within the s106 agreement (as not all the correct clauses have been carried out to allow for an alternative location to be put forward yet), the application falls to be determined on its own merits as an allotment proposal.

Should planning permission be granted, then the s106 agreement attached to the phase 1 development will need to be modified to rectify the breach of the current obligations and to secure the delivery of these allotments.

2. PRINCIPLE OF DEVELOPMENT

Policy LCR9 is concerned with increasing the provision of local food growing and states that all new allotment sites must comply with the B&NES Allotments Site Selection Criteria and must be:

- a) Suitable for productive use
- b) Accessible to the area the intended to serve
- c) Suitable for use as allotments through appropriate design

The Greener Places team (formerly responding as the Parks team) have raised no objection to the location of the new allotments and it is considered that the area proposed for allotments could be suitable for productive use.

The allotments are intended to serve the occupants of the phase 1 development on a first refusal basis and thereafter members of the public if allotments remain available. The site lies immediately to the west of Phase 1 with access via a short footpath adjacent to the parking along Peacock Way. It is within an easy walking distance of the occupants of phase 1 and is readily accessible by private vehicle for other members of public. The site is also within 200m of the Odd Down Park and Ride, which provides an alternative means of transport for those visiting the site from further away.

The design of the allotments is considered further below but, in summary, they are suitable for use and have an appropriate design which takes account of the sensitive ecological and landscape issues associated with Derrymans Field.

LCR9 also requires that new allotments are well designed and managed in line with the B&NES Allotment Management Plan and B&NES Allotment Design Guide and have a site management plan. The Green Places team have confirmed that the proposed allotments meet the requirements of the Allotment Specification set out in the S106 agreement associated with the phase 1 development. A site management plan has also been submitted but is likely to require review and further detail which can be provided via a planning condition.

The proposals are therefore considered to comply with policy LCR9.

Many of the comments received in respect of this application assert a conflict with the allocation policy B3a which requires, inter alia, the *"Provision of Green infrastructure including multifunctional green space (formal, natural and allotments)"* and draw an inference from this that the allotments must be provided within the allocated land rather than on land outside of the allocation.

However, whilst the background section above provides helpful context about the position in respect of the allotment requirement of phase 1, this application must be considered on its own merits. It falls outside of the allocation site B3a and therefore the allocation policy is not directly applicable to the consideration of this application.

Notwithstanding this, the s106 agreement associated with phase 1 makes clear (albeit as a fall-back option) that the allotments can be provided on alternative land outside of the allocation if alternative locations within the allocation are not approved. The Council have therefore already accepted the principle that the allotments could be provided outside of the allocation without conflicting with policy B3a.

In short, if the proposed allotments are acceptable on their own merits, there is no reason that they should be seen as conflicting with the requirements of B3a. Such considerations would need to be assessed under a future application to modify the s106 agreement in order to discharge the allotment obligations associated with phase 1.

3. GREEN BELT

New development within the Green Belt is considered inappropriate unless it meets one of the exceptions set out in paragraph 154 of the NPPF. These include, inter alia, the change of use of land and the provision of appropriate facilities for allotments provided that they preserve openness and do not conflict with the purposes of including land within it.

The proposed allotments involve several elements, including:

- 8 x full sized and part sized allotment plots;
- 1.8m chain link fence and fence and lockable gate;
- Hedgerow surrounding the allotments
- Reinforced gravel path;
- Communal storage shed (4.2m by 2.1m);
- 3x Water troughs
- 2x Rainwater butt
- Freestanding A3 sized noticeboard

The proposed facilities are appropriate for the allotment use but have been kept to a minimum to limit any impacts upon openness. The use of a communal storage shed will limit the need for further structures. The 1.8m chain link fence will be surrounded by a hedge which will help to screen it and limit its impact. Whilst there will be change in the appearance of this part of Derrymans Field, it is considered that the facilities proposed will preserve the openness of the Green Belt. The nature and appearance of the proposed allotments means that they also do not conflict with the purposes of the Green Belt.

