

# Bath & North East Somerset Council

MEETING: **Planning Committee**

MEETING DATE: **4th May 2022**

AGENDA  
ITEM  
NUMBER

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RESPONSIBLE OFFICER: Simon de Beer – Head of Planning

TITLE: **APPLICATIONS FOR PLANNING PERMISSION**

WARDS: ALL

BACKGROUND PAPERS:

## AN OPEN PUBLIC ITEM

### BACKGROUND PAPERS

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

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

### The following notes are for information only:-

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

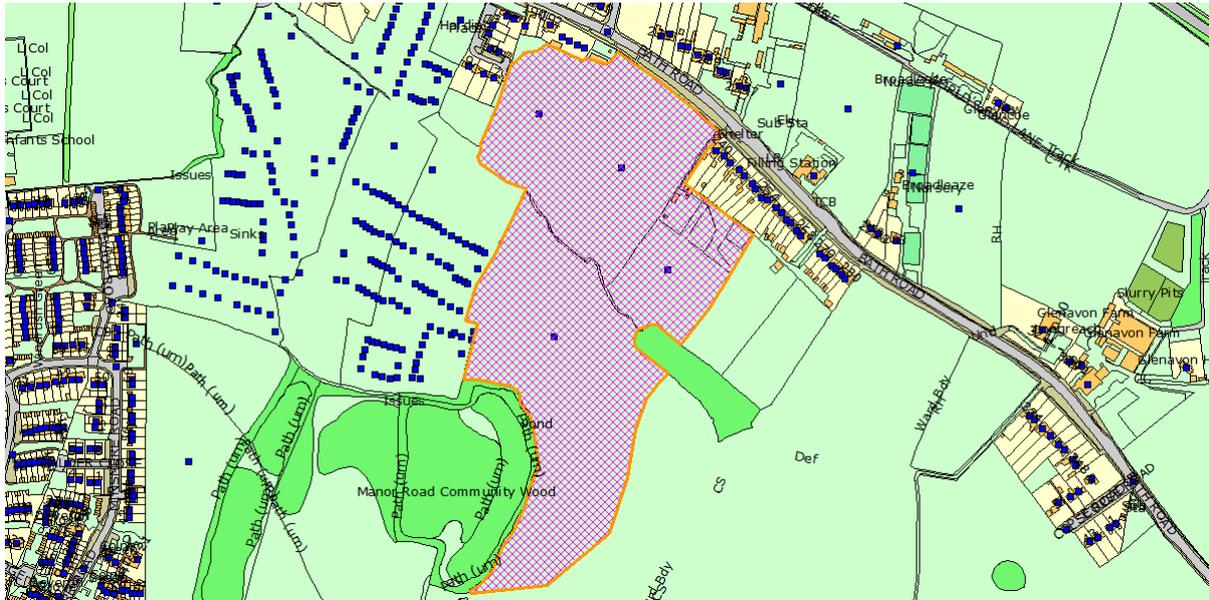
- [2] The papers identified or referred to in this List of Background Papers will only include letters, plans and other documents relating to applications/proposals referred to in the report if they have been relied on to a material extent in producing the report.
- [3] Although not necessary for meeting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

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01	20/02673/OUT 6 May 2022	Mactaggart And Mickel Homes Ltd Land Parcel 0005, Bath Road, Keynsham, Bath And North East Somerset, Residential and related development comprising approximately 213 dwellings, replacement sports pitch to facilitate expanded primary school, means of access thereto, associated open space, landscaping, access roads, footways/cycleways and infrastructure works.	Keynsham East	Chris Griggs- Trevarthen	Delegate to PERMIT
02	20/02253/FUL 11 May 2022	Hawkfield Homes (west) Ltd Former Radstock County Infant School, Bath Old Road, Radstock, Bath And North East Somerset, Demolition of existing vacant school buildings and erection of 15 dwellings, access, parking and landscaping.	Radstock	Isabel Daone	PERMIT
03	22/00630/FUL 8 April 2022	Joshua Kneen & Jai Turner 10 Highbury Place, Walcot, Bath, Bath And North East Somerset, BA1 6DU Creation of new parking bay (Resubmission).	Walcot	Helen Ellison	REFUSE
04	22/00631/LBA 8 April 2022	Joshua Kneen & Jai Turner 10 Highbury Place, Walcot, Bath, Bath And North East Somerset, BA1 6DU External alterations for the creation of new parking bay (Resubmission).	Walcot	Helen Ellison	REFUSE

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

**Item No:** 01  
**Application No:** 20/02673/OUT  
**Site Location:** Land Parcel 0005 Bath Road Keynsham Bath And North East Somerset



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

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

**Application Type:** Outline Application

**Proposal:** Residential and related development comprising approximately 213 dwellings, replacement sports pitch to facilitate expanded primary school, means of access thereto, associated open space, landscaping, access roads, footways/cycleways and infrastructure works.

**Constraints:** Saltford Airfield 3km buffer, Agric Land Class 1,2,3a, Agric Land Class 3b,4,5, Policy CP8 Green Belt, Policy CP9 Affordable Housing Zones, Housing Development Boundary, Policy KEB3 Safeguarded Land East Keynsh, Policy LCR5 Safeguarded existg sport & R, Policy LR6A Local Green Spaces, LLFA - Flood Risk Management, MOD Safeguarded Areas, Policy NE2A Landscapes and the green set, Policy NE3 Local Nature Reserve, All Public Rights of Way Records, SSSI - Impact Risk Zones, Policy ST8 Safeguarded Airport & Aerodro,

**Applicant:** Mactaggart And Mickel Homes Ltd

**Expiry Date:** 6th May 2022

**Case Officer:** Chris Griggs-Trevarthen

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

## REPORT

### -+REASONS FOR REPORTING TO COMMITTEE

Keynsham Town Council and Salford Town Council have both objected to the application contrary to the officer recommendation. In accordance with the scheme of delegation, the application has been referred to the chair/vice chair of Planning Committee. They have decided that the application should be determined by committee and have made the following comments:

Chair, Cllr. Sue Craig

"I have reviewed this application and note the objections from both Salford Parish and Keynsham Town Councils, the local ward councillor and many other third parties. Given the controversial nature of this proposal, I recommend that it is debated in full at Planning Committee."

Vice Chair, Cllr. Sally Davis

"I have looked at this application, noting it is an outline application which has clearly attracted many objections from both statutory and third parties as well as a Ward Councillor planning committee request. It is clearly controversial therefore I recommend the application be determined by the planning committee."

### DESCRIPTION

The application site comprises approximately 10.26 hectares of greenfield land at the eastern extent of Keynsham just south of the A4 Bath Road. The site consists of four improved grassland field compartments bound by hedgerows and woodland edges which generally sloped down to the south, away from the A4. A small watercourse bisects the site between the upper and lower fields.

The Hygge Park development, including a newly constructed primary schools, lies immediately to the west of the site. Manor Road Community Woodland lies to the south-west of the site. A public right of way (BA27/27) runs East-West across the lower field and a number of other informal paths are visible across the site.

The majority of the site is designated as safeguarded land under Placemaking Plan (PMP) policy KE3B - Safeguarded Land East Keynsham. However, the southernmost field falls outside of the safeguarded land designation and lies within the Bristol and Bath Green Belt.

The application seeks outline planning permission for residential and related development comprising approximately 213 dwellings, replacement sports pitch to facilitate expanded primary school, means of access thereto, associated open space, landscaping, access roads, footways/cycleways and infrastructure works.

All matters are reserved except for access.

The application is a resubmission of a previous outline application which was refused in 2018. An appeal against that decision was submitted to the Planning Inspectorate but was then subsequently withdrawn.

## **PLANNING HISTORY**

A previous application on this site was refused planning permission in 2018. Details below.

Application reference 18/01509/OUT

Residential and related development comprising approximately 200 dwellings, replacement Sports Pitch to facilitate expanded Primary School, means of access thereto, associated open space, landscaping, access roads, footways/cycleways and infrastructure works.

REFUSED 28th December 2018

APPEAL WITHDRAWN

The land immediately to the west of this site was granted planning permission for 250 dwellings in 2017) and is now being built out. This development is known as Hygge Park (Policy allocation KE3a) and details of the permission are below.

Application reference 16/00850/OUT (Hygge Park)

Residential and related development comprising approximately 250 dwellings, new Primary School with associated outdoor playing facilities, means of access thereto, associated open space, landscaping, access roads, footways/cycleways and infrastructure works (Revised Plans)

PERMITTED 4th October 2017

The Council is also currently considering an application on safeguarded land to the south-west of the application on land off Minsmere Road (Emerging policy allocation KE3d). Details below.

21/05471/OUT

Outline planning application for 70 homes (Use Class C3); new vehicular and pedestrian access on to Minsmere Road, public open space; tree

PENDING CONSIDERATION

## **ENVIRONMENTAL IMPACT ASSESSMENT**

The Council issued a screening opinion (14/05418/SCREEN) for a wider development consisting of 500 dwellings across both the current site and the Hygge Park site to the west in 2015. It concluded that the wider proposals does not represent EIA development.

Given the length of time that has elapsed, it has been necessary to update the screening opinion in accordance with the Environmental Impact Assessment Regulations 2017. The latest screening opinion concludes that the proposals do not represent EIA development.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

HIGHWAYS: No objection

There is a need to secure the package of measures proposed in the Sustainable Transport Strategy (STS) for Keynsham. Highways consider that the measures proposed in the STS, and subsequent incorporation into the emerging LPPU, are fair and reasonable in relation to the scale of the total Safeguarded Land development, particularly as no traffic capacity mitigation is sought. Highways recognise that the Withies Park application does not constitute the full allocation, and therefore contributions need to be proportionate to its scale.

Furthermore, the delivery mechanism also needs to ensure:

- Individual measures are fully funded and do not rely on unidentified funding sources to be delivered.
- The responsible party must have a reasonable prospect of being able to deliver the measure

Highways therefore require all aspects of the measures, with the exception of those for which a contribution is proposed, to be directly delivered by the applicant. For the avoidance of doubt, this includes:

Measure 1 - Bus Stop improvements on the A4

Measure 3 - Local cycling and walking infrastructure (LWCIP) improvements between Saltford and Keynsham

Measure 4 - Connection to Bristol Bath Railway Path

Measures 5 - Active Travel connection through Memorial Park to the Rail Station

It appears that there is an appropriate delivery strategy for the necessary Sustainable Transport Measures and if the above items that remain to be agreed are determined and agreed with both parties

It is recognised that it would not be reasonable to impose a planning obligation or condition which makes the commencement of the Withies Park development beholden to either the metrobus project or the commencement of the other Safeguarded Land parcel. Highways therefore reluctantly accept that there may be a short period of time where development has commenced, but the full package of measures is not in place. This acceptance is on the basis that there is a reasonable prospect of the remainder of the measures being in place in the short term as those projects can both be considered as "committed." This in no way prejudices Highways overarching position that the full package of measures is required to make development acceptable.

The access discussed to date is now acceptable in principle but needs to be finalised in terms of the merge lane.

ECOLOGY: No objection, subject to conditions

PARKS AND OPEN SPACES: No objection, subject to contributions

PLANNING POLICY: Scope for revision - January 2021

We are of the view that very substantial weight should still be attributed to the conflict of the proposal with the current Development Plan and National Policy in terms of early release of the safeguarded land, and we note that there are still significant transport concerns outlined by the objection by the Highways Officer.

However, in light of the Cabinet Report and Regulation 18 Local Plan options document, we now advise that if the transport concerns in particular can be overcome (taking into account the requirements of NPPF para 109) that there could be a case for early release and that the benefits of proposed housing could outweigh any harm identified.

EDUCATION: No objection, subject to obligations

URBAN DESIGN: Objection - September 2020

It is premature to review the design in detail in relation to access for this outline application due to the objection in principle.

1. The scheme is contrary to policy
2. Missing information to inform design/location of access points
3. Layout is structured around green infrastructure well
4. Energy efficient homes at passivhaus standard is positive
5. Integration of routes and boundaries with adjacent development appears well considered and cohesive particularly on the western boundary.
6. There is significant potential in the proposals presented for this to be a development of exceptionally high design quality.

ARBORICULTURE: No objection, subject to conditions

DRAINAGE AND FLOOD RISK: No objection, subject to conditions

ARCHAEOLOGY: No objection

ENVIRONMENTAL MONITORING: No objection, subject to condition

ENVIRONMENTAL PROTECTION: No objection, subject to conditions

LANDSCAPE: No objection

HOUSING: No objection, subject to obligations

AVON AND SOMERSET POLICE: No objection

AVON FIRE AND RESCUE: No objection, subject to obligations

NATURAL ENGLAND: No objection, subject to conditions

SPORT ENGLAND: Support, subject to conditions

THE FOOTBALL FOUNDATION: Object on behalf of The FA & Somerset FA object and require more information to review fully.

SALTFORD ENVIRONMENT GROUP: Objection

Salford Environment Group ("SEG") object to the application for the following reasons:

The purpose of safeguarded land has been to consider it for development (i) after the other developments identified in the Core Strategy have been completed, not before, and thus when infrastructure is already in place and found to be coping with existing and new demands placed on it, and (ii) if a genuine demand for additional new housing remains after the other Core Strategy developments have been completed.

SEG believe it is too early to determine how demand for new housing or travel patterns will change after COVID-19. These changes may include (a) the Government's relaxation of planning rules to encourage the conversion of office and retail buildings in city centres to housing thus reducing the pressure on green field sites whilst rejuvenating city centres that have lost retail outlets; and (b) increased or reduced use of public transport or private vehicles including for additional local journeys by those working from home. SEG consider that their concerns expressed in 2018 therefore continue to apply.

They consider that the proposals will undermine the local plan and the plan-led system and highlight that developers do not have a strategic policy making role other than to say where they can build houses when invited to do so. They suggest that it is not appropriate for developers to attempt to decide where or when houses should be built by applying pressure through lobbying, constant challenging and other means to the plan making process or when making planning applications that fall outside the plans, requirements, limitations or restrictions of a local plan - even if the local plan is going through a revision or update.

SEG also requests that any new development between Keynsham and Saltford must be preceded, not followed, by new transport infrastructure to prevent further congestion and gridlock at peak periods as economic activity recovers.

SEG believe that to allow this to proceed before other developments that were, allowed in the B&NES Core Strategy on Keynsham's Green Belt would put undue and additional pressure on transport infrastructure and public services. Those services and infrastructure already struggle or fail to cope with the existing housing density before the proposed Core Strategy developments have been built and supporting infrastructure for those developments put in place beforehand.

They consider it is thus far too premature to even consider giving outline planning permission to this application and to permit this would make a mockery of the purpose for safeguarding land in the Core Strategy for longer term development needs when those needs have not yet been assessed and the effects caused by existing plans for development of the Green Belt have not been experienced, assessed and remedied where found to be negative.

SEG considers that development of Green Belt land is contrary to the principle of sustainable development. They highlight a deficit of natural or semi-natural land in B&NES compared to farmland and suggest that it would be irresponsible to not protect natural/semi-natural land that underpins the economy of the B&NES and wider West of England area and our future food security in a changing climate made more critical by unmanaged population growth.

## KEYNSHAM TOWN COUNCIL: Objection

1. The application site is safeguarded land and is not allocated for development at the current time. The development of the site has not been proposed for development following a review of the Local Plan. There are no material considerations that would indicate that permission should be granted at this time. The proposed development is therefore contrary to Development Plan policies, including Core Strategy Policies DW1, KE1 and KE3b. The development is also contrary to paragraph 139 of the National Planning Policy Framework which confirms that planning permission for permanent development of safeguarded land should only be granted following a Local Plan Review.

2. The existing road network in the vicinity of the site has insufficient capacity to accommodate the increase in traffic likely to be generated by the proposed development. Additional pressure would be put on the transport infrastructure and public services which are already strained. In future scenarios, there would be significant delays at several locations, and it is likely that queues would block back across adjacent junctions. The proposed development would contribute towards these problems. The proposed development would result in a severe residual cumulative impact on the road network. The development is therefore considered to be contrary to policy ST7 of the Bath and North East Somerset Placemaking Plan, and contrary to paragraph 109 of the National Planning Policy Framework.

3. Keynsham Town Council has concerns in respect of provision of utilities including drainage, flooding and sewage disposal and are of the opinion that this site combined with the adjacent recently developed site are not providing sufficient facilities/amenities to support what is theoretically a village, in respect of the combined number of housing. Encroachment on the high-pressure gas main between Keynsham and Saltford is also highlighted as an issue of concern.

4. The ecological impact on this site would be significant with loss of habitats and the connectivity of habitats. This would be wholly against the ecological commitments made by the Local Authority in July 2020, when the Council declared an Ecological Emergency and would also be contrary to Policy D6 of the Bath and North East Somerset Council Placemaking Plan 2017.

5. Public footpath BA27/27 crosses the proposed application site. Sections of the footpath have already been diverted to facilitate the development of the Hygge Park to the west of the application site. An application should be made to divert public footpath BA327/27 and the applicant should be aware of the risk associated with trying to divert BA27.27 onto an estate road. Any cycle track proposed for inclusion in the application must be separate from public footpath, as required in the Local Transport Note 1/20 July 2020, recently published by the Department for Transport. A condition should be applied preventing works from commencing on site until after a diversion order has been confirmed.

Government planning policy (NPPF 2018, para 15) makes it clear that the planning system is to "be genuinely plan-led" and those local plans are created to meet local needs identified by local authorities as 'strategic policy-making authorities, on behalf of the local communities they represent. Hence,

(i) It is not appropriate for developers to attempt to decide when or where houses should be built by applying pressure through lobbying, constant challenging and other means to the plan making process or when planning applications that fall outside the plans, requirements, limitations or restrictions of a local plan - even if the local plan is going through a revision or update, and

(ii) Developers do not have a strategic policy making role other than to say where they can build houses when invited to do so Keynsham Town Council request that Bath and North East Somerset Council strongly resist this unwelcome attempt to undermine the Local plans.

#### SALTFORD PARISH COUNCIL: Objection

Saltford Parish Council consider that the objections they made in relation to the previous application on this site (18/01059/OUT) still apply. They consider that the existing road network in the vicinity of the site has insufficient capacity to accommodate the increase in traffic likely to be generated by the proposed development. They continue to take the view that the existing road infrastructure will struggle to cope with other new housing already planned for East Keynsham and that the local road network will be even more seriously congested by this proposal should it be allowed to proceed.

They consider it premature to forecast how demand for new housing or travel patterns will change after Covid-19 and how Government Planning Policy will respond. Only if a genuine need (not demand) for additional new housing remains after the other Core Strategy developments have been completed and the after-effects of Covid-19 more fully understood, should any consideration for development of this site be considered.

They state that this is Green Belt land 'safeguarded to meet longer terms development needs' and should only be considered for development after other developments in the Core Strategy have been completed, not before. It should only come forward after infrastructure including transport, education provision and other local services is already in place and found to be coping with existing and new demands placed on it.

They agree with the comments of the Saltford Environment Group and Keynsham Town Council which are that the planning system is to "be genuinely plan-led" and should meet local needs identified by local authorities. They consider it is not appropriate for developers to attempt to decide where or when houses should be built by applying pressure through lobbying, constant challenging and other means to the plan making process or when making planning applications that fall outside the plans, requirements, limitations or restrictions of a local plan - even if the local plan is going through a revision or update. They state that developers do not have a strategic policy making role other than to say where they can build houses when invited to do so.

Saltford PC also suggest that development of the site would be out of step with the Council's declaration of an Ecological Emergency. They indicate that protection of local green spaces and wildlife habitats will become increasingly important for the quality of life in local communities with more home-working during and after COVID-19.

## COUNCILLOR ANDY WAIT: Objection

Cllr. Wait is totally opposed to this speculative application. It is breaking the current local plan agreement, building extra housing without compensating with further green infrastructure or significantly increasing any travel network. In fact, it removes the current planned for green playing field in order to build the extra spaces in the Two Rivers School.

This development does not improve the current travel infrastructure significantly and is an attempt to build on safeguarded before any improvement in the road infrastructure is in place. This is precisely what the Planning Inspector for the current local plan stated before any further housing can be built in the area. It is overdevelopment given the reasons stated above. It is against the council's climate and ecological emergency and is by no means carbon neutral.

**THIRD PARTIES/NEIGHBOURS:** A total of 587 OBJECTIONS have been received from third parties. The main issues raised were:

The vast majority of concerns related to the impact of the proposals upon the A4 Bath Road and the increase in traffic which would arise from the development. Comments indicated that the local road network was already at capacity, citing regular queues and delays, and suggested that any further increase in vehicle trips as a result of the development would have a detrimental impact upon congestion, travel times, air quality, noise, highways safety and residential amenity. Several suggested that in allowing the expansion of the primary school, would have an even greater impact upon the local network.

Many were concerned about the impacts upon air quality, suggesting that the proposals would worsen an already bad situation by increasing traffic and congestion. It was suggested that the air pollution was already high and in breach of national limits (some suggested EU limits). It was suggested that the proposals would harm the existing Air Quality Management Areas (AQMAs) in Keynsham and Saltford.

There was concern that a new access onto the A4 Bath Road would create new highways safety risk. The introduction of a signalled junction was considered to result in additional dangers and delay for highways users. There was also concern that the proposed access would impact upon existing private driveways accessed off the A4

Many comments were sceptical of the proposals reliance upon encouraging modal shift to more green and active travel options. It was suggested that highways data was not accurate to the covid-19 and associated lockdowns changing behaviour. There was concern that people will be less willing to use public transport as a result of the pandemic. It was also suggested that additional traffic on the A4 will reduce the reliability of bus services along this route, which the comments suggest are not even adequate to meet current demand, counter to the objectives of encouraging sustainable travel. Several considered that the proposals would be highly car dependent.

Several were critical of the applicant's transport assessment and road safety audit.

There were concerns about the cumulative impact of this proposal with Hygge Park and other development in the surrounding area, particularly in respect of highways, air quality and impacts upon infrastructure.

It was suggested that the increase traffic and air pollution would make for a poor environment for children who are walking or cycling to Wellsway School.

Comments suggested that the infrastructure of Keynsham and Saltford could not accommodate the additional housing, e.g. insufficient GPs, dentists, school places, shops/services, parking, utilities, etc. There was also concern about the impact upon school catchment areas and how other peoples may be pushed further out.

Many of the comments suggested that the land is not allocated for development but is merely 'safeguarded' and therefore should not be reviewed until the end of the plan period in 2029 or at the next review. These comments suggest that the bringing the land forward now is premature and it should not come forward until there has been an opportunity to assess the impact of other committed developments in the area. Several stated that it would undermine the local plan and confidence in the 'plan-led' system.

There were also concerns that the proposals were piecemeal, did not take account of wider strategic issues and should have been part of a wider comprehensive masterplan.

Many were concerned about the loss of green belt land (officer note: only part of the site is within the Green Belt) and the potential merging of the settlements of Keynsham and Saltford. Other referred to this land as a green lung between Keynsham and Saltford and objected to the loss of greenfield land that was helping to maintain their separation. Others were concerned that the proposed football pitches, allotments and gardens would not offer the same benefits as the existing Green Belt land.

There were objections to the loss of agricultural land which it as suggested is required for food security and concerns over soil health. It was also suggested that crops and grassland absorb carbon emissions and therefore the loss of this agricultural would be contrary to the climate emergency declaration. It was suggested that the proposals would not be carbon neutral.

Several comments questioned the need for more housing and suggested that there was no need to build on greenfield sites. Others suggested that brownfield sites should be developed first. Some comments queried if there was need for playing fields given the existence of school playing fields nearby.

There were queries about the enforceability of the affordable housing offer and concerns about the delivery of the community uses and green infrastructure in the southern part of the site.

Several were concerned that the proposals would increase use of the Manor Road community Woodland to the detriment of the environment. Some felt that the proposals represented an encroachment into recreational countryside and woodland that is vital for exercise and physical/mental wellbeing and health. This aspect was considered to have taken on more importance since the start of the pandemic and lockdowns.

Many comments were concerned about the loss of habitats and species from the site listing sightings of bats, deer, skylarks, chaffinches and other animals. It was suggested that the proposals were not compatible with the ecological emergency declaration.

A few comments suggested that the existing surface water drains cannot cope with flooding and that the proposals would worsen this situation. Similar concerns about foul sewerage were raised. Others suggested that the proposals will adversely affect the water table.

Some were concerned that there would be a loss of views, including views to Kelston Roundhill.

There were concerns that the proposals would result in increases in anti-social behaviour and public nuisance and that police coverage was already stretched.

Others were concerns about the impacts of construction traffic on existing residents in terms of noise, disturbance, dust and pollution as well as highways safety.

Many noted that the previous application on this site had been refused and considered that the current application should be refused for similar reasons.

Some described the proposals as overdevelopment

Some comments queried whether adequate consultation on the proposals had taken place.

Comments suggested that new houses should be given adequate insulation, heat exchangers and seek to reduce carbon emissions.

One comment was concerned about the removal of birch trees along which have recently been planted along the A4 Bath Road at the site frontage.

A total of 2 SUPPORT comments were received. The main issues raised were:

It was suggested that Keynsham needs more housing, and that this development would be great for the area.

It was also suggested that ever increasing house prices are partly down to lack of new housing developments. It was also indicated that this had been a routine failure of local and national government and was increasing hardship for those in the unjust and overpriced rental economy.

There was an appeal to ignore the "not in my back yard" culture and support young people in hardship by supporting this application.

## **POLICIES/LEGISLATION**

The Development Plan for Bath and North East Somerset comprises:

- o Bath & North East Somerset Core Strategy (July 2014)
- o Bath & North East Somerset Placemaking Plan (July 2017)

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

## **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:

- SD1 Presumption in favour of sustainable development
- DW1 District Wide Spatial Strategy
- KE1 Keynsham Spatial Strategy
- KE3b Safeguarded Land at East Keynsham
- CP2 Sustainable Construction
- CP5 Flood Risk Management
- CP6 Environmental Quality
- CP7 Green Infrastructure
- CP8 Green Belt
- CP9 Affordable housing
- CP10 Housing Mix
- CP13 Infrastructure Provision

## **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:

- SU1 Sustainable Drainage
- SCR1 On-site renewable energy requirement
- SCR5 Water Efficiency
- D1 Urban Design Principles
- D2 Local Character & Distinctiveness
- D3 Urban Fabric
- D4 Streets and spaces
- D5 Building Design
- D6 Amenity
- D8 Lighting
- D10 Public Realm
- NE1 Development and Green Infrastructure
- NE2 Conserving and enhancing the landscape and landscape character
- NE2A Landscape Setting of Settlements
- NE3 Sites, species and habitats
- NE4 Ecosystem services
- NE6 Trees and woodland conservation

GB1 Visual amenities of the Green Belt  
PCS1 Pollution and nuisances  
PCS2 Noise and vibration  
PCS3 Air Quality  
PSC5 Contamination  
PCS6 Unstable land  
PCS7A Foul sewage infrastructure  
LCR2 New or replacement facilities  
LCR3A Primary School Capacity  
LCR6 New and replacement sports and recreational facilities  
LCR9 Increasing the provision of local food growing  
H7 Housing Accessibility  
RE4 Essential dwellings for rural workers  
ST1 Promoting sustainable travel  
ST2A Recreational Routes  
ST3 Transport Infrastructure  
ST7 Transport requirements for managing development

## **NATIONAL POLICY AND GUIDANCE**

The National Planning Policy Framework ("NPPF") and National Planning Practice Guidance ("NPPG") are significant material considerations.

## **EMERGING POLICY**

The Council is currently in the process of reviewing the Development Plan as part of the Local Plan Partial Update ("LPPU"). The draft LPPU underwent public consultation (Regulation 19) and is on target for submission for public examination in Winter 2021. The following policies from the draft LPPU are considered relevant to the current application:

KE1 Keynsham Spatial Strategy  
KE3c East of Keynsham - Former Safeguarded Land  
SCR6 Sustainable Construction Policy for New Build Residential  
SCR9 Electric vehicles charging infrastructure  
NE3 Sites, Habitats and Species  
NE3a Biodiversity Net Gain  
H7 Housing Accessibility  
ST1 Promoting sustainable travel and health streets  
ST2a Active Travel Routes  
ST3 Transport Infrastructure  
ST7 Transport requirements for managing development

Policies from the LPPU are not part of the development plan but are material considerations that can be given weight in accordance with paragraph 48 of the NPPF.

## **SUPPLEMENTARY PLANNING DOCUMENTS AND OTHER GUIDANCE**

Planning Obligations SPD 2019  
Sustainable Construction Checklist SPD

## LOW CARBON AND SUSTAINABLE CREDENTIALS

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

### **OFFICER ASSESSMENT**

The main issues to consider are:

1. Principle of development
2. Transport and highways
3. Ecology
4. Design and parameters
5. Landscape
6. Education
7. Parks and Open Space
8. Green Belt
9. Archaeology
10. Affordable Housing
11. Drainage and Flood Risk
12. Trees and woodland
13. Residential amenity
14. Sustainable Construction
15. Contaminated Land
16. Air Quality
17. Public Rights of Way
18. Compliance with emerging policy
19. Agricultural Land
20. Other matters
21. Planning Balance and Conclusion

### 1. PRINCIPLE OF DEVELOPMENT

#### *Development Plan*

The Development Plan in Bath and North East Somerset primarily comprises the Core Strategy (CS) and the Placemaking Plan (PMP), both of which cover a plan period from 2011 to 2029. Together these documents form the Local Plan for B&NES. The Council is required to review the Local Plan every five years.

Core Strategy (CS) policy KE1 allows for residential development at Keynsham if it is within the Housing Development Boundary or it forms an element of Policies K2, KE2, KE2a, KE2b, KE3a and KE4. The application site is outside of the HDB and does not form part of the aforementioned policies.

Approximately two thirds of the site is designated as 'safeguarded land' under Placemaking Plan (PMP) policy KE3b. This policy states that planning permission for development of the safeguarded land will be granted only when it is proposed for development following a review of the Local Plan.

The Council is undertaking the Local Plan Partial Update (LPPU) in order to provide greater certainty about the delivery of the Core Strategy objectives including replenishing housing supply in order to ensure the Core Strategy housing requirement can be met. This is currently in draft and was subject to public consultation during the summer/autumn 2021 (regulation 19) and has been submitted in December 2021 for public examination (regulation 21). The draft LPPU seeks to allocate the currently safeguarded land for residential development of around 210 dwellings, subject to the implementation of a number of sustainable transport mitigation measures (policy KE3c). However, the draft plan has only recently been submitted for examination and there are unresolved objections in relation to this policy allocation.

The application proposals for the development of the safeguarded land are therefore contrary to policies KE1 and KE3b of the Placemaking Plan.

The proposed development is also contrary to paragraph 143 of the National Planning Policy Framework which confirms that planning permission for permanent development of safeguarded land should only be granted following a Local Plan Review.

Section 70(2) of the Town and Country Planning Act 1990 provides that, in dealing with proposals for planning permission, regard must be had to the provisions of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that if regard is to be had to the development plan for any determination then that determination must be made in accordance with the plan unless material considerations indicate otherwise.

It is therefore necessary to consider whether there are any material considerations which indicate that permission should be granted despite the clear conflict with the development plan.

### *Housing Supply and delivery*

The first matter to consider is the Council's housing delivery and supply position.

The adopted Core Strategy has a requirement of around 13,000 homes over the plan period which equates to 722 homes per year. Overall, 8,150 homes have been completed between 2011 and 2021. In order to meet the Core Strategy requirement, around 4,850 dwellings (excluding PBSA) need to be built during the remaining eight years of the plan period to 2029.

The Housing Delivery Test was introduced when the NPPF was revised in 2018. The test compares a council's past three years of housing delivery against its three-year requirement. The results of the test are published by the government annually. As the

Council has significantly exceeded its housing requirement for the past three years the Council is confident the test will be passed this year.

As set out above, the Housing Delivery Test only relates to the previous three years delivery. Therefore, once delivery drops below the annual requirement across a three-year period the housing delivery test will be failed. This can have significant implications for the Council's ability to control the location of new development in line with its spatial strategy as it may result in the trigger of the 'presumption in favour of sustainable development' as expressed in paragraph 11 of the NPPF.

The Council's latest housing trajectory shows that in the future delivery is predicted to begin to drop below the required annual figures. The reduction in annual delivery will result in failure of the housing delivery test during the plan period.

In addition to the Housing Delivery Test, the NPPF (paragraph 75) also requires the Council to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need (established through a standardised methodology) where the strategic policies are more than five years old i.e. a five-year housing land supply. The supply of specific deliverable sites should in addition include a buffer of 5% to ensure choice and competition in the market for land.

As the Core Strategy (which established the strategic policy setting the housing requirement) is now more than five years old and, as set out in the NPPF, the five-year housing land supply requirement is calculated against 'local housing need' using the standard method.

Using the standard method, the Council's latest housing trajectory indicates that the Council can currently demonstrate a 5-year land supply.

However, unlike when calculating the five-year land supply against the Core Strategy housing requirement, the standard method does not allow the Council to take account of any surplus in supply from previous years. Therefore, despite the standard method housing requirement in 2021 being slightly lower than that of the adopted Core Strategy, the Council in the near future, is unlikely to be able to demonstrate a five year housing land supply as future delivery slows despite having already delivered more than the required homes.

As with the housing delivery test, an inability to demonstrate a five year housing land supply would result in the 'presumption in favour of sustainable development' in the NPPF being triggered and could jeopardise the Council's ability to control the location of new developments.

In addition to the housing delivery test and the five year housing land supply, it is necessary to consider the progress and prospects for supply/delivery against the overall Core Strategy target.

The Council's published 2020 housing delivery trajectory showed there was sufficient supply to meet the Core Strategy requirement. However, in reviewing supply shown in the 2020 trajectory some sites were identified where housing delivery during the plan period

cannot be relied upon to the extent envisaged at that time. Adjusting the anticipated supply from these sites and taking a realistic view on delivery of the remaining sites, plus an allowance for small windfall sites, the latest published estimated current supply in the 2021 housing delivery trajectory is around 4,671 dwellings from 2021 up to 2029. This results in a shortfall of almost 200 dwellings against the Core Strategy requirement (as shown in the latest 2021 based delivery trajectory). This is of a similar magnitude (albeit slightly lower) to the shortfall identified at the time of the Placemaking Plan Examination.

The adjusted supply and shortfall arises towards the end of the plan period and does not affect the current five-year land supply position.

This shortfall in overall supply, allied to the future Housing Delivery Test and five-year land supply issues outlined above require corrective action to avoid the Council becoming vulnerable to s78 planning appeals and potentially losing control over the location of new developments. They are also material considerations which weigh in favour of the application.

### *Sustainable location*

The purpose of the land forming part of this application site being safeguarded in 2014 was to ensure that there was land available to meet future housing development needs.

Paragraph 135 of the Core Strategy (CS) Inspector's report confirms that the safeguarded land is land removed from the Green Belt, but not allocated for development, and safeguarded to meet future development needs. It also confirms that in any future assessment of the most appropriate locations for development, the absence of Green Belt protection would weigh very considerably in the overall balance of considerations and that safeguarding is particularly significant for influencing the future pattern of development in the area between Bath and Bristol as nearly all other undeveloped land is within the Green Belt.

In allocating the Hygge Park site (KE3a), immediately to the west of the application site, the CS Inspector considered it to be a highly sustainable site stating:

"The proposed allocation is well located to make journeys by walking, cycling and bus particularly attractive. A superstore, schools and employment are within a short walk of the site. A new primary school is included in the allocation. Keynsham town centre would be a short cycle or bus ride away. There are high frequency bus services along the A4 to the centres of Bath and Bristol and bus stops would be only a short walk for future residents. Accordingly, there is considerable scope to achieve significant modal shift away from the car in this location in accordance with a core planning principle in the Framework."

He went on to state that the safeguarded land (which forms part of the application site) has similar characteristics to the allocated land and that it would share many of the same sustainability credentials.

The CS Inspector also considered that when passing along the A4 corridor, the safeguarded land would be partly behind frontage development and that the remaining area of land within the Green Belt between Keynsham and Salford would still be sufficient

to achieve the separate identify of these settlements (paragraph 195). The perceived effect on narrowing the gap between Keynsham and Salford would be limited.

It is therefore considered that the application site is a highly sustainable site that would not unduly close the gap between Keynsham and Salford.

Whilst contrary to KE1 (Keynsham Spatial Strategy), the use of this site for housing would be broadly consistent with the overarching spatial strategy for the district (DW1) which seeks to focus new housing in Bath, Keynsham and the Somer Valley further adding to its sustainability credentials.

### *Safeguarded land*

It is also important to note that the CS inspector considered that there were exceptional circumstances that justified removing this land from the Green Belt and safeguarding it for future housing development.

However, the reason it was not directly allocated for housing at the time (instead of being safeguarded) was twofold. Firstly, at the time the land was not required to meet the Core Strategy housing requirements and, secondly, there were outstanding concerns about the impact of additional development upon the highway network around Keynsham.

As discussed in the sections above, the position in relation to the housing requirement has now shifted such that the release of this land for development would greatly assist the Council in meeting this requirement and is proposed in the LPPU as an important component of addressing the supply shortfall. Additionally, further modelling has now been undertaken and sustainable transport measures prepared to alleviate the traffic congestion problems on the Keynsham network (see Transport and Highways section). This is consistent with the approach of the CS Inspector when safeguarding the land:

"202. There are undoubted problems of traffic congestion at Keynsham as a result of peak hour through traffic on the A4 and more local traffic using roads in and around the town centre. The Council's traffic modelling (CD12/18) indicates that there is potential for the network to lock-up with planned development, but the modelling took no account of future changes which should make alternatives to car journeys more attractive for residents of Keynsham and those coming to work in the town."

### *Prematurity*

Many comments have been received which suggest that the site should not be developed until the LPPU has been adopted and that the current application is therefore premature. Paragraph 50 of the NPPF indicates how the issue of prematurity should be dealt with:

"Para 50.

Refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination; or - in the case of a neighbourhood plan - before the end of the local planning authority publicity period on the draft plan. Where planning permission is refused on grounds of prematurity, the local planning

authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process."

It is relevant in the consideration of this application, that part of the site proposed for development is also proposed to be allocated for around 200 dwellings in the LPPU. The application therefore has a large degree of consistency with the emerging update to the local plan. Whilst the current application site is larger than the proposed allocation (KE3c), the submitted parameter plans indicate that built development will be restricted to the areas of the site which fall within the emerging allocation with uses outside of the allocation being restricted to Green Belt compatible uses that maintain openness, e.g. playing fields, allotments, green infrastructure, etc.

In light of this consistency with the emerging LPPU, it is considered that the proposed development would not prejudice the plan-making process and should therefore not be refused on the grounds of prematurity.

### *Conclusions on principle of development*

The proposals are contrary to the current development plan policies KE1 and KE3b and contrary to paragraph 143 of the NPPF in relation to safeguarded land.

Whilst limited weight can be given to the emerging allocation policy (KE3c) in the LPPU, there are several significant material considerations including the following:

1. The current housing trajectory indicates the following:
  - a. There will likely be a failure of the housing delivery test during the plan period
  - b. There will likely be an inability to demonstrate a five year housing land supply during the plan period
  - c. A shortfall of around 200 dwellings against the Core Strategy requirement by the end of the plan period\*

The grant of planning permission for approximately 213 dwellings on this site would make a significant contribution towards replenishing the housing supply, meeting the housing delivery test and maintaining a five year land supply for the rest of the plan period thereby allowing the Council to retain control of the location of new development in line with its spatial strategy.

\*For the avoidance of doubt, the Council can currently demonstrate a five-year land supply and has passed the housing delivery test. The presumption in favour of sustainable development in paragraph 11 of the NPPF is therefore not engaged.

2. The site is proposed to be allocated as it is highly sustainable, would not unduly close the gap between Salford and Keynsham and would be broadly consistent with the overall district wide spatial strategy.

3. The absence of Green Belt protection weighs very considerably in the overall balance of considerations for the assessment of the most appropriate locations for development, particularly given in the area between Bath and Bristol nearly all undeveloped land is within the Green Belt.

4. Sustainable Transport Measures have now been prepared which will alleviate the impact upon the Keynsham network and therefore address part of the reason that the land was not allocated by the CS Inspector.

5. The site is proposed to be allocated for around 200 dwellings within the emerging LPPU, although this can only be given limited weight due to the stage of the plan review and the outstanding objections.

In light of the above matters, it is considered that these material considerations outweigh the conflicts with policies KE1 and KE3b and justify a departure from the currently adopted development plan in this instance (subject to the other matters discussed in this report).

## 2. TRANSPORT AND HIGHWAYS

### *Access*

Access is not a reserved matter and detailed proposals have been provided for a signalised junction onto the A4 to provide access to the site. Considerable discussion, assessment and revision of the proposed junction has been undertaken in conjunction with the Highways Officer, but they have most recently concluded that the proposed junction is acceptable in principle. There are a number of areas of outstanding concerns regarding traffic signal phasing, a maintenance bay and the westbound junction exit merge lane.

However, it is noted that the proposed signal-controlled junction would be the subject of a Stage 2 RSA upon completion of the detailed design, which will include highway signage and carriageway markings. The requirement for a Stage 2, Stage 3 and Stage 4 Road Safety Audit will be secured through a condition attached to any planning permission granted. Matters can be further dealt with at the s278 technical approval stage.

The trips generated by the development have been forecast on the basis of those previously agreed for Hygge Park and have been accepted by the Highways Officer. Whilst the application is in outline, the forecast in trips has been based upon an indicative housing mix of 117 houses and 96 flats. Any future revision to this mix may result in an increase in trips which has not been taken account of in the current modelling. However, it is acknowledged that a reserved matters application which sought to alter this mix would need to be supported by new modelling and an updated transport assessment.

### *Bristol to Bath Strategic Corridor*

Highways have also considered the potential for the access proposal to conflict with or potentially prejudice the Bristol to Bath Strategic Corridor (BBSC). A foundation stone of addressing the Climate Emergency within the West of England (WoE) is the creation of a Mass Transit network. The forerunner to this along the A4 corridor is the introduction of a bus-based mass transit system.

This project is committed through the adopted JLTP4 and is a named scheme, Bristol to Bath Strategic Corridor (BBSC) being actively progressed in partnership with the West of England Combined Authority (WECA) and Bristol City Council. Public engagement was undertaken between July and September 2021 to gather the views of the public on the current challenges and issues affecting travel along the A4 corridor between Bristol and Bath.

Significant funding through the Transforming Cities Fund and the City Region Sustainable Transport Settlement has been allocated or earmarked for this project. A DfT Strategic Outline Case (SOC) is in the process of being finalised for submission to the WECA Joint Committee for approval (January 2022) to DfT Outline Business Case (OBC).

At this SOC stage of development there are options being developed and considered for interventions along the A4 to prioritise public transport and create LTN1/20 compliant cycling provision. It is important that any access proposal responds well to this transformational project. During the OBC stage which is due to be undertaken in 2022 public and stakeholder engagement will be undertaken that will help inform option assessment and development of a preferred option.

Whilst detailed design work for this section of the corridor has not yet taken place, initial work has been undertaken to identify the potential land requirements near the location of the site access.

To ensure that the proposals do not prejudice the BBSC, the applicant has confirmed it is willing to safeguard land along the northern edge of the site that could potentially be required for any future Metro Bus proposals. This has been shown in the submitted parameter plans and can be secured by a condition of any permission granted to ensure that the development would not prejudice the BBSC.

### *Sustainable Transport Measures*

The PMP, and associated transport evidence base, is very clear on Keynsham. The PMP allocated the maximum acceptable level of housing which could come forward in Keynsham without further highways mitigation. The Transport Evidence Explanatory Note for the Placemaking Plan, (CH2M, April 2016) demonstrated that the network would be saturated following the level of development proposed. The Safeguarded Land was removed from the Green Belt in a proactive move to enable much needed housing to come forward at some point during the plan period, subject to the delivery of appropriate mitigation, but it was explicitly not allocated at that time.

It should be noted that, at that time, the mitigation envisaged was a link road between the A4175 and A4, which represents a major piece of highways infrastructure. That originally envisaged infrastructure was subject to an Options Assessment Report and was publicly consulted on as part of the B&NES Strategic Transport Studies in November 2018 titled 'A4 Bristol to East Keynsham Corridor Study'

The transport assessment submitted with the application seeks to consider the development in isolation against the baseline of a fully delivered PMP effectively to "re-set" the baseline, and seeks to justify that there is a threshold of development which could

be delivered without mitigation that could be described as not having a "severe" impact. This is contrary to the position of the made Development Plan, which is that no more development can come forward without mitigation.

The Local Highway Authority do not agree with the applicant's transport assessment. Its position is consistent with the made PMP, and the emerging LPPU - i.e. the saturated highways network requires mitigation to enable further development to come forward.

Since the A4 Bristol to East Keynsham Corridor Study consultation in 2018 B&NES has declared a Climate Emergency, and thus the specific approach to what that mitigation is has changed. Rather than delivering highway capacity, the emerging LPPU seeks measures to enable mode shift from existing trips and for development which comes forward to be low carbon. The mitigation measures within the LPPU will deliver "headroom" on the existing congested network through mode shift. Thus, the effect of reducing background traffic levels in itself is direct mitigation for proposed development, regardless of the level of development trips which utilise the exact measures.