It is acknowledged that allotment uses can, over time, generate a significant amount of paraphernalia, e.g. sheds, polytunnels, storage boxes, etc, that can start to erode openness over time. It will therefore be important to ensure that there is appropriate management of the allotments. This can be controlled by condition.

Considering the above, it is considered that the proposed allotments are appropriate development within the Green Belt and do not require very special circumstances to justify. The proposals therefore comply with policy CP8 of the Core Strategy and chapter 13 of the NPPF.

4. LANDSCAPE

The site lies within the Cotswolds National Landscape and, in light of the extensive evidence submitted at the public inquiry into application 22/02169/EOUT, is plainly a highly sensitive and valued landscape.

Policy NE2 requires, inter alia, that development should seek to avoid or adequately mitigate any adverse impacts on the landscape. In alignment with the NPPF, it also states that great weight should be afforded to conserving and enhancing the landscape and scenic beauty of National Landscapes.

There is also a duty under s85 of the Countryside and Rights of Way Act 2000 to 'seek to further' the purpose of conserving and enhancing the natural beauty of land within a National Landscape (referred to as areas of outstanding natural beauty in the act).

The proposals have been accompanied by a Landscape and Visual Appraisal (LVA). This has been reviewed by the Council's Landscape Officer who agrees with the conclusions of the LVA that:

1. The principal landscape effects would be contained to the site only and external landscape effects would be either negligible or minor adverse owing to the nature of the proposed development which is located on the urban fringe of Bath.
2. In terms of visual amenity, the greatest effects would be from the PROW within the immediate vicinity of the site and specifically from those within the field containing the site. There would also be some effects on visual amenity from the section of Combe Hay Lane which passes to the west of the Site.
3. There is no visibility of the site from beyond Combe Hay Lane to the west, or from beyond the southern edge of Sulis Down to the south owing to intervening belts and blocks of woodland.
4. Similarly, there are no views of the site from beyond the PROW network to the southeast of the Site in the vicinity of Sulis Manor owing to intervening belts of woodland.

Based upon these conclusions, it is considered that the proposals have been designed, through their siting, layout, and landscaping, to avoid and mitigate any adverse impacts upon the landscape. The proposals are therefore considered to conserve the landscape and scenic beauty of the National Landscape.

The proposals therefore comply with policy NE2 and the duty under s85 of the Countryside and Rights of Way Act 2000 has been met.

5. HERITAGE

Derrymans Field falls just outside of the boundary of the dual inscribed Bath World Heritage Site (City of Bath inscription and Great Spa Towns of Europe inscription) but does lie within the indicative extent of its setting. The site contributes towards some of the attributes of Outstanding Universal Value, primarily 'its setting within green hills, surrounded by open agricultural land that evokes the landscape of the Georgian period' (City of Bath inscription) and 'Buildings and spaces connect visually and physically with their surrounding landscapes, which are used regularly for exercise as a contribution to the therapy of the cure, and for relaxation and enjoyment' (Great Spa Towns of Europe inscription).

In this instance, due to the size, nature and appearance of the proposed allotments, and the landscape conclusions above, it is not considered that they will result in harm to the outstanding universal value 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.

6. HIGHWAYS AND PARKING

The proposals show access for pedestrians only via a path on the east side of the site. This links to a row of 4 visitor parking bays located on Peacock Way that will provide parking for allotment users.

There are no specific parking standards for allotments within the Transport and Development SPD, but the Highways Officer has raised no objection to this arrangement. It is an acceptable level of parking which will allow users of the allotments to bring supplies and tools close to the site.

The current plans do not show any cycle parking or provision within the allotment site. The Highways Officer has raised concerns about this, although stopped short of formally objecting. However, as part of the phase 1 development there are 4 Sheffield stands located within Peacock Way a short distance from the proposed footpath and will provide an adequate level of cycle parking for users of the allotments. These are due to be installed within the next couple of months as part of the phase 1 proposals.

The proposal complies with policy ST7 of the Local Plan Partial Update.