The emerging LPPU needs to be read as a whole. In addition to the site-specific policies, the emerging LPPU refreshes the transport policies (ST1-8) to meet the needs of the Climate Emergency. These policies, and indeed the policies within the 2017 PMP, support the site-specific approach taken to the Safeguarded Land.

ST1 fundamentally supports the approach to significantly enhance opportunities for sustainable travel, and requires, at point 4, that "mitigation for traffic impacts maximises opportunities to achieve mode shift towards sustainable transport modes before proposing traffic capacity enhancements."

Policy ST7 requires that "users of the development benefit from genuine choice in their mode of travel through opportunities to travel by sustainable modes," and that "provision is made for any improvements to the transport system required to render the development proposal acceptable. Improvement requirements will maximise opportunities to travel by sustainable modes."

Further support for this approach can be found in the NPPF which states:

- 104. Transport issues should be considered from the earliest stages of plan-making and development proposals, so that: c) opportunities to promote walking, cycling and public transport use are identified and pursued;
- 106. Planning policies should: d) provide for attractive and well-designed walking and cycling networks with supporting facilities such as secure cycle parking (drawing on Local Cycling and Walking Infrastructure Plans);
- 110. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: a) appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location; b) safe and suitable access to the site can be achieved for all users;

It is therefore clear that National and Local (existing and emerging) Planning Policy requires measures to enhance sustainable modes, both from a traffic impact and a

provision of opportunities for sustainable travel perspective. Thus there is a strong justification for the mitigation based upon sustainable transport measures (as proposed within the LPPU site specific policy), regardless of the modelled traffic impact against the baseline.

Turning to the measures themselves, the LPPU has been informed by the Sustainable Transport Strategy (STS) produced in relation to the Safeguarded Land and potential additional future housing growth. Due to the simultaneous drafting of these documents, the LPPU policy refers to earlier draft measures in a previous version of the STS. For the avoidance of doubt, it is B&NES Council's intention to update the LPPU Policy to reflect the content of the published STS.

The STS sets out 6 sustainable transport measures which are required to enable all of the safeguarded land to come forward for development. They are needed to provide sustainable transport opportunities to users of the new development, and, importantly, to enable mode shift from existing car trips to create headroom on the network through trip banking. The 6 measures are:

1. Bus stop improvements on the A4
2. Town Centre bus service improvements
3. LCWIP Improvements between Saltford and Keynsham
4. Pedestrian and cycle connection to Bristol Bath Railway Path
5. Active Travel connection through Memorial Park to the Rail Station
6. Liveable Neighbourhood measures in the Chandag Estate

Whilst the position of the Local Highways Authority is that this full package of measures is required to make any development across the two safeguarded sites acceptable (KE3c and KE3d), they accept that there is a requirement for any planning obligations to meet the tests of the CIL regulations in that they need to be a) necessary to make the development acceptable in planning terms, b) directly related to the development and c) fairly and reasonably related in scale and kind to the development.

It is considered that the measures proposed in the STS are fair and reasonable in relation to the scale of development across both Safeguarded Land sites (KE3c and KE3d), particularly as no specific traffic capacity mitigation is sought. However, it is recognised that the current application does not constitute the quantum of development envisaged across both safeguarded land sites (KE3c and KE3d), and therefore any obligations/contributions need to be proportionate to its scale.

Furthermore, the delivery mechanism also needs to ensure:

- a. Individual measures are fully funded and do not rely on unidentified funding sources to be delivered.
- b. The responsible party must have a reasonable prospect of being able to deliver the measure

Taking account of the relative quantum of development proposed by each of the safeguarded sites (KE3c around 200 dwellings and KE3d around 70 dwellings) and the requirement for measures to be fully funded and deliverable, Highways have accepted that a proportionate approach to providing the STS measures can be taken.

It is therefore accepted that measures 1, 3, 4 and 5 can be provided by the current application, with the residual measures to be provided by the developers of the KE3d site. The applicant has agreed to delivery (measures 1, 3 and 4) or full funding (measure 5) these measures, and this will be secured by way of a s106 agreement.

It is recognised that it would not be reasonable to impose a planning obligation or condition which makes the commencement of the Withies Park development beholden to either the metrobus project or the commencement of the other Safeguarded Land parcel. Highways therefore reluctantly accept that there may be a short period of time where development has commenced, but the full package of measures is not in place. This acceptance is on

the basis that there is a reasonable prospect of the remainder of the measures being in place in the short term there is currently a planning application pending consideration in respect of the other safeguarded land site (ref: 21/05471/OUT).

The combined measures proposed by this application represent a significant investment in sustainable transport infrastructure in and around Keynsham and would represent several millions of pounds of investment. Whilst there is a desire by Highways (and expressed in the emerging LPPU allocation policy) that all measures are in place prior to occupation of any dwellings, given the scale and cost of these measures (and in some cases the reliance on the assembly of third-party land) it is considered unreasonable to prevent any level of occupation of development before they are completed. It is therefore proposed that the measures are delivered at the earliest possible opportunity taking account of cashflow, viability and the impacts generated by the development. Precise triggers for delivery of the measures will be negotiated as part of the s106 agreement.

### 3. ECOLOGY

A detailed ecological appraisal has been submitted with the application alongside various updated surveys and ecological information requested by the Council's Ecologist. A shadow HRA assessment has also been submitted.

The site spans 7.97ha of farmland made up of four improved grassland field compartments bound by hedgerows and woodland edges of varying ecological value. The highest value habitats within the site consist of hedgerows, woodland, mature trees, and water courses.

Whilst the majority of the scheme is in outline (except the access proposals) it is proposed that the majority of the hedgerows and trees on the site can be retained, alongside the small watercourse which dissects the site. Landscaping is a reserved matter, but an indicative calculation for Biodiversity Net Gain has been submitted and indicates that the scheme offers the potential to achieve a net gain of 37.43% above the existing baseline. The detail of this can be determined at reserved matters stage, but there is no objection from the Council's Ecologist on this matter and it meets the current requirements for compensation and enhancement under policy NE3 of the Placemaking Plan.

The application has identified the potential removal of one tree (T1) which was found to support bat roosts for common pipistrelle and noctule bat species. Removal of this tree would require a European Protected Species (EPS) licence. Details of the bat survey

findings and proposed mitigation and compensation measures described in Section 7 of the submitted "Bats and Trees" report are accepted as far as they go but further survey was required at the time of the report, and it is not clear whether this further survey has yet been undertaken. There is a risk that further survey would reveal a roost of greater ecological significance - it is not clear at present whether the proposed mitigation and compensation measures would necessarily address this. Whilst further information is required, the Council's Ecologist is satisfied that this matter can be dealt with at reserved matters stage and that the "three tests" of the Habitat Regulations can be undertaken at that stage as the layout and design are not yet finalised and the outline consent is not giving approval for a scheme that will necessarily require the tree's removal.

One international statutory designated site was located 9.3km south east of the site boundary, the Bath and Bradford-on-Avon Bats SAC. Natural England have raised concerns that hedgerows through the site may provide functionally linked habitat (giving access to the river to the north) for bats from the SAC. The proposals therefore have potential to impact upon the SAC, particularly in respect of potential light spill, and a Habitat Regulations Assessment is required.

Light spill modelling provided does not combine effects of external and internal lighting, but the HRA includes a proposal for modelling to be carried out for specific locations within the site if at reserved matters stage there are considered to be risks of combined light spill having more significant impact on sensitive habitats than currently predicted. This approach is accepted.

Light spill modelling on the vertical plane is also not provided at this stage. Predicted lux levels onto the vertical plane at heights above ground level can provide a more accurate picture of likely impacts on bats (which do not fly at ground level) and on sensitive features at heights above ground level where the habitat of value is also above ground and exists also on the vertical plane - for example a hedgerow or the woodland edge (compared with eg. grasslands or water surfaces, which are at ground level on a horizontal plane). Therefore consideration is needed as to whether there is sufficient light spill modelling data available at this stage to sufficiently assess potential impacts of lighting on sensitive features based on light spill modelling on the horizontal plane at ground level, alone.

The application is at outline stage. Incorporation of measures to retain and protect existing bat flight lines and provide new habitat have been committed to. Locations where light spill level thresholds are exceeded have been identified using the lux level modelling on the horizontal plane at ground level, and these locations correspond to where the access roads pass through sensitive habitats. There is limited scope for other locations to be affected by similar conflicts due to the distances of streets / street lighting and residential units from the more sensitive areas. Final levels of predicted light spill on the vertical and horizontal planes can be further influenced by detailed design and final layout at the reserved matters stage, and scope remains for light spill levels to be further reduced by additional mitigation measures (for example shields, dimming, use of hop-overs (a measure also suggested within the submitted reports)), details of which can be secured by condition.

The Council's Ecologist considers that the above measures are capable of overcoming any future light spill issues at reserved matters stage, should they arise when additional light spill modelling is provided on both the horizontal and vertical planes in accordance

with current best practice guidelines and standards, which shall be secured by condition. Adherence to ILP Guidance Note 08/18 "Bats and artificial lighting in the UK" will be sought.

The submitted shadow HRA and Appropriate Assessment conclude that, subject to mitigation, there will be no adverse effect on the integrity of the Bath & Bradford on Avon Bats SAC as a result of this development. The Council's Ecologist and Natural England accept that the mitigation measures (hedgerow retention, new planting, sensitive lighting design) to ensure suitable dark connective habitat corridors for SAC bats are maintained across the site and that these measures can be secured by condition. They are therefore confident that the proposals, subject to conditions, would not have an adverse impact upon the integrity of the SAC.

It is therefore considered that there is no ecological objection to these proposals.

#### 4. DESIGN AND PARAMETERS

The application is in outline with matters of appearance, landscaping, layout and scale reserved. The masterplan provided is illustrative only, but the Council's Urban Designer has indicated that the layout shown is structured around green infrastructure well and that the incorporation of the natural environment as integral to the space design is very welcome. The masterplan also shows the incorporation of multifunctional green and blue space for new and existing communities and mix of uses which is positive. Conceptual ideas presented for building around nature are strong and result in an indicative plan layout for the 213 homes that looks like it might work well. However, the scale of buildings and spaces in relation to each other and surrounding development must be tested in sections and elevations at reserved matters stage.

Integration of routes and boundaries with adjacent development appears well considered and cohesive particularly on the western boundary. The development is retaining a treed area facing the A4, which overtly conceals this development. Further details at reserved matters stage including street views/sections/elevations of this will be required to assess how this works with the surrounding context.

The Urban Designer concludes that there is significant potential in the proposals presented for this to be a development of exceptionally high design quality. This is however reliant on the strong conceptual ideas manifesting themselves in the detail design. This can be reviewed in detail at the reserved matters stage.

Some of the positive elements of the proposals referred to by the Urban Design have been secured through the proposed parameter plans which establish the extent of the developable area and includes areas which are reserved for green/blue infrastructure. A condition is proposed to require any reserved matters application to be in accordance with the submitted parameter plans.

#### 5. LANDSCAPE

The site is relatively flat lying between +20 to +50 AOD. The Cotswold AONB rises up over +200 AOD, 2.5km to the west. Longer distance views from the higher ground of the Cotswold AONB show the site adjacent to Keynsham, and in the context of higher ground behind, and the city of Bristol. The landscape gap between Keynsham and Saltford is formed by the existing pattern of fields with associated vegetation, the backdrop of Manor Road Community Woodland, and ribbon development and vegetation along the A4.

The site has been safeguarded for potential development and is proposed to be allocated for around 200 dwellings. Therefore is no in principle landscape or visual objection to the application.

The application is in outline with matters of appearance, landscaping, layout and scale reserved. The illustrative masterplan is indicative only and therefore subject to change at reserved matters stage. The submitted parameter plans show the extent of the potential developable area within the site and include a reasonable amount of space for green/blue infrastructure. It is considered that the parameters shown give sufficient assurance that a reserved matters application can be prepared which will be acceptable in landscape and visual impact terms.

The landscape officer has indicated that there is no landscape or visual objection to the proposed access arrangement.

## 6. EDUCATION

An indicative dwelling mix has been provided for the proposed development. Based upon this mix, a development of 213 dwellings is calculated to generate the following children:

Early Years age 0-1 = 3.555 children  
Early Years age 2 = 3.111 children  
Early Years age 3-4 = 13.332 children

Primary - 35.670 children  
Secondary - 17.850 children  
Sixth Form - 5.010 children  
Young people age 13-19 - 17.550 children

There is currently projected to be sufficient capacity available in Keynsham for the Early Years age children calculated to be generated by this development.

In terms of primary school places, there are currently 270 Reception places available in total in the Keynsham and Saltford Planning Area. The new Two Rivers C of E Primary school on the Hygge Park development site opened in 2020 initially with a PAN of 30, meaning there will then be a total of 300 Reception places available. Once the new two form entry school building is complete, the PAN will be 60 in 2022 and onwards, meaning there will be a total of 330 Reception places available.

Year Reception projection:  
2020 = 301  
2021 = 280

2022 = 298

2023 = 297

Plus 30 more pupils per year group from the remaining dwellings to be completed and fully occupied in the existing approved housing developments at Somerdale, Bilbie Green, Hygge Park, Bloor Homes @ Keynsham and Charlton Place.

Therefore Year Reception in:

2020 = 301 + 30 = 331 pupils

2021 = 280 + 30 = 310 pupils

2022 = 298 + 30 = 328 pupils

2023 = 297 + 30 = 327 pupils

This proposed development is calculated to generate 5.09 pupils per year group (35.67 divided by 7 year groups).

Therefore, if applied to 2023, this would give  $327 + 5.09 = 332.09$  pupils = 2.09 places short per year group.

Therefore, additional places will need to be created in the Keynsham and Saltford Planning Area in order to accommodate all of the primary age pupils calculated to be generated by this proposed development.

A contribution towards the school places is therefore required and has been calculated as £713,400. This has been agreed with the applicant and can be secured via a s106 agreement. The contribution amount will need to be linked to a formula in the s106 in case the housing mix changes as a result of the reserved matters applications.

As this is only an Outline application, once the Reserved Matters is submitted, if the number of pupils generated has increased (due to a different dwelling mix), the S106 must be drafted in such a way that the contribution can be increased accordingly.

The Two Rivers C of E Primary school building has been constructed as a two form entry school, contained entirely on land within the Hygge Park development site. In the longer term, in order to be fully appointed and completed, the school will require a sports pitch/playing field. The land for these sports pitch/playing field is identified as part of the application site in the emerging allocation policy KE3c. This identifies the north-west corner of the site as being required to provide a sports pitch to facilitate the expanded primary school. The applicant has agreed that this land can be transferred at nil cost to the Council to facilitate the expansion of the school.

The provision of this land at nil cost to the Council is a significant benefit of the scheme and can be secured as part of a s106 agreement. It will be necessary to ensure that the land is transferred level, drained, free from spoil, etc. and entirely suitable for functioning as a sports pitch. This can also be incorporated into the s106 agreement.

In terms of Secondary school provision, there are projected to be nil spare secondary school places available in the Wellsway Planning Area. However, it is anticipated that the secondary age children generated by this development can be accommodated, via the displacement of future children living outside of the Wellsway catchment area and there is no objection from the Education department in relation to this.

Additional provision required to accommodate Young People generated by the development can be provided from the Community Infrastructure Levy (CIL).

## 7. PARKS AND OPEN SPACE

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

The Illustrative Masterplan proposes 4.26ha of Public open space (POS) excluding land for the school playing field (see Education section above). Within the overall POS provision there is a need for some specific greenspace typologies that are both proposed and/or necessary due to a deficit of greenspace typologies in the area to meet demand from new residents. These include the following:

1. Allotments 1,470sqm
2. Local Equipped Area for Play (LEAP)
3. Community Football Pitch
4. 10m Nature reserved woodland buffer
5. Community orchard

There is space within the application site to provide these greenspaces and these minimum requirements can be secured as part of the s106 agreement with the detailed proposals to be determined as part of any reserved matters application. The use and type of the remainder of the public open space to be utilised as green infrastructure and biodiversity net gain can also be considered via a reserved matters application.

The illustrative masterplan indicates a potential community hub building on the land to the south of the emerging allocation. However, the applicant has confirmed that the community hub building is indicative only and the application does not seek permission for a new building in this area. This community hub building is therefore illustrative only and does not represent a new community facility to be provided. It therefore cannot be given any weight in the planning balance.

Sports England have requests that the playing pitch to be provided for the primary school expansion and the proposed community football pitch be provided in the same location to minimise operation, management and maintenance output. However, these two pitches are serving quite different functions and are intended to be operated and managed separately. One of the playing fields will be owned and managed by the primary school to meet their needs whereas the community football pitch will be to serve the wider community. The operation and management of the community pitch will be controlled by condition.

Sports England have also requested that the pitches be accompanied by a changing pavilion, catering facilities, toilets and officials' accommodation. Whilst this might be desirable in the longer term, there is no policy requirement for this to be provided as part

of the community football pitch and the introduction of these facilities is not part of the current planning application. Such facilities would therefore require a separate planning application and be able to demonstrate that they are appropriate in a Green Belt location.

## 8. GREEN BELT

Whilst the majority of the site is part of the safeguarded land which was removed from the Green Belt by the CS Inspector, the southern portion of the site remains within the Bristol to Bath Green Belt.

New development in the Green Belt is considered inappropriate unless it complies with one of the exceptions set out in paragraphs 149 or 150 of the NPPF.

The illustrative masterplan and parameter plans show that built development will be limited to the area of the safeguarded land and that there will be no new buildings in the Green Belt. They indicate that the Green Belt land will be used for open uses only such as proposed playing fields, allotments and an orchard. These proposed uses would fall under exception e) of paragraph 150 which allows for materials changes of use of the land (such as change of use for outdoor sport or recreation) provided that it would preserve the openness of the Green Belt and not conflict with its purposes.

Whilst the detail of these uses has not yet been determined due to this being an outline application, the nature of these proposed uses as playing fields, allotments and orchards means that they will be capable of preserving the openness of the Green Belt and not conflicting with its purposes. A detailed assessment would have to be undertaken at reserved matters stage to avoid an abundance of paraphernalia or other structures that could potentially impact upon openness. However, in light of the above the proposed outdoor sport and recreation uses can be considered appropriate development in the Green Belt

Subject to these matters being secured by suitable conditions (restricting the developable area to the safeguarded land), there is no objection to the proposals on Green Belt grounds.

## 9. AFFORDABLE HOUSING

Policy CP9 requires all residential developments of more than 10 dwellings to provide on-site affordable housing. The site falls within the lower value sub-market area where there is a target of 30% affordable housing provision in accordance with policy CP9.

The applicant has confirmed that the proposals will provide 30% affordable housing at the Council's preferred tenure of 75% Social Rent and 25% Intermediate (shared ownership). This represents a total of approximately new 64 affordable homes to be delivered by the development.

This will be secured through a s106 agreement alongside other relevant matters at this stage. Given the nature of this outline application, limited further details are available including the precise affordable housing mix and how they will be located throughout the

scheme. An affordable housing statement will be required at reserved matters stage which will be required to robustly address all the affordable housing requirements contained within the Planning Obligations SPD.

## 10. ARCHAEOLOGY

The submitted Heritage Assessment by Cotswold Archaeology concludes that there is low potential for significant archaeology on the site, but it does note that there are important hedgerows on the site. The Heritage Assessment has included all the source material required and has assessed the archaeological potential based on this material. The Council's appointed Archaeologists agree with these conclusions and therefore there is no reason to object to this application on archaeological grounds.

## 11. DRAINAGE AND FLOOD RISK

The site falls within flood zone 1 and is therefore at a low risk of flooding. A flood risk assessment and drainage strategy have been submitted with the application and the Drainage and Flood Risk team consider this acceptable. The application proposals SuDS drainage system based on existing watercourses which will reduce off-site flood risks and green and blue roofs that will also reduce runoff rates. However, further detail will be required at reserved matters stage and this can be secured by condition.

## 12. TREES AND WOODLAND

An Arboricultural Assessment has been submitted with this application and reviewed by the Council's Arboriculturalist. They broadly agree with the conclusions of the submitted assessment that the design and layout has been constraint led; that tree losses have been minimised to those required to facilitate the new development; and that as currently set out in the Illustrative Masterplan the proposals would deliver a high amount of new tree planting which would be a positive gain for arboricultural over and above that which currently exists on the site.

The Council's Arboriculturalist therefore has no in principle arboricultural objection to the proposed site access subject to appropriate conditions.

The proposals will involve the removal of young birch trees which have recently been planted along the A4 Bath Road at the site frontage in order to achieve the site access and segregated cycleway along the A4. However, there is sufficient space within the application site for compensatory planting or equivalent or greater value.

The site is adjacent to the Manor Road Local Nature Reserve which is a locally important woodland. The woodland has come under increased recreational pressure as a result of new housing developments in the vicinity. The submission proposes a new entrance point to Manor Road Local Nature Reserve and a 'Woodland Walk'

Financial contributions were sought from the Hygge Park development (ref: 18/01509/OUT) to partly fund improvements to the Nature reserve to accommodate a

larger population and to protect nature. These improvements can include works to construct the new entrance and woodland walk. The estimated cost for this development to make a proportionate contribution towards these improvements is £150,000. This has been agreed with the applicant and can be secured by a s106 agreement.

### 13. RESIDENTIAL AMENITY

The development is near a main road transport system and the development itself will generate increased transport noise. The Environmental Protection Officer has therefore proposed a condition to reflect these concerns requiring the completed development to demonstrate it achieves sound attenuation against external noise.

The development proposes two sports pitches; a playing field in the north west corner of the site which is to facilitate the expansion of the Two Rivers CofE Primary School and a community football pitch on land to the south. The applicant has confirmed that neither pitch is proposed to be illuminated addressing concerns raised by the Environmental Health Officer and the Council's Ecologist.

Given the scale of development, it is likely to have a significant impact on the local amenity during the construction phase and therefore a Construction Management Plan condition is proposed to ensure that existing residents are not unduly impacted.

### 14. SUSTAINABLE CONSTRUCTION

Policy CP2 of the Core Strategy requires sustainable design and construction to be integral to all new developments. Policy SCR1 requires major developments to provide sufficient renewable energy generation to reduce carbon emissions from anticipated energy use in the building by at least 10%.

As an outline application with all matters (except access) reserved the design of the proposals is insufficiently advanced to request full details of sustainable construction measures.

However, elements of the illustrative masterplan indicate how a scheme could appropriately incorporate sustainable construction into the design at reserved matters stage. The illustrative masterplan has been broadly arranged with development blocks laid east-west to maximise potential for solar gain that will be enable a fabric first approach to the buildings which can then be addressed at reserved matters application stage. It is also suggested that photovoltaic (PV) panels could be integrated in the roof plane with the opportunity for many roofs to be orientated south for maximum use of solar panels.

The proposal is therefore considered to demonstrate compliance with policies CP2 and SCR1 at this stage. Further information will need to be secured by condition.

### 15. CONTAMINATED LAND

The site has no obvious history of contaminative uses. However, due to the sensitive nature of the development (i.e. residential) and significant scale of the development, the Contaminated Land Officer has recommended conditions requiring an investigation and risk assessment, a remediation strategy (if required) and a verification report (if required).

## 16. AIR QUALITY

The Environmental Monitoring Officer has reviewed the application. They have advised that details should be provided to ensure that the proposed development does not have a detrimental effect on nearby properties and that no part of the development is subject to air pollution concentrations above the Government's Objectives. Traffic from the development should not have a negative effect on the nearby Air Quality Management Areas in Saltford and Keynsham.

They have recommended that full details of an air quality assessment including any proposed mitigation measures are secured by condition prior to the commencement of development.

## 17. PUBLIC RIGHTS OF WAY

Public footpath BA27/27 crosses the proposed application site. The Public Rights of Way (PROW) Team have raised concerns that the proposed route indicated on the illustrative masterplan does not follow the definitive line of the PROW and that the applicant would need to apply for a diversion. However, this application is currently in outline and the masterplan is illustrative only, this route has not yet been determined and would need to be agreed as part of any reserved matters application.

The Public Rights of Way Team have also requested that the route across the site be upgraded to accommodate the increased footfall. As this falls within the application site, this upgrade can be agreed as part of the landscaping reserved matters to be delivered by the developer and does not require a s106 agreement.

## 18. COMPLIANCE WITH EMERGING POLICY

The application essentially seeks permission for the development of this site prior to the adoption of the LPPU. Whilst the LPPU has limited weight, it is a relevant material consideration in the determination of this application, and it is necessary to consider how the proposals perform against the development requirements set out in the emerging allocation policies.

Comments are set out against the development requirements of the allocation policy KE3 from the submission version of the LPPU:

### *Policy KE3C East of Keynsham - Former Safeguarded Land*

1. Deliver residential development (Class C3) of around 210 dwellings in the plan period, in the areas as shown on the concept diagram.

The application proposes development of approximately 213 dwellings and is therefore consistent with this requirement.

2. Complement the housing style, character and density of the adjacent Hygge Park development - incorporating an element of traditional materials including natural lias limestone. Building heights will generally be limited to 2/2.5 storeys, ensuring that development does not interrupt the skyline views from the Cotswolds AONB.

This is an outline application so these requirements will not be assessed until reserved matters stage. However, the indicative masterplan and parameter plans gives some confidence that this requirement can be met.

3. Provide a positive relationship with all publicly accessible routes and face outwards towards the open countryside, adopt a perimeter block layout, with a clear distinction between the fronts and backs of properties.

As above, these requirements can be addressed at reserved matters stage.

4. Provide an appropriate access from the A4 Bath Road maximising public transport priority to improve journey times. This is to include pedestrian and cycle crossing facilities over the A4 Bath Road to link the site with facilities and active travel routes on the north side. This needs to include appropriate consideration of the interaction with other junctions on the A4 Bath Road, including Pixash Lane and the employment land to the north. There must be no possible through-route for general traffic between existing residential areas south of Wellsway School and the A4.

There is no highways objection to the access proposals which are considered to be suitable and provide pedestrian and cycle crossing facilities to the north side. There are no proposal or opportunity for a through-route for general traffic to the residential areas to the south.

5. Demonstrate that they support metrobus and Mass Transit plans as they emerge, in order to maximise integration between housing development and metrobus and Mass Transit placing strong emphasis on quality, direct routes through and from the site to the A4.

The proposals do not prejudice metrobus or the BBSC by safeguarding sufficient land to ensure that when a detailed design is prepared for these measures that it can be accommodated (see Transport and Highways section).

6. Prioritise pedestrians and cyclists over private vehicles, and provide an attractive, low-speed environment throughout. The development should integrate well with the surrounding residential areas and provide a comprehensive network of pedestrian and cycle routes, including enabling the creation of a public footpath between KE3C and KE3D K26 A and K26 C, connecting at Manor Road Community Woodland. These routes should utilise existing green corridors where practicable and provide LTN1/20 standard pedestrian and cycle routes which enhance and allow appropriate space for green infrastructure and landscape infrastructure provision.

These requirements can largely be addressed at reserved matters stage. However, the illustrative masterplan indicates that it will be possible for the scheme to these requirements.

7. Public space and footpaths should incorporate species-rich verges and grassland habitat and design should be integrated with green infrastructure and landscape design of the site.

As above, this matter can be dealt with at reserved matters stage.

8. Be accompanied by a Travel Plan and Transport Assessment, which assesses in detail the mitigation requirements of an individual site. Prior to first occupation mitigation proposals for the site must deliver, but not be limited to, the following:

- a. Improved frequency of public transport services along the A4;
- b. Enhanced local town centre bus services connecting the development site with the town more widely and providing an opportunity to interchange with metrobus and Mass Transit Services;
- c. LCWIP route improvements to LTN1/20 standards within Keynsham, specifically between the development location, Wellsway School, and Keynsham Town Centre. This must include segregated pedestrian and cycle provision on the south side of the A4 between Grange Road and Broadmead Roundabout, and onward comparable provision along Bath Road to the Town Centre; and
- d. New active travel connection between the A4 and the Bristol Bath Railway Path via Clay Bridge, World's End Lane.

As discussed within the Transport and Highways, the proposals will provide improvements to bus stops on the A4, LCWIP route improvements between Saltford and Keynsham, a new pedestrian/cycleway connection between the A4 and the Bristol Bath Railway Path and a contribution towards an active travel connection through Memorial Park to the Rail Station. These measures have been identified from the Sustainable Transport Strategy for Keynsham and have been agreed as appropriate and proportional to the proposed development. Whilst the measures do not include improvements to the frequency of the public transport service along the A4 or enhanced local town centre bus services, these are matters which can be delivered by the other parcel of safeguarded land to ensure that there is a fair distribution of the infrastructure requirements required to support both sites (see Transport and Highways section for more detail)

9. Deliver biodiversity net gain of at least 10% in accordance with Policy NE3a. Opportunities to deliver 10% biodiversity net gain within the site curtilage should be fully explored and tested before any off-site measures are proposed. The substantive retention of internal and boundary hedgerows, with 10-15m habitat buffers is expected. Protective buffers of at least 25m are expected around the LNR woodland.

Although only in outline, the biodiversity net gain calculations provided indicate that the proposals have the potential to provide a 37.43% gain above the existing baseline with on-site mitigation. The extent of protective buffers is a matter that can be determined at the reserved matters stage.

10. Provide a minimum of one nest or roost site per residential unit, in the form of integrated bird and bat boxes within new buildings, and/or as standalone features within the public realm, such as bat walls and swift towers. Additional features such as log piles, insect hotels, bee bricks, hedgehog connectivity measures and green and brown roofs / walls are also required. All new garden boundaries should be permeable for hedgehogs. This requirement can be incorporated at reserved matters stage.

11. Retain and enhance internal hedgerows including hedgerow specimen trees, enabling the subdivision of the site into a number of development areas and providing a strong landscape and green infrastructure framework. Sufficient setback of development should allow for growth of trees, ecological functioning of habitat corridors and buffering of the Local Nature Reserve. Lightspill in the retained hedgerow network and habitat buffers should be avoided. (The following minimum buffers will be required: 10m from base of hedgerow; 15m from base of hedgerow with ditch; 25m to buffer the woodland LNR).

Much of this detail can only be assessed fully at reserved matters stage. However, the submitted ecological information alongside the parameter plans gives confidence that a scheme can be designed that complies with these requirements.

12. Fully incorporate Nature-based SuDS solution as part of the green infrastructure strategy to provide betterment to the existing surface water flood issues and habitat gains.

The application proposes a SuDS drainage system based on existing watercourses which will reduce off-site flood risks. Green and blue roofs that will also reduce runoff rates. However, further detail is required and this can be assessed at reserved matters stage.

13. Incorporate green infrastructure, including on-site provision of well integrated formal and natural green space and play provision, and on or off-site provision of allotments.

The proposals include space for public open space including formal and natural green space and play provision as well as the provision of allotments and a community orchard. These can be secured as part of the s106 agreement. The parameter plans also indicate areas of the site which are reserved for green/blue infrastructure to ensure that there is sufficient spaces for these elements. Further detail can be agreed at the reserved matters stage.

14. Provide a replacement sports pitch in the north-west corner of KE3C to facilitate the expanded primary school located within the Hygge Park development.

The applicant proposes to transfer the land required for a sports pitch to facilitate the expansion of the Two Rivers C of E primary school as part of the s106 at nil/negligible cost to the Council.

15. Optimise the solar energy potential of development by careful design and orientation.

This will need to be assessed at reserved matters stage, but the illustrative masterplan and summary of energy strategy submitted indicate that this requirement is likely to be met.

16. Implement downstream sewer upsizing works and pumping station upgrade.

This will need to be assessed as part of the drainage strategy at reserved matters stage.

### *Emerging policy KE3C conclusions*

Whilst much of the detail is still to be determined at reserved matters stage, the proposals broadly comply with the emerging requirements of policy KE3C in the LPPU. The only slight deviation is in relation to the provision of sustainable transport mitigation measures whereby a significant package of mitigation works has been agreed with the applicant in line with more up to date evidence taken from the Sustainable Transport Strategy for Keynsham and agreed with Highways.

Furthermore, whilst the application site is larger than the proposed allocation and incorporates Green Belt land to the south, the parameter plans clearly indicate that built development will be restricted to land within the allocation. Those uses proposed on the Green Belt land, e.g. playing fields, allotments, etc, are limited to appropriate uses which are unlikely to have a negative impact upon openness.

It is therefore considered that a grant of planning permission for these proposals would be consistent with the emerging allocation policy and would not prejudice the LPPU or result in any missed opportunities that may have occurred if a decision was delayed until after the adoption of the LPPU.

## 19. AGRICULTURAL LAND

A number of comments have raised concerns about the loss of agricultural land. Policy RE5 of the Placemaking Plan states that development which would result in the loss of the best and most versatile agricultural land particularly Grade 1 and 2 will not be permitted unless significant sustainability benefits are demonstrated to outweigh any loss. Where it can be demonstrated that there is an overriding need for a proposal which will result in the loss of agricultural land, development should be steered towards the use of lower quality agricultural land in preference to higher quality agricultural land.

The Council's GIS mapping indicates that the land is primarily grade 3 and therefore does not represent the best or most versatile agricultural land. It is also considered that the need for the proposal (see Principle of development section) outweighs the loss of this agricultural land. It is therefore considered that there is no conflict with policy RE5 of the Placemaking Plan.

## 20. OTHER MATTERS

### *S106 agreement*

Any grant of planning permission would need to be subject to a s106 agreement to secure the following obligations and contributions:

1. Fire Hydrant contribution
  - a. 8 x £1,500 (£12,000)
2. Targeted recruitment and training obligations
  - a. 36 Work Placements
  - b. 5 Apprenticeship Starts
  - c. 4 New jobs advertised through DWP
  - d. £17,600 contribution
3. 30% affordable Housing
  - a. 75% social rent, 25% Intermediate (Shared ownership)
4. Public Open Space provision
  - a. Allotments 1,470sqm
  - b. Local Equipped Area for Play (LEAP)
  - c. Community Football Pitch
  - d. 10m Nature reserve woodland buffer
  - e. Community orchard
5. Manor Road Local Nature Reserve Improvement contribution
  - a. £150,000
6. Education contribution primary school places
  - a. £713,400 (linked to formula in case housing mix is altered)
7. School Playing Field
  - a. Preparation of land and transfer to Council at nil/nominal cost
8. Highways access works
  - a. Delivery of access proposals
  - b. Requirement for S278 agreement
9. Sustainable Transport Measures
  - a. Bus stop improvements on the A4
  - b. LCWIP improvements between Saltford and Keynsham
  - c. Connection to Bristol and Bath Railway Path
  - d. Active Travel Connection to Rail Station through Memorial Park contribution
- £120,000
10. Provision of community cycle shed
11. Travel Plan + Monitoring
  - a. £4,775
12. Landscape and Ecological Management Plan
13. Car Club Membership obligation
  - a. First resident of each unit to have 1 year of membership
  - b. Provision of car club spaces within the development
14. S106 monitoring fee
  - a. £400 per obligation

The applicant has agreed to the above heads of terms and a s106 agreement would need to be prepared to secure the above matters before any permission is issued.

### *Community Infrastructure Levy*

The development would be liable for CIL at £100 per square metre of residential development. The exact liable cannot be calculated at this stage due to the outline nature of the application. The precise liability will be calculated at reserved matters stage.

## *Public Sector Equality Duty*

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

Elderly, disabled and otherwise vulnerable residents in the local area are likely to be reliant on public transport. The proposals include improvements to local bus stops on the A4 and will make public transport more accessible.

Some comments were received which were concerned that the proposals would reduce access to the countryside and that this is particularly important for those with physical/mental health issues. A similar matter was considered by the CS Inspector who noted that public access is only permitted as of right along the footpath which crosses the centre of the land, even if greater use appears to have been tolerated by the landowner. The loss of this opportunity for informal recreation close to Keynsham is a disadvantage to be weighed in the balance, but local residents would still have easy access to the Manor Road Community Woodland which provides an attractive mix of woods and open meadow for informal recreation.

## 21. PLANNING BALANCE AND CONCLUSION

The proposed development would be contrary to policies KE1 and KE3b of the current development plan. There is therefore a strong presumption against the grant of planning permission unless material considerations indicate otherwise.

There are several significant material considerations which weigh in favour of the application including:

1. Contribution that the proposals would make towards replenishing current housing supply
2. The site's highly sustainable location which is broadly consistent with the district wide spatial strategy
3. The absence of Green Belt protection compared to nearly all other undeveloped land in this locality
4. The provision of sustainable transport measures which are broadly in line with the Sustainable Transport Strategy for Keynsham and which would create the headroom to avoid a severe impact upon the highway network
5. The proposed allocation of the site within the LPPU and the broad consistency of the proposals with the emerging development requirements
6. The provision of 30% affordable housing (up to 64 homes) with the Council's preferred tenure mix
7. Provision of a playing field to enable the expansion of the Two Rivers C of E Primary School at nil/negligible cost to the Council
8. A significant package of s106 obligations and contributions which, although directly related to the addressing the impacts of the development, will have knock on benefits to the wider community
9. Potential for biodiversity net gain of up to 37%
10. Broad compliance with all other relevant policies within the current development plan

Furthermore, it is considered that granting permission for this development would not prejudice the emerging plan or the plan making process and that the benefits derived from the development would be no greater if permission were to be delayed until after the adoption of the LPPU.

In light of the above, it is your officer's view that material considerations exist to justify a departure from the development plan and to grant planning permission for this development, subject to conditions and a legal agreement.

The application is therefore recommended for approval and has been advertised as a departure in accordance with the Development Management Procedure Order 2015.

## **RECOMMENDATION**

Delegate to PERMIT

## **CONDITIONS**

0 1.) Authorise the Head of Legal and Democratic Services to enter into a Section 106 Agreement to negotiate and secure:

1. Fire Hydrant contribution
  - a. 8 x £1,500 (£12,000)
2. Targeted recruitment and training obligations
  - a. 36 Work Placements
  - b. 5 Apprenticeship Starts
  - c. 4 New jobs advertised through DWP
  - d. £17,600 contribution
3. 30% affordable Housing
  - a. 75% social rent, 25% Intermediate (Shared ownership)
4. Public Open Space provision
  - a. Allotments 1,470sqm
  - b. Local Equipped Area for Play (LEAP)
  - c. Community Football Pitch
  - d. 10m Nature reserve woodland buffer
  - e. Community orchard
5. Manor Road Local Nature Reserve Improvement contribution
  - a. £150,000
6. Education contribution primary school places
  - a. £713,400 (linked to formula in case housing mix is altered)
7. School Playing Field
  - a. Preparation of land and transfer to Council at nil/nominal cost
8. Highways access works
  - a. Delivery of access proposals
  - b. Requirement for S278 agreement
9. Sustainable Transport Measures
  - a. Bus stop improvements on the A4
  - b. LCWIP improvements between Saltford and Keynsham
  - c. Connection to Bristol and Bath Railway Path

- d. Active Travel Connection to Rail Station through Memorial Park contribution £120,000
- 10. Provision of community cycle shed
- 11. Travel Plan + Monitoring
  - a. £4,775
- 12. Landscape and Ecological Management Plan
- 13. Car Club Membership obligation
  - a. First resident of each unit to have 1 year of membership
  - b. Provision of car club spaces within the development
- 14. S106 monitoring fee
  - a. £400 per obligation

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

### **1 Outline Time Limit (Compliance)**

The development hereby approved shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the latest.

Reason: As required by Section 92 of the Town and Country Planning Act (as amended), and to avoid the accumulation of unimplemented planning permissions.

### **2 Reserved Matters Time Limit (Compliance)**

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: As required by Section 92 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permissions.

### **3 Reserved Matters (Pre-commencement)**

Approval of the details of the layout, scale, appearance and landscaping of the site (hereinafter called the reserved matters) shall be obtained from the Local Planning Authority before any development is commenced.

Reason: This is an outline planning permission and these matters have been reserved for the subsequent approval of the Local Planning Authority under the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended) and Parts 1 and 3 of the Development Management Procedure Order 2015.

### **4 Reserved matters - Parameter Plans (Compliance)**

This outline planning permission relates solely to the description of development set out above and in the Plans and Documents attached to this planning permission. All reserved matters applications shall accord with the following approved parameter plans forming part of the application except where specific listed conditions in this permission require otherwise:

- o Parameter Plan 01 - NDA (Net Developable Area) 200206 P 02 01
- o Parameter Plan 02 - Green & Blue Infrastructure 200206 P 02 02

For the avoidance of doubt, Parameter Plan 01 does not preclude the incorporation of green and blue infrastructure within the developable area.

Reason: To ensure that built development is restricted to non-Green Belt land in the interests of preserving openness and to ensure that there is sufficient space for green/blue infrastructure and public open space to ensure a high-quality development with sufficient landscaping and good access to green space in accordance with policies GB1, NE1, NE2, NE2A, NE3, NE6, D4, CP6 and CP8 of the Core Strategy and Placemaking Plan.

### **5 Reserved Matters - Landscape Design Proposals (Compliance)**

Any application for the reserved matter of landscaping shall include full details of both hard and soft landscape proposals and programme of implementation. These details shall include, as appropriate:

1. Proposed finished levels or contours
2. Means of enclosure
3. Car parking layouts
4. Other vehicle and pedestrian access and circulation areas
5. Hard surfacing materials
6. Minor artefacts and structures (eg outdoor furniture, play equipment, refuse or other storage units, signs, lighting)
7. Proposed and existing functional services above and below ground (eg drainage, power, communication cables, pipelines, etc, indicating lines, manholes, supports etc)
8. Retained historic landscape features and proposals for restoration, where relevant

Soft landscape details shall include:

1. Planting plans
2. Written specifications (including cultivation and other operations associated with plant and grass establishment)
3. Schedules of plants, noting species, planting sizes and proposed numbers / densities

Reason: To ensure the provision of amenity and a satisfactory quality of environment afforded by appropriate landscape design, in accordance with policies D1, D2, D4 and NE2 of the Bath and North East Somerset Placemaking Plan.

### **6 Reserved Matters - Drainage Strategy (Compliance)**

Any application for reserved matters shall be accompanied by a detailed drainage strategy which shall include, inter alia:

1. Electronic copy of the proposed surface water drainage network (in a .mdx format)
2. Plans detailing the extent of watercourse realignment and flow/size characteristics of the proposed culverts

The surface water drainage network shall thereafter be installed prior to occupation of any dwellings and in accordance with the details approved as part of the reserved matters.

Reason: To ensure that an appropriate method of surface water drainage is installed and in the interests of flood risk management in accordance with Policy CP5 of the Bath and

North East Somerset Core Strategy and Policy SU1 of the Bath and North East Somerset Placemaking Plan.

### **7 Reserved Matters - Existing and Proposed Levels (Compliance)**

Any application for reserved matters shall be accompanied details of the existing and proposed ground levels. These details shall include:

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

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

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

### **8 Tree Bat Roosts - Protection / Mitigation and Compensation Scheme (Pre-commencement)**

Prior to the approval of any reserved matters application or commencement of works to or removal of the tree identified as T1 within the "Bats and Trees" report by FPCR dated May 2021, additional details regarding this tree including confirmation of species, ecological status and value, and full details of either:

1. Proposals for retention and protection of the tree and tree roosts, or
2. Justification for tree removal, reasonings of the "three tests" of the Habitats Regulations, and a bat mitigation and compensation scheme and method statement which shall be in accordance with but not limited to the proposed mitigation strategy described in Section of the approved Bats and Trees report (and which may, if more convenient, comprise a European Protected Species licence application method statement), shall be submitted to and approved in writing by the Local Planning Authority. Full details of proposed positions, heights, models or design/dimensions, materials and fixings of the proposed replacement roost features shall also be provided, and shown on a plan. Proposed replacement bat tree roost features shall be designed to optimise the suitability of roosting conditions, habitat connectivity, and likely roost take-up, and positioned as close as possible to the existing roosts. Measures shall thereafter be adhered to, implemented, retained and maintained in accordance with approved details.

Reason: To avoid harm to protected species (bats and their roosts) and to avoid a net loss of biodiversity, in accordance with National Planning Policy Framework and Placemaking Plan Policy NE3. This is a pre-commencement condition because these details are required before work commences that could potentially impact upon this tree and any bat roosts it contains.

### **9 Ecological Mitigation Compensation and Enhancement Plan (Pre-commencement)**

Any application for reserved matters shall be accompanied by an Ecological Mitigation, Compensation and Enhancement Plan (EMCEP). The Plan shall detail all habitats and features required to deliver biodiversity net gain, which shall be achieved broadly in

accordance with the approved Biodiversity Net Gain Briefing Note (Rev B dated 8th Oct 21 FPCR) and illustrative masterplan (200206-L-02-02 Rev H dated 10th Nov 2021). The EMCEP shall include the following:

1. Full details of proposed ecological mitigation compensation and enhancement measures including habitat retention, creation and enhancement; methods, materials, species compositions and seed mixes, soil requirements; ecological objectives for habitats, species and features
2. Retention of all hedgerows as proposed for retention on the Illustrative Masterplan 200206-L-02-02 Rev H dated 10th Nov 21
3. Proposed additional features including bat and bird boxes
4. Proposed wildlife routes and hedgehog gaps in fencing to ensure permeability for wildlife through and around the site including within residential areas
5. Provision of the specified habitats and minimum habitat extents committed to in the approved Ecological Appraisal (May 2020) and Biodiversity Net Gain Briefing Note (Rev B)
6. Proposed specifications, numbers, positions / boundaries of all habitats and features must be shown on a plan

All measures must be fully incorporated into the scheme and landscape proposals, and shown on all relevant plans and drawings as applicable. All works and ecological measures within EMCEP shall be implemented according to approved details, and all ecological features and habitats shall be retained and maintained thereafter for the purpose of providing benefit for wildlife.