7. ECOLOGY

The application was submitted prior to the introduction of mandatory Biodiversity Net Gain (Environment Act 2021) and therefore is not subject a 10% net gain requirement. However, it is still subject to the requirements in policy NE3 and NE3a to avoid a net loss of biodiversity and to ensure an appropriate net gain.

The application would involve the loss of some land which is currently part of the Fuller's Earth Works - Southstoke complex SNCI. The proposal includes various mitigation measures such as undertaking vegetation clearance outside of bird nesting season, no external lighting to safeguard light sensitive bats and enhancement of the existing 1,889sqm of grassland (meadow) retained to the south of the allotments to avoid any net loss in terms of biodiversity.

It also includes enhancement measuring such as the planting of approximately 200m of new native species hedgerow around the site.

Policy NE3 requires, for a proposed development within an SNCI:

1. material considerations are sufficient to outweigh the local biological geological / geomorphological and community/amenity value of the site;
2. impacts have been minimised;
3. there are opportunities to replace and/or offset the loss to at least equivalent or greater ecological value

The Council's Ecologist considers that the proposals have addressed point 2 above and are considered capable of meeting point 3 above (subject to agreement of final details and methods of habitat delivery). A detailed Landscape Management and Monitoring Plan and restrictions on new lighting can be secured by condition. Other conditions recommended by the Ecologist include the provision of a Construction Ecological Management Plan, securing the provision of ecological features (including reptile and invertebrate refuges) and a Habitat Management and Maintenance Plan.

Point 1 of NE3 requires a planning balance to be undertaken. The site forms part of a wider area of species-rich grassland habitat; the affected area of habitat is capable of restoration to higher quality wildflower grassland but, in this instance, it is considered that the benefits arising from the delivery of the allotments would outweigh the identified harm arising from the loss of this part of the SCNI. This matter is discussed further in the planning balance section below.

The proposal complies with policies NE3 and NE3a.

8. ALLOTMENT PROVISION

Several comments are concerned about the level of facilities provided for allotment users, stating that the green belt location and controls on new structures will limit the usability and benefits to users. It is acknowledged that the green belt location does entail a need for greater controls over paraphernalia that is often seen on allotments, such as individual tool sheds for allotments, polytunnels, etc. However, the proposed approach of having a single communal tool/storage shed is not unusual and can be a functional approach that may actually encourage a greater sense of community and shared experience amongst allotment users.

The s106 agreement for the phase 1 development sets out the specification required for the allotment provision to support the development. This includes a minimum requirement of 1180sqm of allotments, with 50% of plots at a full standard size of 125sqm and the rest at half or quarter standard. It also requires clear separation between adjacent allotments and paths between plots to a minimum of 0.8m wide. There are further requirements about accessibility, construction, water supply and signage. The Green Places team have confirmed that the proposed allotments meet these standards although have flagged some concern that the plans do not show arterial paths to be of a robust, all-weather construction. Revised plans have now been submitted to secure this.

A site management plan has also been submitted but is likely to require review and further detail which can be provided via a planning condition.

It is not proposed that there will be any controls attached to the current application to secure the delivery of these allotments. However, as explained in the background section above, if approved, it will be necessary to amend the s106 agreement associated with the phase 1 development to align with any new allotment permission and to secure its delivery. Modification of the s106 agreement will also cover matters relating to who is responsible for the management and maintenance of these allotments.

The s106 agreement currently states that following their completion, the allotments may be transferred to a management company or to the Council or to a body nominated by the council at nil cost.

9. OTHER MATTERS

Several concerns have been raised about the potential for vandalism of allotments in this location or interference by local wildlife, such as deer. The current proposals include a 1.8m chain link fence with a surrounding hedgerow. Whilst a taller or more sturdy boundary treatment might provide additional protection, it would also likely have a greater visual impact upon the sensitive landscape and a greater impact upon the openness of the Green Belt. It is considered that the proposed solution strikes the right balance between providing adequate security for the allotments whilst conserving the landscape and the openness of the Green Belt.