Reason: To prevent ecological harm and to provide biodiversity net gain in accordance with policies NE3, NE5 and D5e of the Bath and North East Somerset Placemaking Plan. The above condition is required to be pre-commencement as it involves approval of measures to ensure that biodiversity net gain is incorporated into the design of the proposals at the reserved matters stage.

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

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

1. Deliveries (including storage arrangements and timings);
2. Contractor parking;
3. Traffic management;
4. Working hours;
5. Site opening times;
6. Wheel wash facilities;
7. Site compound arrangements;
8. Measures for the control of dust, noise and site lighting
9. Temporary arrangements for householder refuse and recycling collection during construction.

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

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

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

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

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

(ii) an assessment of the potential risks to:

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

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

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

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

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

(i) all works to be undertaken;

(ii) proposed remediation objectives and remediation criteria;

(iii) timetable of works and site management procedures; and,

(iv) where required, a monitoring and maintenance scheme to monitor the long-term effectiveness of the proposed remediation and a timetable for the submission of reports that demonstrate the effectiveness of the monitoring and maintenance carried out.

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

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

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

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

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

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

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

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

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

### **15 Construction Environmental Management Plan (Pre-commencement)**

No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP:Biodiversity shall include the following:

- a) findings of update ecological and protected species surveys and assessments as applicable, and proposals for further pre-commencement checks where required.
- b) Practical measures (both physical measures and sensitive working practices) to include the location/boundaries (to be shown on a plan), timing and methodologies of specified works to avoid ecological harm and minimise ecological impacts during construction (may be provided as a set of method statements) for habitats and wildlife including (as applicable) badgers; birds; hedgehog and other mammals; reptiles
- c) a plan showing boundaries of fenced exclusion zones for the protection of retained habitats and features and ecologically sensitive zones and species, within which zones there shall be no excavations; clearance of vegetation; storage of materials; waste disposal; or vehicle or machine access; with details and specifications to also be provided for proposed fencing, barriers and warning signs, as applicable
- d) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person
- e) The times and frequency of visits during construction when a professional ecologist needs to be present on site to oversee works
- f) Responsible persons and lines of communication

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: To avoid harm to existing and retained habitats and species during site preparation and construction works in accordance with policy NE3 of the Placemaking Plan. The above condition is required to be pre-commencement as it involves approval of measures to ensure protection of wildlife that would be otherwise harmed during site preparation and construction phases.

### **16 Landscape and Ecological Management Plan (Pre-occupation)**

No occupation of the development hereby approved shall take place until full details of a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. These details shall be fully in accordance with all previously approved ecological mitigation, compensation, enhancement and biodiversity net gain requirements and shall include:

1. A list of long-term wildlife conservation and landscape design aims and objectives, which, where applicable, shall be specific to named habitats, species and ecological issues of importance. They shall include (but not be limited to): delivery and long term maintenance of landscaping and habitats to achieve Biodiversity Net Gain in accordance with the approved Biodiversity Net Gain Briefing Note (Rev B, 8th Oct 21, FPCR)

2. Creation of habitats to a specified condition and / or that achieve specified levels of structural, botanical, and/or invertebrate diversity; provision of habitats suitable for specified species (for example linnet and other bird species); habitats with suitable conditions, connectivity and quality for use by bats as part of connected flight routes;
3. Proposed management prescriptions and operations; locations, timing, frequency, durations; methods; equipment and personnel as required to meet the stated aims and objectives
4. A plan showing the boundary or boundaries of land to which the LEMP applies. All details, locations, boundaries of habitats and management areas shall also be shown on a plan.
5. A list of activities and operations that shall not take place and shall not be permitted within the LEMP Plan area (for example use of herbicides; waste disposal and disposal of arisings; inappropriate maintenance methods; storage of materials; machine or vehicle access)
6. Proposed habitats shall correspond to and meet the minimum standards set out in the approved Ecological Mitigation, Compensation and Enhancement Plan
7. Proposed monitoring and reporting scheme, to include a 5 year rolling programme for ongoing review and future remediation strategies
8. Proposed resourcing; funding sources and legal responsibility.

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, in accordance with the approved details and timings.

Reason: To ensure the long term maintenance and management of landscape and ecological features in the interests of providing net gain of biodiversity and mitigating the landscape impacts of the development in accordance with policies NE2, NE2A and NE3 of the Placemaking Plan.

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

No occupation of the development hereby approved shall commence until a report produced by a suitably experienced professional ecologist (based on post-construction on-site inspection by the ecologist) confirming and demonstrating, using photographs, adherence to and completion of the approved CEMP:Biodiversity and Ecological Mitigation Compensation and Enhancement Plan for the relevant phase of the development, in accordance with approved details, has been submitted to and approved in writing by the Local Planning Authority.

Reason: To demonstrate compliance with the CEMP:Biodiversity and Ecological Mitigation Compensation and Enhancement Plan, to prevent ecological harm and to provide biodiversity gain in accordance with NPPF and policies NE3 NE5 and D5e of the Bath and North East Somerset Placemaking Plan.

### **18 External Lighting (Bespoke Trigger)**

No new external lighting shall be installed until full details of the proposed lighting design have been submitted to and approved in writing by the Local Planning Authority. These details shall be in accordance with but not limited to the approved Lighting Strategy v3 dated 6th October 2021 by DFL Ltd and shall include:

1. Lamp models and manufacturer's specifications, positions, numbers and heights, with details also to be shown on a plan;
2. Predicted lux levels and light spill modelled on both the horizontal and vertical planes using a maintenance factor of 1 (to correspond with day 1 of operation). This must demonstrate that the proposal will not result in light spill above 0.5 lux from light spill onto any retained or newly created horseshoe bat habitat. The lighting strategy must ensure that all commuting corridors remain below 0.5 lux to enable horseshoe bats to continue to move across the site.
3. Measures to limit use of lights when not required, to prevent upward light spill and to prevent light spill onto nearby vegetation and adjacent land, and to avoid harm to bat activity and other wildlife.

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

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

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

No development shall commence until a Detailed Arboricultural Method Statement with Tree Protection Plan following the recommendations contained within BS 5837:2012 has been submitted to and approved in writing by the Local Planning Authority. The arboricultural method statement shall include details of the following:

1. A programme of works to include details of supervision and monitoring by an Arboricultural Consultant and the provision of site visit records and certificates of completion to the local planning authority;
2. Measures to control potentially harmful operations such as site preparation (including demolition, clearance, earthworks and level changes), the storage, handling, mixing or burning of materials on the site and the movement of people and machinery throughout the site;
3. The location of any site office, temporary services and welfare facilities;
4. The location of any service runs or soakaway locations;
5. A scaled Tree Protection Plan showing the location of all retained trees and tree protection measures.

No development or other operations shall thereafter take place except in accordance with the approved details.

Reason: To ensure that trees to be retained are not adversely affected by the development proposals in accordance with Policy NE6 of the Bath and North East Somerset Placemaking Plan. This is a condition precedent because the works comprising the development have the potential to harm retained trees. Therefore these details need to be agreed before work commences.

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

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

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

### **21 Acoustic Assessment (Pre-occupation)**

On completion of the development 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. 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 ensure that the occupiers of the development do not suffer from excessive noise and to ensure sufficient sound attenuation is achieved in accordance with policy PCS2 of the Placemaking Plan.

### **22 Air Quality (Pre-commencement)**

No development shall commence until a detailed air quality assessment of the proposed development has been submitted to and approved in writing by the Local Planning Authority. Any required mitigation measures shall be installed/completed prior to the occupation of any dwellings.

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

### **23 Sports Pitches (Pre-commencement)**

No development shall commence until the following have been submitted to and approved in writing by the Local Planning Authority:

a) A detailed assessment of ground conditions of the land proposed for the community football pitch (the precise location of which to be determined through the reserved matters applications) shall be undertaken (including drainage and topography) to identify constraints which could affect playing field quality; and

b) Based on the results of the assessment to be carried out pursuant to (a) above of this condition, a detailed scheme to ensure that the playing fields will be provided to an acceptable quality (including appropriate drainage where necessary) shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England.

The works shall be carried out in accordance with the approved scheme within a timescale to be first approved in writing by the Local Planning Authority after consultation with Sport England.

Reason: To ensure that site surveys are undertaken for new or replacement playing fields and that any ground condition constraints can be and are mitigated to ensure provision of an adequate quality playing field and to accord with policy LCR6 of the Placemaking Plan. This is a condition precedent because it necessary to understand the condition of the community football pitch site before work commences, including earthworks and drainage which could material impact upon the playing field quality.

#### **24 Community Football Pitch - Maintenance and Management (Bespoke Trigger)**

The community football pitch shall not be brought into use until a Management and Maintenance Scheme for the facility including management responsibilities, a maintenance schedule and a mechanism for review shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. The measures set out in the approved scheme shall be complied with in full, with effect from commencement of use of the community football pitch.

Reason: To ensure that new facility is capable of being managed and maintained to deliver a community football pitch which is fit for purpose, sustainable and to ensure sufficient benefit of the development to sport (National Planning Policy Framework (NPPF) para 97) and to accord with policy LCR6 of the Placemaking Plan.

#### **25 Community Use Scheme (Bespoke Trigger)**

The community football pitch shall not be brought into use until a community use scheme has been submitted to and approved in writing by the Local Planning Authority (after consultation with Sport England). The scheme shall apply to the community football pitch and shall include details of pricing policy, hours of use, access by users/non-members, management responsibilities, a mechanism for review and a programme for implementation. The approved scheme shall be implemented upon the start of use of the community football pitch or in accordance with the approved programme for implementation and shall be complied with for the duration of the use of the development.

Reason: To secure well managed safe community access to the sports facility, to ensure sufficient benefit to the development of sport and to accord with policy LCR6 of the Placemaking Plan.

#### **26 Sample Panel - Materials (Bespoke Trigger)**

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

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

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

All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme of implementation agreed in writing with the Local Planning Authority.

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

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

### **28 Dwelling Access (Compliance)**

Each dwelling shall not be occupied until it is served by a properly bound and compacted footpath 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 an adequate means of access in accordance with policy ST7 of the Bath and North East Somerset Placemaking Plan.

### **29 Water Efficiency (Compliance)**

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

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

### **30 Public Right of Way Diversion (Compliance)**

If the definitive line of the public footpath BA27/27 is not maintained as part of the reserved matters approvals, then no development shall commence until a diversion order has been confirmed.

Reason: In order to ensure that an acceptable diversion route for public footpath BA27/27 is provided and in accordance with policy ST2A of the Placemaking Plan.

### **31 Road safety audit (Pre-commencement)**

No development shall commence until the detailed design of the new access (drawing number 0487-039) has been subject to an independent Stage 2 Road Safety Audit (RSA) in accordance with the requirements of GG 119.

No occupation of the development shall commence until the completed access has been subject to an independent Stage 3 RSA in accordance with the requirements of GG119.

Within 14 months of access being in operation it shall be subject to an independent Stage 4 RSA in accordance with the requirements of GG119.

Reason: In the interests of highways safety and in accordance with policy ST7 of the Placemaking Plan.

### 32 Plans List (Compliance)

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

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

#### PLANS LIST:

1 00206 L 01 01	Site Location Plan
200206 P 02 01	Parameter Plan 01 - NDA (Net Developable Area)
200206 P 02 02	Parameter Plan 02 - Green & Blue Infrastructure
0487-039	Main Site Access
200206 L 02 02 H	Illustrative Masterplan (illustrative only)

### 2 Permit/Consent Decision Making Statement

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

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

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

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

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

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

Full details about the CIL Charge including, amount and process for payment will be sent out in a CIL Liability Notice which you will receive shortly. Further details are available

here: [www.bathnes.gov.uk/cil](http://www.bathnes.gov.uk/cil). If you have any queries about CIL please email [cil@BATHNES.GOV.UK](mailto:cil@BATHNES.GOV.UK)

#### **4 Condition Categories**

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

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

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

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

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

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

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

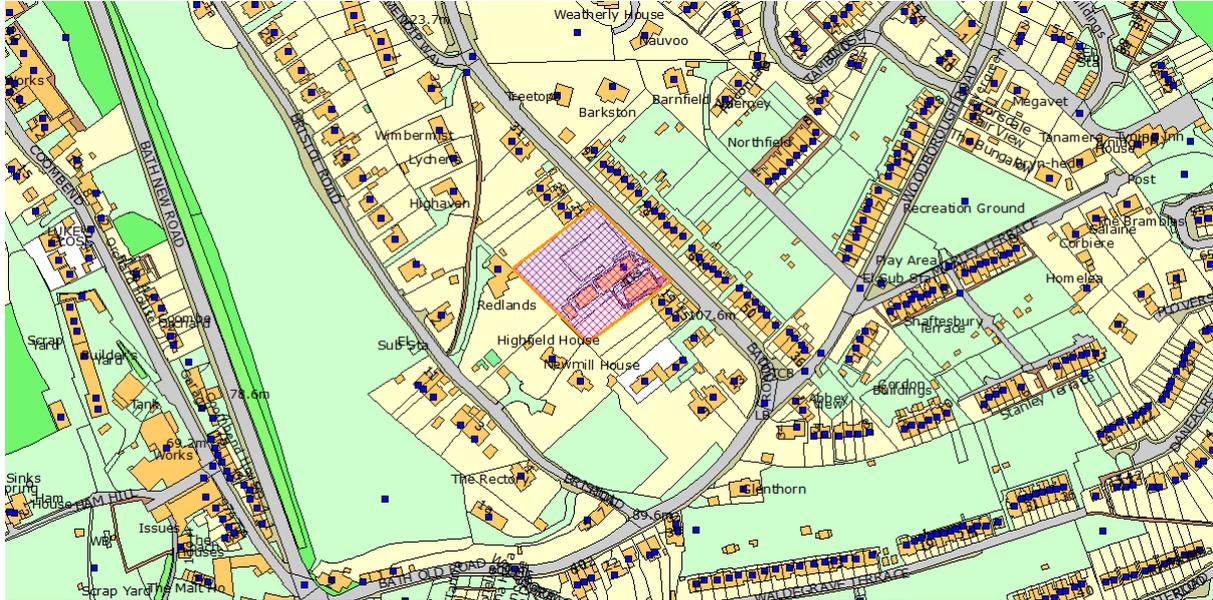
#### **5 Responding to Climate Change (Informative):**

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

#### **6 S106 Agreement**

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

**Item No:** 02  
**Application No:** 20/02253/FUL  
**Site Location:** Former Radstock County Infant School Bath Old Road Radstock Bath And North East Somerset



**Ward:** Radstock                      **Parish:** Radstock                      **LB Grade:** N/A  
**Ward Members:** Councillor Chris Dando      Councillor Bruce Shearn  
**Application Type:** Full Application  
**Proposal:** Demolition of existing vacant school buildings and erection of 15 dwellings, access, parking and landscaping.  
**Constraints:** Coal - Standing Advice Area, Conservation Area, Policy CP9 Affordable Housing Zones, Housing Development Boundary, Placemaking Plan Allocated Sites, Tree Preservation Order,  
**Applicant:** Hawkfield Homes (west) Ltd  
**Expiry Date:** 11th May 2022  
**Case Officer:** Isabel Daone  
To view the case click on the link [here](#).

## REPORT

### REASON FOR COMMITTEE:

This application is subject to a viability assessment. The Council's Planning Scheme of Delegation states that "any planning application which is subject to a viability assessment in respect of affordable housing will be reported to Planning Committee". As such, the application is before the Committee for decision.

The application refers to a the former Radstock Primary School located along Bath Old Road in Radstock. The plot is derelict and has a number of dilapidated buildings on site. The site is within the Housing Development Boundary for Radstock and is also within the Conservation Area.

Planning permission is sought for the demolition of existing vacant school buildings and erection of 15 dwellings, access, parking and landscaping.

Relevant Planning History:

05/02598/REG13

CONSENT - 20 October 2005

Demolition of 4no. temporary buildings and clearance of site.

07/03799/CA

CONSENT - 11 February 2008

Demolition of existing school building

07/03795/FUL

REFUSED - 16 April 2008

Erection of 14 no. new dwellings after demolition of existing school

21/01379/FUL

PERMIT - 14th October 2021

Erection of 9 detached dwellings, access, parking, bicycle and refuse storage and landscaping following demolition of vacant school buildings

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Consultation Responses :

COUNCILLOR ELEANOR JACKSON: Committee call in request

AVON AND SOMERSET POLICE:

14th July 2020: Rear parking courts are generally discouraged as they lack natural surveillance and experience has shown that such areas suffer from disproportionate levels of crime and anti-social behaviour. The houses at the front of the development on Bath Old Road are of conventional layout with bedrooms on the upper floors and have their allocated parking bays at the rear. As a result, all parking bays at the western end of the development (Bays for Units 1 - 4 and 9 - 12) will lack any form of natural surveillance giving rise to a potential for crime and anti-social behaviour.

21 July 2020: Subject to the implementation of the design changes suggested we would urge the applicant to consider seeking Secured by Design accreditation and the relevant application form can be downloaded from the Secured by Design website shown above.

RADSTOCK TOWN COUNCIL:

21st July 2020: Radstock Town Council held it's planning meeting last night (20/07/2020) and noted the changes since to the application reducing the dwellings to 17 and improvements to the design. The Council supported the application.

22nd March 2022: Objection - overdevelopment of the site, access and egress of the Bath Old Road

## URBAN DESIGN:

12th August 2020: Scope for revision. The scheme is generally well thought out however there are elements of the layout that could be improved as detailed below. The number of dwellings proposed is the cause of these problems and it is recommended that the brief to architects be amended to reduce numbers so that design problems can be alleviated. There is no space on site to address concerns otherwise.

2nd December 2020: no objection subject to conditions. The scheme is improved with recent revisions. Please update sustainable construction checklist to ensure point below is addressed.

## CONSERVATION:

14th August 2020: Scope for Revision. The block of flats is out of keeping and should be deleted from any scheme going forward. Other minor amendments recommended.

## ARBORICULTURE:

20th August: Scope for revision. The current proposal, by virtue of the density of housing introduces conflicts with protected trees which could be removed with amendments. The boundary treatment should be reconsidered to avoid conflicts with adjacent trees. The number of units should be reduced to provide more green infrastructure and separation distance from the offsite trees.

8th December: Scope for revision. The number of units should be reduced to provide adequate separation distance to ensure a satisfactory relationship between the proposed

## FLOODING AND DRAINAGE:

24th August 2020: no objection subject to condition.

## HIGHWAYS:

18th August 2020: Highways and transport request further information is submitted regarding the pedestrian access, junction design, car and cycle parking, waste collection and swept path analysis. If the application was determined today Highways and transport would recommend that the application is refused because the application fails to demonstrate adequate car and cycle parking and safe and inclusive access for the proposed development contrary to Placemaking Plan Policy ST1 and ST7.

30th November 2020: Highways and transport request further information is submitted regarding:

- o proposals to improve pedestrian access between the site and the town centre so that it accessible to all;
- o full scoring of the accessibility audit;
- o confirmation that the size of fire tender in the swept path analysis meets local standards;
- o confirmation that redundant dropped kerb crossovers will be reinstated;
- o full details of car parking survey in line with the 'Lambeth' methodology and;

o a stage 1 Road Safety Audit of the access proposals, including any pedestrian improvements.

4th February 2021: In absence of any improvements to the accessibility of the site, the development would be considered to fail to promote sustainable travel because there are inadequate facilities for pedestrians and the mobility impaired to reach essential services such as shops, schools, and public transport contrary to Policy ST1 of the Placemaking Plan.

4th November 2021: Subject to conditions, Highways would have no objection to this application.

It is recommended that the following planning conditions should be applied.

6th December 2021: Revised documents have been added to the case file which have been reviewed to inform this addendum to the Transport and Highways Authority response:

o Proposed Site Plan, Drawing 1010\_P11

o Proposed Offsite Highways Works, Drawing SK05-A D, Dated 10.11.21

o Proposed ground Floor Plan

The revised drawings hardstanding area to present the waste/recycling from plots 9-15 for collection. This area will be within 12m of the adopted highway and is acceptable.

#### HOUSING:

1st Sept 2020: Object, recommend refusal. Applicant has submitted a viability statement that negates a Policy CP9 affordable housing contribution. This viability must be independently tested by the Local Planning Authority.

18th November 2020: Object. Applicant has submitted a viability statement that negates a Policy CP9 affordable housing contribution. This viability must be independently tested by the Local Planning Authority. The previous Housing Service comments still stand.

9th March 2021: No objection subject to conditions. The applicant's viability statement, having been tested by the Local Planning Authority, shows nil affordable housing contribution but that a developer surplus of £137,892 will be generated.

#### CONTAMINATED LAND:

No objection subject to condition.

#### ECOLOGY:

15th September 2020: objection. The following additional information/revisions will be required to demonstrate that this application meets UK law and national and local planning policy:

1. Retention in the first instance or appropriate compensation for any Habitats of Principal Importance under Section 41 of the NERC Act within the scheme;
2. Clarity with regards to the location of a reptile receptor site;
3. Confirmation of approach for invasive non-native species subject to legal controls;

4. Revisions to site layout to demonstrate no net loss and measurable net gain of biodiversity.

15th December 2020: Further information required. The location of an off-site reptile receptor site will need to be indicated so that this can be secured through an appropriate mechanism to demonstrate compliance with the Wildlife and Countryside Act 1981 (as amended). Details of internal light spill, or mitigation measures, will be required to demonstrate that there will not be light spill onto adjacent habitats which may be used by bat species including greater horseshoe and barbastelle bats. Overall, the scheme provides limited interest for biodiversity. It is likely that there will be net loss of biodiversity contrary to the Bath and North East Somerset Placemaking Plan Policy NE3. Further opportunities to retain and enhance biodiversity on site or to seek opportunities off-site, perhaps in conjunction with the receptor site would be welcomed.

5th Feb 2021: No Objection. The additional information which has been submitted confirms that a legally-compliant approach for reptiles can be implemented. The additional hedgerow planting is welcomed. Conditions are recommended to secure the ecological mitigation and enhancement commitments, details of habitat management and a sensitive external lighting design.