Comments have also flagged concerns about car parking on Derrymans Field being inappropriate. These comments arise from an earlier iteration of the proposals which saw direct vehicular access and parking on Derrymans Field. The scheme has since been revised so that it contains footpath access only.

Several comments have mentioned that the allotments would be better provided as part of a single, well-appointed allotment site for the whole B3a allocation on a future phase of development. There is some strength to these arguments, and it's acknowledged that there would be some benefits to co-locating the required allotment provision of the allocation. For this reason, officers did seek to secure a single allotment site within phase 3 of the development as part of application 22/02169/EOUT but following its refusal and then subsequent dismissal at appeal, it has now meant that there has been an extended period of uncertainty about the delivery of the allotments required in respect of phase 1. This uncertainty has adverse implications for the developer of phase 1 who is now in breach of their s106 requirements. It also has significant implications for the current occupiers of the phase 1 development who have now been living at the site for some time without delivery of the promised allotments.

A balance is therefore to be struck between the benefits of co-locating the allotments in future phase of the B3a allocation, for which there is likely to be a significant delay of multiple years before delivery can occur, versus the benefits of providing a solution which is immediately deliverable and provides certainty for residents and the developer.

In this instance, officers have taken the view that delivery and certainty outweigh the potential benefits arising from the co-location of allotments in a future phase.

10. 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.

11. PLANNING BALANCE

The proposals will provide allotments which will serve the occupiers of the phase 1 development in the B3a allocation. The proposals, in substance, meet the requirements of the s106 agreement allotment specification and would provide a sensible alternative location for the allotment provision that would provide certainty about the delivery of this important piece of infrastructure. Whilst there may be benefits associated with co-locating the allotments within a future phase of the B3a allocation site, there has already been a considerable delay seeking this outcome and there is still no certainty about when this might materialise. This site benefits from being capable of being delivered immediately.

The proposals meet the requirements of policy LCR9 and will increase the number of allotments in the locality. Research underpinning the Green Space Strategy (2015) demonstrates that there is a high demand for allotments with nearly every site across the District now full with a waiting list. The provision of allotments in this context, therefore attracts significant weight.

Whilst there is some harm arising from the loss of a small parcel of land which forms an interest feature of the SNCI and is capable of restoration to higher quality wildflower grassland, in this instance, it is considered that the benefits outweigh this loss.

12. CONCLUSION

The proposal is considered to comply with all relevant policies of the development plan and is acceptable. In accordance with paragraph 11 of the NPPF should be approved without delay.

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 External Lighting (Bespoke Trigger)

No new lighting shall be installed without full details of proposed lighting design being first submitted and approved in writing by the Local Planning Authority; details to include lamp specifications, positions, numbers and heights, details of predicted lux levels and light spill, and details of all necessary measures to limit use of lights when not required and to prevent light spill onto nearby vegetation and adjacent land, and to avoid harm to bat activity and other wildlife. The lighting shall be installed and operated thereafter in accordance with the approved details.

Reason: To avoid harm to bats and wildlife in accordance with policy CP6 of the Bath and North East Somerset Core Strategy and policy NE.3 of the Bath and North East Somerset Placemaking Plan.

3 Wildlife Protection and Enhancement (Pre-commencement)

No development shall take place until full details of a Wildlife Mitigation and Enhancement Scheme, produced by a suitably experienced professional ecologist, have been submitted to and approved in writing by the local planning authority. These details shall include:

(i) Method statement for pre-construction, ground preparation, and construction phases to provide full details of methods and operations and all necessary ecological protection and mitigation measures, including, where applicable, proposed pre-commencement checks and update surveys (and proposed reporting of findings to the LPA prior to commencement of works), precautionary working methods, and additional measures as applicable, for the avoidance of harm to reptiles, nesting birds, badger and other wildlife, and retained habitats.

(ii) Detailed proposals for provision of habitat value and additional features and measures to benefit wildlife, including wildlife-friendly planting and landscaping details, and features for wildlife such as reptiles and invertebrates. Details shall be shown on a plan and shall include proposed specifications; materials; models, dimensions and design; fixings (as applicable); and proposed numbers, heights and positions/boundaries.