Representations Received :

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

- Overdevelopment
- Not in keeping with character, design concerns
- Car dominant design
- Congestion and traffic flow
- Parking concerns
- Highways safety and pedestrian safety concerns
- Insufficient visitor parking
- Highway safety issues during construction
- Visibility issues
- Concerns over emergency vehicle access
- Inappropriate housing mix, need family homes
- Impact on conservation area
- Impacts during the construction phase
- Loss of privacy and overlooking
- Concern over boundary treatment and maintenance of retaining wall
- Refuse concerns
- Poor access to town centre from site
- Concerns for trees and greenspace
- Concern electrical cables will be impacted
- Landscape and wildlife impacts
- Contamination (asbestos)
- Inaccuracies on plans
- Lack of resident consultation

Please note some of the comments received are of considerable length, the above is a summary, all comments are available to view in full via the public website.

## **POLICIES/LEGISLATION**

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

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

### Core Strategy:

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

CP2: Sustainable Construction  
CP3: Renewable Energy  
CP5: Flood Risk Management  
CP6: Environmental Quality  
CP9: Affordable Housing  
CP10: Housing Mix  
DW1: District Wide Spatial Strategy  
SD1: Presumption in favour of sustainable development

### Placemaking Plan:

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

D1: General urban design principles  
D2: Local character and distinctiveness  
D.3: Urban fabric  
D.5: Building design  
D.6: Amenity  
D7: Infill and backland development  
HE1: Historic environment  
LCR1: Safeguarding local community facilities

NE2A: Landscape setting of settlements  
NE3: Sites, species and habitats  
NE5: Ecological networks  
NE6: Trees and woodland conservation  
ST7: Transport requirements for managing development  
H7: Housing accessibility  
SCR1: On-site renewable energy requirement  
SCR5: Water efficiency  
SU1: Sustainable drainage policy  
LCR9: Increasing the provision of local food growing  
PC55: Contamination

National Policy:

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

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.

## LOW CARBON AND SUSTAINABLE CREDENTIALS

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

## OFFICER ASSESSMENT

The main issues to consider are:

- Principle of development
- Affordable housing
- Design and heritage
- Residential amenity
- Highways and parking
- Flooding and drainage
- Trees
- Ecology
- Coal mining heritage
- Contaminated land
- Sustainable construction and renewable energy
- Any other matters

PRINCIPLE OF DEVELOPMENT:

The site is the former Radstock Primary School. The site is not listed within policy LCR3 as land safeguarded for primary school use. In this instance the school has been closed and replaced with a new primary school.

The site is within the Housing Development boundary for Radstock where the principle of residential development is acceptable subject to other material planning considerations.

Additionally, the site is allocated in the Placemaking Plan as a site for residential development. Volume four of the Placemaking Plan sets out the local policies for the Somer Valley. Policy SSV17 of this document allocates the site for the provision of around 10 dwellings.

#### AFFORDABLE HOUSING:

Policy CP9 has regard to affordable Housing Provision. It states that affordable housing will be required as on-site provision in developments of 10 dwellings or 0.5 hectare and above. This proposal has been revised and is for 15 new dwellings. Within the Radstock Area the policy demands 30% provision of affordable housing. This equates to 5 affordable units.

The affordable housing mix required is as follows;

2 x three bed 5 person houses, compliant with Nationally Described Space Standards & Building Regulation M4(1): Category 1 - Visitable dwellings.

3 x two bed 4 person houses, compliant with Nationally Described Space Standards & Building Regulation M4(1): Category 1 - Visitable dwellings.

Note: Bedroom en-suites are not required for affordable housing.

The tenure required is for all social rent.

Policy CP9 goes onto say that the viability of the proposed development should be taken into account. The application was accompanied by a viability assessment, which aspired to non-delivery providing instead a financial contribution. The viability assessment was independently assessed by Cushman and Wakefield. Whilst they broadly agreed with the input assumptions made, the applicants failed to provide the existing land use value of the site. An appropriate conclusion on viability could not be reached.

A revised viability assessment was submitted, prepared by DJC Housing Consultants Ltd (February 2022). This concluded that it would not be viable to provide affordable units on site, but that a financial contribution (from developer surplus) of £122, 930 could be offered. This viability assessment was independently assessed by Dixon Searle Partnership (DSP). DSP broadly agreed with the applicant's viability statement, however when applying the BCIS media build cost rate on the basis of the max. 5 year old data it was considered that the surplus would be a high total of £137, 892. The applicant has agreed with this figure.

Despite the outcome of the viability assessment, officers consider that there is the potential to use the developer surplus of £137, 892 to try and deliver affordable units on site. The following method would be applied:

- The developer surplus would be spread evenly across 5 dwellings (those which would be affordable should affordable housing be provided). This would have the effect of reducing the open market dwellings.
- Then, from the time of planning permission being granted, until the scheme reaching the damp proof course stage, the developer would contact all West of England Registered Housing Providers asking them to bid for the 5 affordable dwellings. The Council's housing team has requested these be social rent. However, the developer has requested shared ownership and officers have agreed that this is acceptable. Registered Housing Providers can then apply and utilise Homes England and/or Council grant funding to close the viability gap, to enable the delivery of on-site affordable housing.
- If after the above period of marketing, the developer has had no firm response from a Registered Provider (evidence of marketing and registered providers response to be supplied to the Council) the developer can dispose of the 5 dwellings unfettered, on the open market. The developer will then pay a commuted sum to the Council (of £137, 892) for reinvestment into affordable housing provision elsewhere in the B&NES administrative area.

It is considered that the above can be secured through a S106 agreement and the applicant has agreed to this method.

It is considered that the viability assessment demonstrates that affordable housing is not viable on site, but that it is viable for a developer surplus to be provided. The Council consider that this may be able to secure on-site affordable housing and a Section 106 agreement will secure this. In the event that Registered Providers do not show interest for the properties, a commuted sum will be secured. It is considered that the proposal complies with Policy CP9.

#### DESIGN AND HERITAGE:

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

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

This site formerly accommodated Radstock Primary School, constructed in the mid-20th century and closed in 2005, replaced by Trinity Primary School on Woodborough Lane. The site is vacant and redundant, and within the Housing Development Boundary and Conservation Area. Prefabricated buildings remain on site, which are all single storey pitched roof (asbestos sheeting) structures located along the southerly edge of the site. The remainder of the site has been cleared. The surrounding area is residential, with Bath Old Road to the east and all three off-road boundaries to private residential gardens with 1m high stone walls along the west and north limits of the site. The site slopes steeply from north to south and also from the frontage to Bath Old Road and to the rear.

The site at present has a neutral effect on the Conservation Area with relatively low scale buildings on the site. Redevelopment offers the opportunity to enhance the Conservation Area. The surrounding area is generally residential and presents a strong character of

natural stone, two storey terraced cottages with dressed stone window and door surrounds.

Policy SSV17 sets out the design principles for the site. The vision is for a 'Residential scheme which responds positively to the established character of the immediate area and which enhances the Conservation Area.' Other design consideration includes a consistent frontage with the area, use of White Lias and vehicular and pedestrian access from Bath Old Road.

The proposal is for 15 dwellings. Policy SSV17 allocates the site for the provision of around 10 dwellings. The proposed number is considered to be 'around' ten and the site plan shows a layout which achieves the proposed quantum without being contrived. Therefore, the proposal is not considered overdevelopment but acceptable in scale and density.

The layout of the site is two rows of dwellings, with access to the rear dwellings taken centrally from off Bath Road. The use of rows is typical for Radstock with rows of terraces are prevalent across the settlement. The conservation officer raised a preference for terraced housing, which has been used to the front row, the use of semi and detached dwellings along the rear row is acceptable given the surrounding variety of dwelling types. The heights are akin to those surrounding dwellings.

In terms of design detail White Lias stone has been used in the construction of the majority of the dwellings, render is to be used to some of rear row properties. This is considered acceptable given the predominance of stone in the locality interspersed with some rendered properties. Design details including dressed windows and doors have been included picking up from cues from the locality. Stone boundary wall treatment is included to Bath Road. The scheme has a very similar design to the previously permitted 9 dwelling schemes on the site which is extant.

All the dwellings have front and rear gardens, characteristic of the area. The use of various materials in the surface treatment is welcomed to highlights areas for cars and pedestrians. A hard and soft landscaping scheme was submitted and will be conditioned.

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

There is a duty placed on the Council under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act to pay special attention to the preservation or enhancement of the character of the surrounding conservation area. In this case by virtue of the design, scale, massing, position and the external materials of the proposed development it is considered that the development would at least preserve the character and appearance of this part of the Conservation Area and its setting. The proposal accords with policy CP6 of the adopted Core Strategy (2014) and policy HE1 of the Placemaking Plan for Bath and North East Somerset (2017) and Part 12 of the NPPF.

**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 proposal is not considered to result in any significant overlooking of overshadowing from within the site in regard to future occupiers.

To the north west of the site is 21 Bath Old Road whose garden extends the length of the site. The front row of proposed dwellings will sit roughly in line with number 21. The rear dwellings will sit roughly around half way back. There will be some increased overlooking however this is considered to be limited and given that number 21 benefits from a long rear garden and some overlooking is expected in a residential area it is noted considered grounds for refusal. The same situation is mirrored to the south east of the site and the relationship with number 19.

The rear gardens and elevations will sit adjacent to the southern boundary of the site. To the south west are the dwellings known as Redlands and Highfield House, these will be a significant gap between the rear elevations of the proposed dwellings and these existing dwellings. Additionally, both existing dwellings benefit from large gardens. The separation is considered acceptable. Additionally, there is currently some planting which screens the views, although this may be removed, boundary treatment would be in place.

Given the design, scale, massing and siting of the proposed development the proposal would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, smell, traffic or other disturbance. The proposal accords with policy D6 of the Placemaking Plan for Bath and North East Somerset (2017) and paragraph 17 and part 7 of the NPPF.

#### HOUSING ACCESSIBILITY:

Placemaking Plan Policy H7 requires 19% of all new market housing to be provided to enhanced accessibility standards meeting the optional technical standard 4(2) in the Building Regulations Approved Document M. The 19% is based on a 'rounded up' figure. Therefore 3 of the 15 proposed dwellings must meet enhanced accessibility standards. A H7 checklist has been submitted stating that 3 of the of the proposed dwellings meet the Optional Technical standard 4(2) in the Building Regulations Approved Document M. A condition will be attached to ensure compliance.

#### HIGHWAYS SAFETY AND PARKING:

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

The Highways Development Control Team have been consulted on this application. Highways provided some initial observations on this application to the planning officer on 30th July and subsequently 18th August requesting further information on pedestrian access, junction design, car and cycle parking, waste collection and swept path analysis.

The applicant has now submitted a revised submission which makes changes in the following key areas:

- o Removal of flats and reduction of number of units from 17 to 15
- o Reconfiguration of layout, landscaping and parking
- o Revised Highways & Parking justification set out in Transport Statement
- o Swept Path Analysis & Communal Refuse Store

Accessibility / Public Transport / Walking / Cycling:

The site is situated in an existing residential area within the housing development boundary of Radstock. There are footways present on both sides of Bath Old Road in the immediate vicinity of the site, however the footway ends approximately 150m to the north of the site and are provided on one side only approximately 70m to the south of the site.

Revised documents have been added to the case file including:

- o Proposed Site Plan, Drawing 1010\_P10, Dated 28.09.21
- o Proposed Offsite Highways Works, Drawing SK05-A D, Dated 12.10.21
- o Transport Statement, Revision A, Dated October 2021

The pedestrian links into Radstock town centre are poor, with sections of narrow or missing footway and inadequate dropped kerbs and tactile paving. The offsite Highway works plan show that a new uncontrolled pedestrian crossing with tactile paving is proposed just to the south of the site access. This will allow pedestrians from the development a more accessible route to Radstock town centre.

This crossing is considered an appropriate mitigation for the increased trips as a result of the development and will also improve the accessibility the site.

Traffic impact / Junction Capacity:

The revised Transport Statement provides an estimate of trip generation across different modes of transport based on the industry standard TRICS database. Given that the site is currently vacant there is expected to be an increase in movements across all modes on Bath Old Road as a result of the development. In summary, the site is expected to generate approximately 113 person trips per day across all modes. At the busiest time of day in the a.m. peak, this breaks down as 6 vehicles, 3 pedestrians and less than 1 cyclist or public transport user. A Highways officer conducted a site visit on 26/11/2020 during the peak hour of 8-9am.

While these are relatively small amounts of movement, it should be noted that there will be also be the cumulative impact from other development in the vicinity such as development site to the north on Bath Old Road (21/01122/RES). Nevertheless, the impact to the highways network, particularly now the pedestrian crossing has been secured will be negligible, or minimal at most.

The NPPF set out at paragraph 111 that 'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe. It is not

considered that there is an unacceptable impact on highway safety, nor a severe cumulative impact on the road network. It is therefore not considered that there are grounds for refusal in this regard.

#### Access / Layout / Highway Safety:

The revised access plans show the access formed as a footway crossover to provide priority to pedestrians travelling along Bath Old Road. The proposed visibility splay has been provided for a 20mph speed limit.

This pedestrian zone is to be indicative of surface treatment only, with no change of level. The Proposed Site Plan indicates a 1.8m wide pedestrian zone entering the site and connecting with paths to the rear gardens.

While the access road must meet adoptable standards, it will remain in private ownership and will not become adopted highway through a section 38 agreement. This is because it would not provide enough public utility to justify maintenance at public expense. The works to create the new access on the frontage will require a minor works agreement to improve the footway.

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

The site is located in B&NES Placemaking plan Outside Bath Zone where minimum parking standards apply for residential parking. These are set out in Schedule 2 - which says that 2no. car parking spaces per two to three-bed dwelling plus 0.2 spaces per dwelling for visitor parking. The minimum provision for this development would be 30 resident car parking spaces plus 3 visitor car parking spaces.

Any departure or reduction in parking spaces from the prescribed standards needs to be fully justified by an accessibility assessment and car parking management strategy. Any car parking management strategy will need to include reference to off-site impacts and existing/ proposed parking restrictions.

A total of 30 car parking spaces including 2 visitor spaces is proposed (1no. spaces below the prescribed standard) the reduction is justified by an accessibility assessment.

The revised Transport Statement now includes the scoring for the Accessibility Questionnaire which can be found in Appendix B. The accessibility score of 30 allows for a secondary discount in the parking standard of between 0 and 10%. The proposed 32 parking spaces represents a 3% reduction in the prescribed parking standard of 33, so this is policy compliant for the on-site parking. Highways note that the detached plots 11,12 and 13 appear to have space for three vehicles to park although only two spaces have been accounted for in the applicant's submission.

It should also be noted that there will be some loss of car parking on Bath Old Road as a result of the access works. The revised Transport Statement also now includes supporting information for the Parking Survey under Section 3.2.10. The parking surveys found 8 car parking spaces available within 200m of the site on 13th October 2020 and 6 spaces on 14th October. This suggests that although parking stress could be increased as a result of

the development, any displaced car parking is likely to be able to be accommodated within a short walk of the site.

The proposed waiting restrictions at the site access would require a legal order (TRO) under the Road Traffic Regulation Act which is separate to the planning process. It is a statutory process with public consultation and ultimately an Order will need to be Sealed prior to any works taking place.

Because the changes to the TRO arise directly from the proposals the applicant would need to pay for the council's expenses of £4,351 for a stand-alone TRO (secured through a S106 or unilateral undertaking). This cost covers the publishing of the Notice of Intent and Notice of Making in the press, Sealing of the Order and the physical site works.

The development would need to provide at least 2 cycle parking spaces for each dwelling. The proposed quantity of cycle parking would be considered adequate for cycle storage in line with the Residential Cycle Parking Provision guidance in the B&NES Placemaking Plan (Policy ST7).

There is a footpath provided between the car parking spaces to access the rear gardens of units 1-8. This will provide access to the cycle parking which requires a minimum 1.2m wide path to easily walk beside a bicycle.

As a new development proposal, facilities for charging plug-in and other ultra-low emission vehicles is required where practicable as set out in Policy ST7 of the Placemaking Plan. Further details of proposed charging facilities are required.

#### Travel Plan:

As a relatively small development, a full Travel Plan is not required, however the developer should be required to provide new residents 'Welcome Packs' to encourage occupants to use sustainable modes of travel and this can be secured by condition.

#### Waste:

The revised drawings hardstanding area includes the waste/recycling from plots 9-15 for collection. This area will be within 12m of the adopted highway and is acceptable.

#### Construction Management Plan:

Due to the scale of the development and site location, a Construction Management Plan (CMP) is required to be submitted and approved by the LPA prior to commencement of the development and this is secured by planning condition. The CMP must include details of demolition activities, deliveries (including storage arrangements and timings), contractor parking, traffic management, working hours, site opening times, wheel wash facilities and site compound arrangements. The CMP will also need to set out how the developer will always maintain safe pedestrian access outside the development.

## Conclusion of Highway Matters:

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

## FLOODING AND DRAINAGE:

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

The applicant has proposed surface water drainage by infiltration. Whilst the Flooding and Drainage Team support this approach the applicant will need to undertake through infiltration testing and ground stability investigation. It needs to be demonstrated that the most sustainable option has been identified. Any proposed connection of surface water to the foul system will need to be agreed with the Water Company prior to development. A detailed drainage strategy will need to be approved by the Local Planning Authority. This can be dealt with via pre-commencement condition.

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

## TREES:

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.

Trees with a girth of 7.5cm and above (when measured at 1.5m above ground level) on and adjacent to the site are protected by the Radstock Conservation Area. A Tree Preservation Order exists on trees within the property nearest the southern corner in Highfield House.

The Arboricultural Officer has suggested the quantum of development be reduced further and the separation gap be larger between trees and dwellings. Nevertheless, the arboricultural report identifies suitable tree protection measures and it is noted that the quantum of development is around that considered acceptable by the allocation policy. The Arboricultural Officer has recommended conditions.

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

#### ECOLOGY:

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

There are no designated sites which would be likely to be impacted by the proposals. The site does not meet Natural England's SSSI Impact Risk Zone criteria and is more than 8km from the nearest component unit of a Special Area of Conservation designated for bats. The three ecological reports which have been submitted are welcomed. Surveys have been completed to best practice standards. No further surveys are required. The approach to avoidance, mitigation, compensation and enhancement measures detailed in the reports is strongly supported.

The additional information which has been submitted confirms that a legally-compliant approach for reptiles can be implemented, including translocation to an off-site Receptor site. A full and final approach for reptile mitigation will need to be secured by condition. The information provided at this stage is sufficient to demonstrate likely compliance with the Wildlife and Countryside Act 1981 (as amended).

The approach for other protected and notable species, including a pre-commencement check for roosting bats, is welcomed. The approach will need to be secured by condition. Although a bat roost was previously recorded in Building 1, no evidence of roosting bats was recorded in thorough surveys in 2020. Based on advice from Natural England, a bat roost can be considered defunct if there has been no evidence of use for 3-4 years (pers. comm. Natural England). If bat roosts were unexpectedly found before or during demolition, all works would need to cease until a Natural England licence has been granted in order for works to proceed lawfully.

The additional hedgerow planting is welcomed. An appropriate mechanism to ensure retention and protection of the hedgerow will need to be implemented.

Cotoneaster and Montbretia species are present on site. As some of these species are non-native invasive species subject to legal controls under Schedule 9 of the Wildlife and Countryside Act 1981 (as amended), arisings will need to be dealt with in an appropriate waste stream or remain on site. The Preliminary Ecological Appraisal (Seasons Ecology, March 2020) should be updated to include appropriate measures or alternatively, these could be secured by condition.

The Council's Ecologist has concerns regarding the impact of light spill onto adjacent habitats, as a result of the site layout and the removal of vegetation. This information would be preferred upfront; however, it is considered that it can be secured by an appropriately worded condition.

Although revisions have been submitted to increase the provision of native species in the landscaping scheme, which are welcomed, there will still be a net loss of biodiversity/ecological networks as a result of the scheme which is contrary to the NPPF and the ecological elements of Policy NE3. Whether the loss is outweighed by other material considerations is assessed within the Planning Balance section below.

#### COAL MINING HERITAGE:

The application site does not fall within the defined Development High Risk Area and is located instead within the defined Development Low Risk Area.

In accordance with the agreed approach to assessing coal mining risks as part of the development management process, if this proposal is granted planning permission, it will be necessary to include The Coal Authority's Standing Advice within the Decision Notice as an informative note to the applicant in the interests of public health and safety. No objection is raised by the Coal Authority.

#### CONTAMINATED LAND:

Policy PCS5 has regard to Contamination. Contaminated land reports have been submitted with the application and the Contaminated Land Officer has been consulted on the scheme.

It is noted that the Site Solutions report is a 'remote' investigation and has been designed to satisfy standard environmental due-diligence enquiries and reviews only information provided by the client and from the databases of publicly available information that have been chosen to enable a desk based environmental assessment of the Site. The Report does not include a site investigation, nor does Argyll make specific information requests of the regulatory authorities for any relevant information they may hold. Therefore, Argyll cannot guarantee that all land uses or factors of concern will have been identified by the Report have been designed to assist in making informed decisions during property transactions.

The report made the following recommendation:

The Site has been in use as a school with tanks. While this may have caused very limited contamination, it is unlikely to be determined as "Contaminated Land" by the regulators. But, given the sensitive development, the Local Authority may request limited soil sampling. This will assess whether the tanks have caused contamination which could impact future site-users.

The report also highlighted the following: 'A review of historical maps dating from 1886 shows one potentially contaminative use within 100m of the Site: a quarry 65m west c.1886 later infilled c.1904. We have identified the following regulated processes in proximity to the Site: a Licensed Waste Management Facility (169m west).'

Taking account of the sensitive nature of the development (i.e. residential dwellings) and the previously developed nature of the site and presence of tanks on site and historical quarrying and mining in the vicinity, the Contaminated Land Officer has recommended pre-commencement conditions for further investigation and remediation as necessary. The proposal is considered acceptable in terms of policy PCS5 of the Placemaking Plan.

## SUSTAINABLE CONSTRUCTION AND RENEWABLE ENERGY:

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

For minor new build development, a 19% reduction in CO2 emissions is required by sustainable construction. In this case the submitted SCC shows that a 19.1% CO2 emissions reduction has been achieved from energy efficiency and/or renewables. Therefore, the proposed development is compliant with policy CP2 in this instance.

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

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

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

## PLANNING OBLIGATIONS:

A number of planning obligations will need to be secured through a Section 106 agreement. These include the financial contribution (to try and secure 5 affordable dwellings onsite) as included within the Affordable Housing section of this report.

Additionally, a contribution to Targeted Training and Recruitment of £495 will need to be secured in accordance with the Council's Planning Obligations SPD.

In regard to highways, a Traffic Regulation Order will be required for the proposed waiting restrictions. The applicant is required to pay the council's expenses of £4,351 which will arise from this.

Offsite highways work, to include an uncontrolled pedestrian crossing and associated road narrowing on Old Bath Road in accordance with plan SK05-A Revision D will need to be secured.

Officers consider that this can be secured through a Section 106 and the applicant is in agreement to these terms.

## OTHER MATTERS:

A further issue has come to light that the legal requirements in the Land Registry deeds ST233407 relating to the sale of the land (Old School site) clearly states that the owners of the land must maintain a 4ft 6inch high stone wall on the south, west and north sides of

the site. The maintenance of the existing wall is being ignored and timber fencing is proposed to hide the walls with no provisions to maintain them. This is legal matter and not a planning consideration. The owners would need to seek the appropriate civil/legal consents.

Members of the public have raised that they were not aware of the planning application. All neighbours have been consulted and relevant site notices printed in accordance with the Development Management Procedure Order (2015).

#### **PLANNING BALANCE:**

Although there have been revisions which seek to increase the provision of native species within the landscaping scheme, the proposal will result in a net loss of biodiversity. This is contrary to the National Planning Policy Framework and the ecological elements of Policy NE3, which asks that ecological enhancements are made. This is considered to result in minor ecological harm.

However, the site is allocated for housing within the Placemaking Plan and is therefore considered suitable and sustainable for housing. This should be afforded great weight in the planning balance. Additionally, the proposal will result in 15 dwellings, 5 of which have the potential to be affordable. Failing this, 15 market dwellings will be provided and the Council can secure a financial contribution.

The proposal would result in the creation of construction jobs, CIL receipts and Council Tax payments when occupied. These elements can be afforded limited weight in the planning balance.

When taking the above into account, it is considered that the balance is tilted in favour of development. On balance, therefore the proposal is acceptable and therefore, the proposal is recommended for permission.

#### **RECOMMENDATION**

PERMIT

#### **CONDITIONS**

0 A). Authorise the Head of Legal and Democratic Services to complete a Section 106 Agreement to secure:

1. a financial contribution of £137,892.00 to affordable housing, to include a mechanism to allow this to be spread across 5 dwellings and these to be marketed to Registered Housing Providers: and
2. a financial contribution of £4,351 to pay the Council's expenses of the necessary Traffic Regulation Order
3. a financial contribution of £495.00 towards Targeted Training and Recruitment
4. off-site highway works, to include an uncontrolled pedestrian crossing and associated road narrowing on Old Bath Road in accordance with plan SK05-A Revision D

B.) Subject to the prior completion of the above agreement, authorise the Head of Planning to PERMIT subject to the following 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 Flood Risk and Drainage - Infiltration Testing (Pre-commencement)**

No development shall commence, except demolition, ground investigations and remediation, until infiltration testing and soakaway design in accordance with Building regulations Part H, section 3 (3.30) have been undertaken to verify that the proposed soakaways will be suitable for the development.

If the infiltration test results demonstrate that soakaways are not appropriate, an alternative method of surface water drainage, shall be submitted to and approved in writing by the Local Planning Authority.

The soakaways or other approved method of surface water drainage shall be installed prior to the occupation of the development.

Reason: To ensure that an appropriate method of surface water drainage is installed and in the interests of flood risk management in accordance with Policy CP5 of the Bath and North East Somerset Core Strategy and Policy SU1 of the Bath and North East Somerset Placemaking Plan. This is a condition precedent because it is necessary to understand whether soakaways are appropriate prior to any initial construction works which may prejudice the surface water drainage strategy.

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

No development shall commence until a detailed sustainable drainage strategy in accordance with the standards of the West of England Sustainable Drainage Developer Guide and informed by the infiltration testing required by Condition 2. has been agreed with the Local Planning Authority.

Reason: To ensure that an appropriate method of surface water drainage is installed and in the interests of flood risk management in accordance with Policy CP5 of the Bath and North East Somerset Core Strategy. This is a condition precedent because it is necessary to understand whether soakaways are appropriate prior to any initial construction works which may prejudice the surface water drainage strategy.

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

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

and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and shall include:

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

(ii) an assessment of the potential risks to:

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

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

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

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

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

(i) all works to be undertaken;

(ii) proposed remediation objectives and remediation criteria;

(iii) timetable of works and site management procedures; and,

(iv) where required, a monitoring and maintenance scheme to monitor the long-term effectiveness of the proposed remediation and a timetable for the submission of reports that demonstrate the effectiveness of the monitoring and maintenance carried out.

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

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

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

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

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

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

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

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

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

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

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

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

### **9 Dwelling Access (Pre-occupation)**

Each dwelling shall not be occupied until it is served by a properly bound and compacted footpath 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 an adequate means of access in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

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

No occupation or use hereby permitted shall commence until bicycle storage for 2 bicycles for each dwelling have been provided in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. The bicycle storage shall be retained permanently thereafter.

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

### **11 Residents Welcome Pack (Pre-occupation)**

No occupation of the approved development shall commence until a new resident's welcome pack has been issued to the first occupier/purchaser of each residential unit of accommodation. The new resident's welcome pack shall have previously been submitted to and approved in writing by the Local Planning Authority and shall include information of bus and train timetable information, examples of fares/ticket options, information on cycle routes, car share, car club information etc., to encourage residents to try sustainable transport.

Reason: To encourage the use of sustainable transport in the interests of sustainable development in accordance with Policy ST1 of the Bath and North East Somerset Placemaking Plan.

### **12 Car Parking (Compliance)**

The areas allocated for parking and turning, as indicated on submitted plans 'Proposed Ground Floor Plan Rev. P5, Proposed Site Plan, Rev. P6, and SK04 Rev. A' shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.

Reason: To ensure sufficient parking and turning areas are retained at all times in the interests of amenity and highways safety in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

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

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

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

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

No development shall take place until full details of a Wildlife Protection and Enhancement Scheme consistent with the recommendations in Section 5 of the Preliminary Ecological Appraisal (Seasons Ecology, March 2020), Section 5.3 of the Bat Surveys report (Seasons Ecology, May/June 2020) and the letter entitled Reptile Mitigation Strategy from Seasons Ecology dated 2 February 2021 have been submitted to and approved in writing by the local planning authority. These details shall include:

- (i) Detailed reptile method statement, including confirmation of a suitable Receptor site and schedule for mitigation and enhancement measures as required;
- (ii) Method statement for pre-construction and construction phases to provide full details of all necessary protection and mitigation measures, including, where applicable, proposed pre-commencement checks and update surveys, for the avoidance of harm to bats, reptiles, nesting birds and other wildlife, and proposed reporting of findings to the LPA prior to commencement of works;
- (iii) Details of appropriate measures to prevent the spread of non-native invasive species;
- (iv) Specification and plans detailing implementation of the wildlife mitigation measures and recommendations of the ecological reports, including wildlife-friendly planting / landscape details, details of a management of schedule for retained and created habitats, provision of bat and bird boxes, management/enhancement measures for reptiles including for the Receptor site and hedgehog connectivity measures.

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

Reason: To prevent ecological harm in accordance with the Wildlife and Countryside Act 1981 (as amended) and policy NE3 of the Bath and North East Somerset Local Plan. The above condition is required to be pre-commencement as it involves approval of measures to ensure protection of wildlife that would be otherwise harmed during site preparation and construction phases.

#### **15 Implementation of Wildlife Scheme (Pre-occupation)**

No occupation of the development hereby approved shall commence until a report produced by a suitably experienced ecologist confirming and demonstrating, using photographs, completion and implementation of the Protection and Enhancement Scheme in accordance with approved details, has been submitted to and approved in writing by the Local Planning Authority.

Reason: To demonstrate the completed implementation of the Wildlife Protection and Enhancement Scheme, to prevent ecological harm and to provide biodiversity gain in accordance with NPPF and policies NE3 and D5e of the Bath and North East Somerset Local Plan.

## **16 External and Internal Lighting (Bespoke Trigger)**

No new external across the scheme or internal lighting for rooms with windows facing the south eastern boundary (rear boundary) of the site shall be installed without full details of proposed lighting design being first submitted to and approved in writing by the Local Planning Authority. Details shall include:

- (i) a specification and plan showing proposed lamp models, specifications, positions, numbers and heights;
- (ii) details of predicted lux levels and light spill; and
- (iii) details of all measures to limit use of lights when not required and to prevent upward light spill and light spill onto trees and boundary vegetation and adjacent land.

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

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

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

No development shall take place until an arboricultural method statement with tree protection plan following the recommendations contained within BS 5837:2012 identifying measures to protect the trees to be retained, has been submitted to and approved in writing by the Local Planning Authority. The statement shall include proposed tree protection measures during site preparation (including demolition, clearance and level changes), during construction and landscaping operations. The statement should also include the control of potentially harmful operations such as the position of service runs and soakaways, storage, handling and mixing of materials on site, burning, location of site office and movement of people and machinery.

Reason: To ensure that no excavation, tipping, burning, storing of materials or any other activity takes place which would adversely affect the trees to be retained in accordance with policy NE6.

## **18 Arboricultural Compliance (Bespoke Trigger)**

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

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

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

All hard and soft landscape works shall be carried out in accordance with the approved details contained within plan reference no. 19/10/194/LAN\_01c (received by the Local Planning Authority 12th February 2021). The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme of implementation agreed in writing with the Local Planning Authority.

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

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

### **20 Landscape Management Plan (Pre-occupation)**

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

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

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

No construction of the external walls of the development shall commence until a schedule of materials and finishes to be used in the construction of the external surfaces, including roofs, has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include:

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

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

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

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

### **22 Housing Accessibility (Compliance)**

3 dwellings hereby approved shall meet the optional technical standards 4(2) in the Building Regulations Approved Document M.

Reason: To ensure that the optional technical standards for accessibility are met in accordance with policy H7 of the Bath and North East Somerset Council Placemaking Plan.

### **23 Sustainable Construction (Pre-Occupation)**

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

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

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

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

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

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

### **25 Water Efficiency (Compliance)**

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

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

### **26 Plans List (Compliance)**

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

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

#### **PLANS LIST:**

1 This decision relates to the following plans:

- 1000 P2 Site Location Plan. Received 30th June 2020
- 1001 P2 Existing Site Plan. Received 30th June 2020
- 1002 P2 Proposed Demolition Plan. Received 30th June 2020
- 1010 P11 Proposed Site Plan. Received 11th November 2021
- 1011 P11 Proposed Ground Floor Plan. Received 11th November 2021
- 1012 P6 Proposed First Floor Plan. Received 12th February 2021

1013 P8 Proposed Roof Space Plan. Received 12th February 2021  
1020 P5 2 Bedroom House Type. Received 30th October 2020  
1021 P5 3 Bedroom House Type. Received 30th October 2020  
1022 P5 3 Bedroom Detached House Type. Received 30th October 2020  
1024 P4 Refuse Strategy. Received 14th April 2022  
1025 P5 3 Bedroom House with Integrated Garage. Received 12th February 2021  
2001 P8 Proposed Elevations Plots 1-8. Received 30 October 2020  
2002\_P9 Proposed Elevations Plots 9-15. Received 20th April 2022  
2003 P8 Proposed Side Elevations. Received 10th December 2020  
SK05-A Revision D Proposed Offsite Highway Works. Received 10th November 2021  
19/10/194/LAN\_01c Landscape Proposals. Received 12th February 2021

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

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

## **3 Condition Categories**

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

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

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

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

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

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

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

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

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

extensions. **Before** commencing any development on site you should ensure you are familiar with the CIL process. If the development approved by this permission is CIL liable there are requirements to assume liability and notify the Council **before any development commences**.

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

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

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

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

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

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

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

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

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

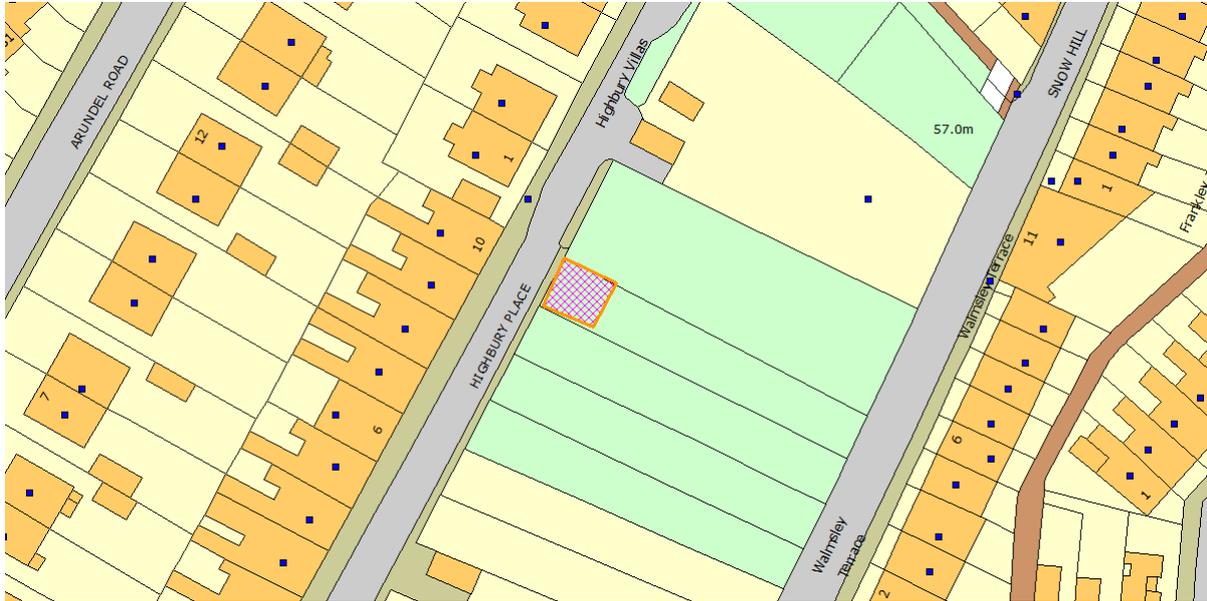
### **7 Highways Legal Agreement (278)**

Local Highway Authority requires a legal agreement (Section 278) The Local Highway Authority (LHA) requires the developer to enter into a legally binding agreement to secure the proposed Highway improvements. Further information in this respect may be obtained by contacting the LHA.

### **8 Local Highway Authority requires Road Safety Audits**

The detailed design of the Highway works shall be subject of an independent Stage 2 Road Safety Audit (RSA) and the completed works shall be the subject of a Stage 3 RSA. Both audits will be undertaken in accordance with GG119. Both audit briefs together with the CV of the Audit Team Leader and Audit Team Member shall be submitted to and approved in writing by the LHA. A representative of the LHA shall be present at the Stage 2 RSA site visit as an observer and a representative of the LHA and Avon and Somerset police shall be invited to attend the daytime and night-time Stage 3 RSA site visits.

**Item No:** 03  
**Application No:** 22/00630/FUL  
**Site Location:** 10 Highbury Place Walcot Bath Bath And North East Somerset BA1 6DU



**Ward:** Walcot                      **Parish:** N/A                      **LB Grade:** II  
**Ward Members:** Councillor Richard Samuel Councillor Tom Davies  
**Application Type:** Full Application  
**Proposal:** Creation of new parking bay (Resubmission).  
**Constraints:** Article 4 Bath Demolition Wall, Article 4 Reg 7: Estate Agent, Article 4 HMO, Colerne Airfield Buffer, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Conservation Area, Policy CP9 Affordable Housing Zones, MOD Safeguarded Areas, SSSI - Impact Risk Zones,  
**Applicant:** Joshua Kneen & Jai Turner  
**Expiry Date:** 8th April 2022  
**Case Officer:** Helen Ellison  
To view the case click on the link [here](#).

## REPORT

### SITE DESCRIPTION

10 Highbury Place is the end property of a Grade II early C19 terrace, located within Bath conservation area (Fairfield Park & Larkhall Character Area) and the City of Bath World Heritage Site. The terrace forms a stepped, three storey elevation from north to south. The application site is located in 10 Highbury Place's adjacent garden which is opposite the front of No. 10 and extends in a long, narrow strip to the east as do adjacent gardens; these appear to be contemporaneous to the development of the terrace, but with the defined garden at 10 Highbury Place appearing a little later by the late 19th century. A

number of gardens have had space made for off-street parking, but the boundary treatment remains predominantly of Bath stone ashlar.

## PROPOSAL

Planning permission is sought for the creation of new parking bay (Resubmission of withdrawn application 21/02379/FUL which sought consent for the creation of a new parking bay for 1 No. vehicle opposite No. 10 Highbury Place within the existing divorced garden).

Listed building consent 22/00631/LBA is being dealt with concurrently.

The application is referred to DMC at request of Cllr Davies and Cllr Samuel (specifically in respect of 22/00631/LBA). 22/00630/FUL also included as the applications are tandem/dual.

Cllr Davies reasons for requesting application to be referred to committee (specifying the planning reasons):

- Cllr Davies understands from a previous discussion with the Case Officer that they are minded to reject this planning application. This decision would appear to run in contradiction to other similar planning applications which have been approved (in one case on appeal) in Highbury Place. To ensure consistency of approach to planning applications, Cllr Davies would therefore request that the Committee consider this application.

- In addition, Cllr Davies notes that in their discussions with the applicant, the Council has referenced the Climate & Ecological Emergency as one reason for the rejection of the initial application. This resubmission includes a concession to retain the tree and to have confirmed, via a detailed arborist report, that the tree is not at risk, and to pay to install a grid system that preserves the underground habitat.

- As Ward Councillor, Cllr Davies notes that through the delivery of such parking bays along this stretch of housing, the majority of the properties will have been able to deliver electric charging points which directly contribute to carbon and pollution reduction in our area and Cllr Davies believes that it is important that in areas such as this, the planning process is supportive of these aspirations.

Cllr Samuel adds his support to Cllr Davies's call in to Planning Committee

## PLANNING HISTORY

DC - 21/02379/FUL - WD - 1 February 2022 - The creation of new parking bay for 1 No. vehicle opposite No.10 Highbury Place within the existing divorced garden

DC - 21/02380/LBA - WD - 1 February 2022 - External works for the creation of new parking bay for 1 No. vehicle opposite No. 10 Highbury Place within the existing divorced garden

DC - 21/05509/TCA - WD - 13 January 2022 - Silver Birch (T1) - 2 metre crown reduction. Up to 4 metre from horizontal branches. 1 metre crown raise.

DC - 22/00630/FUL - PCO - - Creation of new parking bay (Resubmission).

DC - 22/00631/LBA - PCO - - External alterations for the creation of new parking bay (Resubmission).

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

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

#### **PUBLICITY**

Site notice displayed and photographic evidence received.

#### **CONSULTATIONS**

Highways DC: No objection subject to conditions and advisory notes

Arboriculture: No objection subject to conditions

#### **REPRESENTATIONS**

1 representation received, in summary;

- Concern that latest application does not include removal of leaning silver birch tree; the lean has considerably worsened over the years, and is a cause of great concern, whenever there are strong winds (increasingly more of over the last decade). People living in road behind Highbury Villas (Arundel Road) express concern when tree has been leaning drastically and erratically in previous strong winds.

- Very disappointing when the first application was refused last year; had hoped for the tree to be felled as it is a serious cause of worry to us. If the tree was to fall in strong winds, the angle of the lean means it would almost certainly crush our parked car, and more seriously could crash into the front of our house.

- Understand that the applicants were willing last year to plant more trees further down their land at a safer distance from our buildings.

- Hope this tree can be removed at the soonest opportunity.

#### **POLICIES/LEGISLATION**

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

There is 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.

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:

Policy GDS.1 Site allocations and development requirements (policy framework)

Policy GDS.1/K2: South West Keynsham (site)

Policy GDS.1/NR2: Radstock Railway Land (site)

Policy GDS.1/V3: Paulton Printing Factory (site)

Policy GDS.1/V8: Former Radford Retail System's Site, Chew Stoke (site)

- Neighbourhood Plans

Core Strategy:

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

CP2 Sustainable Construction  
CP6 Environmental quality  
B4 The World Heritage Site

Placemaking Plan:

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

D2 Local Character and Distinctiveness  
D5 Building Design  
D6 Amenity  
HE1 Historic Environment  
NE1 Development & Green Infrastructure  
NE6 Trees and Woodland Conservation  
ST7 Transport Requirements for Managing Development

Guidance:

Historic England Advice Note 2 'Making Changes to Heritage Assets' (2016)  
Historic England 'Conserving Georgian and Victorian terraced housing - A Guide to managing Change' (2021)  
BaNES Draft City Centre Character Appraisal Bath (2015)

National Policy:

The National Planning Policy Framework (2021) and National Planning Practice Guidance.

## 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

### CHARACTER & APPEARANCE

Policy D2 of the Placemaking Plan (PMP) has regard to the character and appearance of a development and its impact on the character and appearance of the host dwelling 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 not be supported where it fails to respond to the local context in terms of appearance, materials, siting, spacing and layout. Policy D5 of the PMP relates specifically to building scale design and materials and requires that development proposals be well detailed and designed. Policy CP6 of the Core Strategy supports high quality design and to protect, conserve and seeks opportunities to enhance the historic environment including the character and setting of designated and other heritage assets. These Policies reflect Part 12 of the NPPF 'Achieving well-designed places', which emphasises the importance of good design as a key aspect of sustainable development.

In this case, due to the proposed loss of a visually prominent boundary wall, loss of portion of long-standing established domestic garden and proposed use of incongruous paving materials for the parking area the proposed development would conflict with these Policies, failing to contribute or respond positively to the historic context of the site, or, character and appearance of the surrounding area.

In terms of impact on the character and appearance of the area the proposal would not accord with policy CP6 of the adopted Core Strategy (2014) or policies D2 and D5 of the Placemaking Plan for Bath and North East Somerset (2017) or part 12 of the NPPF.

#### RESIDENTIAL AMENITY

Policy D6 of the PMP sets out to ensure existing and proposed development achieve appropriate levels of privacy, outlook and natural light and do not cause harm to amenities of occupiers by reasons of loss of light, increased noise, smell, overlooking, traffic or other disturbance.

Given the location and extent of the proposed development it is not expected 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 therefore with policy D6 of the Placemaking Plan for Bath and North East Somerset (2017) and part 12 of the NPPF.

#### HIGHWAYS

Highways Development Control (HDC) at BaNES has reviewed the submitted details and comment as follows;

The Applicant seeks permission to remove part of the existing boundary wall opposite 10 Highbury Place and lay Green Grid System, which will be overlaid with buff paving in order to create off-street car parking for 1 No. vehicle.

Highways do not anticipate the proposed development having an unacceptable impact on the adjacent public highway. Although vehicles will occasionally be required to reverse onto the public highway, it is acknowledged that 10 Highbury Place is located towards the end of a Class 4 'no-thru' residential street where vehicle speeds and volumes tend to be low. Officers also note that a number of neighbouring properties have similar arrangements with hardstanding parking areas on the east side of Highbury Place.

Interrogation of the 'CrashMap' database reveals that there have been no recorded Personal Injury Collisions (PICs) in the vicinity of the application site during the previous 60-month period, suggesting that there are no highway safety issues.

The Applicants proposal could be considered to be a benefit in Highway Safety terms as the proposed new driveway has the potential to remove a minimum of 1 parking activity from the adopted Public Highway.