(iii) Specifications for boundary treatments and fencing shall be provided and shall include wildlife access points at intervals to allow movement of wildlife such as hedgehog. All details shall be fully incorporated into the scheme and shown to scale on all relevant plans and drawings.

All works within the scheme shall be carried out in accordance with the approved details and completed in accordance with specified timescales and prior to the occupation of the development, and retained and maintained thereafter for the purposes of wildlife conservation.

Reason: To prevent ecological harm and to provide additional benefits for wildlife, in accordance with policies NE3, NE5 and D5e of the Bath and North East Somerset Local Plan Partial Update. The above condition is required to be pre-commencement as it involves approval of measures to ensure protection of wildlife and habitats that would be otherwise harmed during site preparation and construction phases, and because the details of habitats and features to be installed and provided during construction phase are not yet finalised.

4 Landscape and Ecological Management Plan (LEMP) (pre-operation)

The allotments hereby approved shall not be brought into use until full details of a Landscape and Ecological Management Plan have been submitted to and approved in writing by the local planning authority. These details shall be fully in accordance with (but not limited to) approved ecological requirements and biodiversity gain documents and shall include:

- (i) A list of long-term wildlife conservation and landscape aims and objectives, to include: habitat-specific; species-specific; and issue-specific objectives (as applicable)
- (ii) Proposed management prescriptions and operations; locations, timing, frequency, duration; methods equipment and personnel as required to meet the stated aims and objectives
- (iii) Details shall include locations and boundaries of habitats; habitat target conditions and target maintained heights and widths of hedgerows; and management units / areas; all such details shall be accurately shown on a plan
- (iv) A list of activities and operations that shall not take place and shall not be permitted within the LEMP area or within specific habitats (for example use of herbicides, waste disposal, inappropriate maintenance methods, storage of materials)
- (v) Proposed monitoring and reporting scheme, to include ongoing review and remediation strategy
- (vi) Proposed costs, legal responsibility, and funding sources

All required measures shall be incorporated into and compatible with the wider scheme and shown to scale on all relevant plans and drawings including landscape design and planting plans. All works within the scheme shall be carried out and the land managed and maintained and utilised thereafter only in accordance with the approved details, unless otherwise approved in writing by the local planning authority.

Reason: In the interests of avoiding net loss and proving net gain of biodiversity, and to secure long term visual amenity in accordance with policies NE2, NE3 and NE3a of the Local Plan Partial Update.

5 Allotment Management Plan (Pre-occupation)

Notwithstanding the allotment management plan submitted with the application, the allotments hereby approved shall not be brought into use until an updated allotment management plan has been submitted to and approved in writing by the local planning authority. The updated plan shall include details:

- i) the allocation of allotment plots; and
- ii) Proposals for dealing with neglected plots; and
- iii) Proposals to manage and limit the amount of allotment paraphernalia within the site.

The allotments shall thereafter be operated in accordance with the approved management plan.

Reason: In order to preserve the openness and visual amenity of the Green Belt and conserve the natural beauty of the Cotswolds National Landscape in accordance with policies CP8, GB1 and NE2 of the Local Plan Partial Update.

6 Ecological Compliance Statement (Pre-operation)

The allotments hereby approved shall not be brought into use until a report produced by a suitably experienced professional ecologist (based on post-construction on-site inspection by a suitably experienced professional ecologist) confirming and demonstrating, using photographs, adherence to and completion of the Wildlife Mitigation and Enhancement Scheme in accordance with approved details, has been submitted to and approved in writing by the Local Planning Authority. The report shall include reporting of any non-compliance or requirements for remediation, along with proposed remedial action or additional measures where applicable, which shall thereafter be implemented.

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

7 Plans List (Compliance)

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

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

PLANS LIST:

1 050-5-2-DR-5003-S4-P13 Landscape Proposals
3050-5-2-DR-5002-S4-P13 General Arrangement
3050-5-2-DR-5000-S4-P6 Site Location Plan

2 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.

3 Condition Categories

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

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

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

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

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

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

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

4 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.