The footway will need to be modified with dropped kerbs to create a vehicle crossover. The existing pennant stone kerbs and flags must be retained. The work in the Highway will require a licence under Section 184 of the Highways Act 1980 for the construction of a vehicular crossing.

The applicant has confirmed in writing (and provided photographs) that there is already a dedicated mains power to the site and that the Electric Vehicle Charging Point (EVCP) would be connected to that; therefore the proposal would not involve works to the public highway.

There would not appear to be any parking restrictions on the adopted section of Highbury Place. The street is just outside Permit Parking Zone 15. From what HDC can ascertain from street view images, extensive on-street parking takes place on most of the north side of Highbury Place.

To conclude, while the proposed access is likely to result in vehicles occasionally reversing onto the public highway, this is unlikely to have any material or noticeable impact on the safety or operation of the local highway network.

As such, it is recommended that no highway objection be raised subject to conditions being attached to any permission granted. The recommended conditions would secure use of a bound/compacted vehicle access and ensure the correct driveway gradient. The reasons for these conditions are to prevent loose material spilling onto the highway in the interests of highways safety in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan and in the interests of amenity and highway safety. In addition, a couple of advisory notes relating to the need to apply for a Section 184 licence under the Highways Act 1980 (in order for a new vehicular access to be created) and setting out the minimum dimensions of a standard off-street car parking space are also recommended.

Taking account of the above the means of access and parking arrangements are considered acceptable and are expected to maintain highway safety standards. Subject to conditions and advisory notes the proposal accords with policy ST7 of the Placemaking Plan for Bath and North East Somerset (2017) and part 9 of the NPPF.

#### DESIGNATED HERITAGE ASSETS

The application site is located within the City of Bath World Heritage Site and Bath Conservation Area. The application property is a Grade II listed building. Therefore consideration must be given to the effect the proposal might have on the setting of the World Heritage Site. There are also duties placed on the Council under; Section 72 (1) 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, and, Section 66 (1) of the same Act, 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.

The proposed development would remove part of the existing stone garden wall that fronts the highway known as Highbury Place, install a green grid system overlaid with buff paving in order to create an off-road parking area measuring approximately 6x4m, replace an existing retaining wall (located within the garden) with a Bath Stone wall and steps leading to the retained portion of the garden, install a floor mounted electrical vehicle charging point comprising of a post approximately 205mm square by 1130mm high with attached charging 'pod' (located in the rear southern corner of the parking area) and introduce a dropped kerb. Both existing stone pillars that 'frame' the existing pedestrian access point to the garden would be retained as would the existing side stone boundary walls. A Cherry tree and Silver Birch located towards the northeast side boundary would both be retained.

In terms of significance and special interest the Bath stone ashlar wall that runs adjacent to the road, together with the pedestrian access to the garden that is marked by way of two stone pillars is a positive aspect of the listed building and its setting and makes a positive contribution to the character and appearance of this part of the conservation area and City of Bath World Heritage Site. The existing stone boundary walls (that extend to the sides and front of the application site) together with pedestrian access point clearly outline/de-mark the original domestic garden associated with the property; original boundary treatments are regarded to be part of the architectural composition and in this case, given that Highbury Place directly faces onto the private gardens the boundary treatment adds to the architectural and historical interest of the terrace as a whole and is a key element of its setting. The proposed opening up of the wall to create a parking area would therefore unacceptably alter this important element of the streets character, fail to sustain the heritage significance and also appear incongruous within the established and long-standing historical garden setting. Furthermore, the proposed use of buff paving as finished surface to the proposed parking area would appear uncharacteristic and out of place. The current pedestrian entrance to the garden (framed by stone pillars) has a direct relationship with the entrance door to the application property at 10 Highbury Place and links the house to its respective garden; creation of a second larger opening would diminish this important link.

Policy HE1 of the Placemaking Plan states that alterations, extensions or changes of use, or development within the vicinity of a listed building, will be expected to have no adverse impact on those elements which contribute to their special architectural or historic interest, including their settings. Further, 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. Policy CP6 of the Core Strategy supports high quality design and seeks to protect, conserve and seeks opportunities to enhance the historic environment including the character and setting of designated and other heritage assets. Part 16 of the NPPF (2016) requires that heritage assets be conserved in a manner appropriate to their significance. In determining applications the NPPF advises that local planning authorities should take account of: (a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; (b) the positive contribution that conservation of heritage assets can make to sustainable

communities including their economic vitality; and (c) the desirability of new development making a positive contribution to local character and distinctiveness.

The proposed formation of an opening in the existing garden/roadside boundary wall in order to facilitate an off-road parking area and electric vehicle charging point (EVCP) would cause harm to the character of the conservation area, world heritage site and setting of the listed building. Whilst it is acknowledged that parking in the area can be difficult, the loss of historic fabric and character will result in harm and the provision of parking, even with an EVCP, are not considered to result in public benefit that would be sufficient to outweigh the level of harm caused. Furthermore, the proposed creation of an off-road space would not significantly alleviate parking as any parking space gained off-road would result in a broadly equivalent loss of on-road parking due to need for a vehicular access point to serve the parking space thus meaning no net gain of parking overall. It is also of relevant to note that there would not appear to be any parking restrictions on the adopted section of Highbury Place; the street is located just outside Permit Parking Zone 15. From what Highways DC can ascertain from street view images, extensive on-street parking takes place on most of the north side of Highbury Place.

It is acknowledged that a majority of the garden boundary walls that extend along the terrace have already been removed (some, it would appear, without the necessary consent) and that few garden boundary walls remain fully intact with the exception of those serving Nos. 9 and 10 Highbury Place. As the current appearance of the street confirms removal of these historic walls is unfortunate and clearly has a significant and detrimental impact upon the character of the area, streetscene and setting of the listed buildings. Given the loss of such walls it is therefore even more important that the character is not permitted to diminish or be eroded any further; indeed, the garden boundary wall that is the subject of this application together with the next-door garden boundary wall serving No. 9 Highbury Place are the last remaining intact boundary walls and therefore a heightened importance on them being retained in entirety. Although the existing pillars would be retained (together with a short section of boundary wall) the loss of enclosure that would result would undoubtedly diminish/dilute the existing relationship between the property and domestic garden. In this case the proposed works should be resisted, and great weight given to the retention of the boundary wall in its entirety not least to retain the respective street and domestic garden character at this end of the street.

A similar application at 1 Highbury Place (18/04210/LBA and 18/04209/FUL) was refused for the reasons that the proposed development would cause harm to the setting of the listed building and appearance of the streetscene to the detriment of the character and appearance of the Bath Conservation Area and World Heritage Site due to the loss of prominent boundary treatment and garden. Although the applications were allowed on Appeal it is considered that the climate change emergency declared by the Council in March 2019 represents a significant change in circumstances. A Climate Emergency is defined as, 'A situation in which urgent action is required to reduce or halt climate change and avoid potentially irreversible environmental damage resulting from it.' BaNES also declared an Ecological Emergency in July 2020. Ecological Emergency means that BaNES have committed to protect and enhance Bath and North East Somerset's natural environment and wildlife biodiversity. One of the four priority areas for local action is using thoughtful planning and building to protect existing plant and animal habitats.

It is confirmed that the 1 Highbury Place applications were determined by the Council in November 2018 and therefore before the climate change emergency was declared. In this current climate change emergency context, it would seem somewhat contradictory to support car use through the provision of an off-street parking area, and, loss of garden/green space. In addition, and as stated elsewhere the gain in one off-street parking space would be off set by the loss of one on-street parking space suggesting no gain in parking provision overall.

The Appeal decision relating to 1 Highbury Place states that 'the majority of neighbouring properties have removed sections of the same front wall to create parking spaces, and in some cases have added garages' and therefore did not consider, that allowing the proposals would result in the setting of an undesirable precedent.' The Appeal decision goes on to state that 'the wall enclosing the front part of the garden would be partly removed in order to provide a vehicular access into the parking space.' This would be a permanent change that the Planning Inspector considered would cause less than substantial harm to the heritage assets. The Planning Inspector observed that Highbury Place has some on-street car parking, but that car parking is generally in short supply. In this regard and taking account of comments supplied by third parties who neighbour the site, the local Councillor and comments of the highway authorities the Planning Inspector considered there to be a public benefit to the proposals through the provision of an off-street parking space, which would result in reduced pressure on car parking within the street.

In accordance with Paragraph 199 of the NPPF (2021), when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. This is supported by Policy HE1 which states that great weight will be given to the conservation of the district's heritage assets. Any harm to the significance of a designated or non-designated heritage asset must be justified.

In this case it is concluded that the harm caused to the designated heritage asset, is, in the context of the significance of the asset as a whole and in the language of the NPPF, less than substantial. In such circumstances Paragraph 202 of the NPPF (2021) requires that any harm be weighed against the public benefits of the proposal, including securing the optimum viable use of the building. The proposed off-street parking space would be for the private gain of the applicant and would appear to result in loss of an on-street parking space, which would arguably be to the disadvantage of other residents. Although an electric vehicle charging point is included as part of the proposal it is considered that there is no reasonable/available means to either secure provision of an EVCP, its on-going use, or, for the applicant and/or subsequent occupiers to be required to invest in/use an electric vehicle. In this case it is considered that the public benefits would be very minor and would not outweigh the harm caused to the listed building, its setting and wider conservation area through the proposed works. As such, the proposal would not comply with paragraph 202 of the NPPF.

The Council has a statutory requirement under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 when considering whether to grant planning permission for any works of development which affect a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any

features of special architectural or historic interest which it possesses. Taking account of the above and in this instance the proposed works would fail to preserve the special interest of the listed building and as such this proposal would not meet this requirement.

With respect to any buildings or other land in a conservation area the Council has a statutory requirement under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of that conservation area. Taking account of the above and in this instance the proposed works will not preserve nor enhance this part of the Bath Conservation Area and as such this proposal fails to meet this requirement.

In summary it is considered that the proposed works would cause unacceptable harm to the listed building and its setting and fail to preserve or enhance the character and appearance of the Conservation Area. The proposal is therefore contrary to policy CP6 of the adopted Core Strategy (2014), policy HE1 of the Placemaking Plan for Bath and North East Somerset (2017), Part 16 of the NPPF (2021) and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Furthermore, as the application site is located within the City of Bath World Heritage Site, where policy B4 of the Core Strategy states that consideration must be given to impacts on the heritage asset and its setting, it is considered that the proposed works due to the prominent location of the site in the street and the adverse impact identified to the setting of the listed building and conservation area would have a wider impact to the setting of the World Heritage Site diminishing a prominent and important boundary treatment. For these reasons the proposal is also contrary to policy B4 of the Core Strategy.

## ARBORICULTURE

The Council's Arboricultural Officer notes that the proposal is similar to the revised drawings submitted under the withdrawn application 21/02379/FUL. Furthermore, that the current proposal incorporates an electric vehicle (EV) charging point which is located in the furthest point viable from the protected Silver Birch. The EV point is within the root protection area of the tree, however, provided that the trenching required to for the connection is limited to along the southern boundary there would be no objection.

The arboricultural report has not been amended to accommodate the EV point but tree protection measures and arboricultural site supervision can be conditioned. A condition to ensure that the elevated steel frame and mesh surface is used and not substituted later is strongly recommended.

In respect of concerns raised by representation it is noted that the Arboricultural Statement submitted with the current applications describes the health, vitality and structural condition of both tree species as 'good' (Table 1: tree survey data). The Silver Birch is described as having a slight lean and therefore crown bias to the north and overhangs the adjacent garden/parking area (paragraph 2.4). The Statement concludes that the use of an elevated steel frame to support the steel mesh surface of the car parking bay will minimise root damage and completely remove any issues of soil compaction. The proposed site plan with tree protection included as Appendix 2 of the Statement has been amended so that it is consistent with the submitted proposed site plan PL04 Rev D.

In conclusion no objection is raised subject to conditions to secure submission of a revised arboricultural method statement with tree protection plan following the recommendations contained within BS 5837:2012 identifying measures to protect the trees to be retained, to ensure that the elevated steel frame and mesh surface is used and not substituted later, and, a signed compliance (on completion) with the revised Arboricultural Method Statement.

Taking account of the above and in terms of impact on trees, subject to conditions, the proposal would accord with policies NE1 and NE6 of the Placemaking Plan for Bath and North East Somerset (2017).

#### **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. This application involves a listed building and has been assessed against the relevant policies and guidance as identified, and these have been fully taken into account in the recommendation made. In this current climate change emergency context, it would seem somewhat contradictory to support car use through the provision of an off-street parking area as well as loss of garden/green space. Furthermore, it is not proposed to re-use any of the Bath stone that would be surplus following the proposed wall removals. Combined, these factors would suggest a lack of sustainable credentials to the scheme.

#### **CONCLUSION**

Taking account of the above and in conclusion it is considered that the proposal is contrary to Policies D2, D5 and HE1 of the Placemaking Plan and B4 and CP6 of the Core Strategy. Whilst Highways concluded that the development would not be contrary to policy ST7 of the PMP, the minor public benefit of providing an additional off-street parking space (and taking account of the fact that an on-street parking space would be lost) is not considered sufficient to overcome the harm identified to the wider historic environment through the alteration to the boundary wall, loss of historic fabric and character as well as loss of a portion of well-established/historic domestic garden. Any public benefits resulting from the proposal would not be sufficient to outweigh the harm identified to the conservation area, listed building and its setting, and world heritage site. The proposal is therefore recommended for refusal.

#### **RECOMMENDATION**

**REFUSE**

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

1 The proposed development would cause undue harm to the listed building and its setting, and appearance of the streetscene, and be to the detriment of the character and appearance of the Bath Conservation Area and World Heritage Site due to the loss of a prominent section of boundary wall, loss of historic fabric, loss of portion of established domestic garden, and proposed use of incongruous buff paving. As such the proposal is considered to be contrary to Policies D2, D5 and HE1 of the Placemaking Plan for Bath

and North East Somerset (2017), Policies B4 and CP6 of the Core Strategy (2014), Part 16 of the NPPF (2021) and .

## **PLANS LIST:**

1 This decision relates to the following drawings and document;

Date: 10.02.2022 Drwg. No. PL01 Drwg. title: Site location plan

Date: 10.02.2022 Drwg. No. PL02 Drwg. title: Existing site plan

Date: 10.02.2022 Drwg. No. PL03 Drwg. title: Existing elevations

Date: 10.02.2022 Drwg. No. PL04 REV D Drwg. title: Proposed site plan

Date: 10.02.2022 Drwg. No. PL05 REV C Drwg. title: Proposed elevations

Date: 28.03.2022 Drwg. title: Tree Protection Plan - Rev A

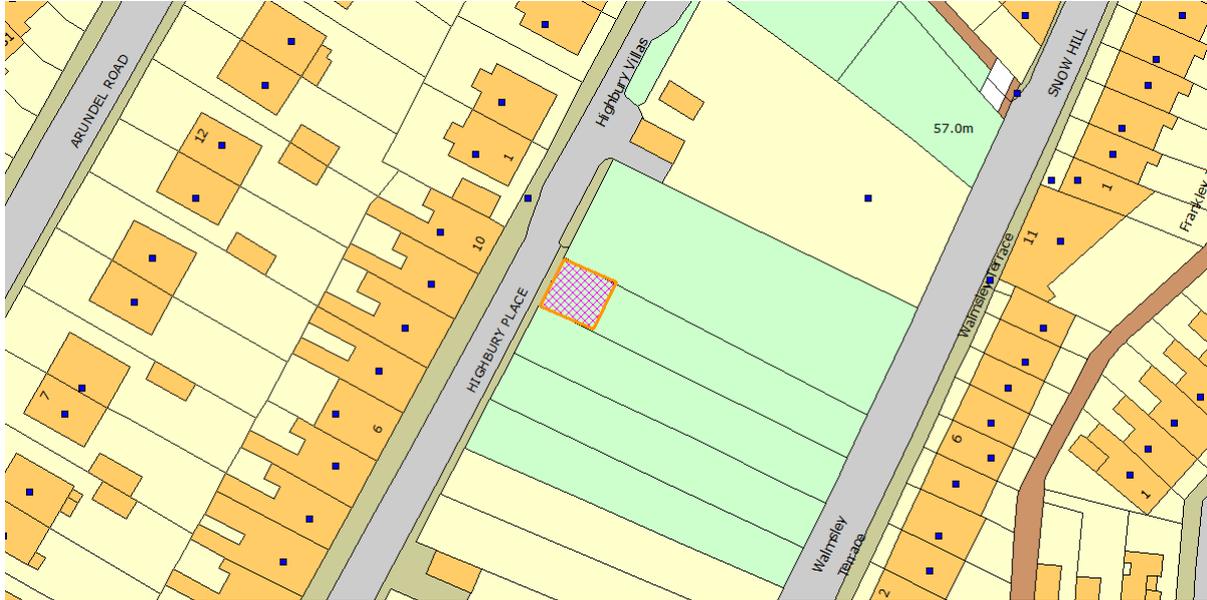
Date: 10.02.2022 Document title: Arboricultural Statement

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

## **3 Community Infrastructure Levy**

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

**Item No:** 04  
**Application No:** 22/00631/LBA  
**Site Location:** 10 Highbury Place Walcot Bath Bath And North East Somerset BA1 6DU



**Ward:** Walcot

**Parish:** N/A

**LB Grade:** II

**Ward Members:** Councillor Richard Samuel Councillor Tom Davies

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

**Proposal:** External alterations for the creation of new parking bay (Resubmission).

**Constraints:** Article 4 Bath Demolition Wall, Article 4 Reg 7: Estate Agent, Article 4 HMO, Colerne Airfield Buffer, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Conservation Area, Policy CP9 Affordable Housing Zones, MOD Safeguarded Areas, SSSI - Impact Risk Zones,

**Applicant:** Joshua Kneen & Jai Turner

**Expiry Date:** 8th April 2022

**Case Officer:** Helen Ellison

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

## REPORT

### SITE DESCRIPTION

10 Highbury Place is the end property of a Grade II early C19 terrace, located within Bath conservation area (Fairfield Park & Larkhall Character Area) and the City of Bath World Heritage Site. The terrace forms a stepped, three storey elevation from north to south. The application site is located in 10 Highbury Place's adjacent garden which is opposite the front of No. 10 and extends in a long, narrow strip to the east as do adjacent gardens; these appear to be contemporaneous to the development of the terrace, but with the defined garden at 10 Highbury Place appearing a little later by the late 19th century. A number of gardens have had space made for off-street parking, but the boundary treatment remains predominantly of Bath stone ashlar.

## PROPOSAL

Listed building consent is sought for external alterations for the creation of new parking bay (Resubmission of withdrawn application 21/02380/LBA for external works for the creation of new parking bay for 1 No. vehicle opposite No. 10 Highbury Place within the existing divorced garden).

Planning application 22/00630/FUL is being dealt with concurrently.

The application is referred to DMC at request of Cllr Davies and Cllr Samuel (specifically in respect of 22/00631/LBA). 22/00630/FUL also included as the applications are tandem/dual.

Cllr Davies reasons for requesting application to be referred to committee (specifying the planning reasons):

- Cllr Davies understands from a previous discussion with the Case Officer that they are minded to reject this planning application. This decision would appear to run in contradiction to other similar planning applications which have been approved (in one case on appeal) in Highbury Place. To ensure consistency of approach to planning applications, Cllr Davies would therefore request that the Committee consider this application.

- In addition, Cllr Davies notes that in their discussions with the applicant, the Council has referenced the Climate & Ecological Emergency as one reason for the rejection of the initial application. This resubmission includes a concession to retain the tree and to have confirmed, via a detailed arborist report, that the tree is not at risk, and to pay to install a grid system that preserves the underground habitat.

- As Ward Councillor, Cllr Davies notes that through the delivery of such parking bays along this stretch of housing, the majority of the properties will have been able to deliver electric charging points which directly contribute to carbon and pollution reduction in our area and Cllr Davies believes that it is important that in areas such as this, the planning process is supportive of these aspirations.

Cllr Samuel adds his support to Cllr Davies's call in to Planning Committee

## PLANNING HISTORY

DC - 21/02379/FUL - WD - 1 February 2022 - The creation of new parking bay for 1 No. vehicle opposite No.10 Highbury Place within the existing divorced garden

DC - 21/02380/LBA - WD - 1 February 2022 - External works for the creation of new parking bay for 1 No. vehicle opposite No. 10 Highbury Place within the existing divorced garden

DC - 21/05509/TCA - WD - 13 January 2022 - Silver Birch (T1) - 2 metre crown reduction. Up to 4 metre from horizontal branches. 1 metre crown raise.

DC - 22/00630/FUL - PCO - - Creation of new parking bay (Resubmission).

DC - 22/00631/LBA - PCO - - External alterations for the creation of new parking bay (Resubmission).

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

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

#### **PUBLICITY**

Site notice displayed and photographic evidence received.

#### **CONSULTATIONS**

None

#### **REPRESENTATIONS**

1 representation received from Bath Preservation Trust (BPT) who confirmed that they had made the following comments in response to withdrawn application 21/02380/LBA:

- BPT note use of buff brick as incongruous within this area, and query whether proposed rear wall could be constructed from Bath stone proposed for removal as part of proposed demolition works. BPT also acknowledged that a number of gardens along this part of terrace had similarly made space for off-street parking, although there is a surviving prevalence of stone boundary walls and gate piers with hipped coping stones.
- It is indicated within this (current) application that proposed rear retaining wall would be Bath stone ashlar, which addresses BPT previous comments - although BPT do express preference for stone from existing boundary wall to be retained and reused as part of material history of site.
- Principle of EV charging is positive, however BPT recommend further material details of proposed charging post are provided.

#### **POLICIES/LEGISLATION**

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

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

The Revised National Planning Policy Framework (NPPF) 2021 is national policy in the conservation and enhancement of the historic environment which must be taken into account by the Council together with the related guidance given in the Planning Practice Guidance (PPG).

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

The statutory Development Plan for B&NES comprises:

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

- Made Neighbourhood Plans

#### Core Strategy:

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

CP2 Sustainable Construction  
CP6 Environmental quality

#### Placemaking Plan:

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

HE1 Historic Environment

#### Guidance:

Historic England Advice Note 2 'Making Changes to Heritage Assets' (2016)  
Historic England 'Conserving Georgian and Victorian terraced housing - A Guide to managing Change' (2021)  
BaNES Draft City Centre Character Appraisal Bath (2015)

## 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

### LISTED BUILDING CONSENT ASSESSMENT

There is a duty under Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, when considering whether to grant listed building consent for any works, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

The proposed development would remove part of the existing stone garden wall that fronts the highway known as Highbury Place, install a green grid system overlaid with buff paving in order to create an off-road parking area measuring approximately 6x4m, replace an existing retaining wall (located within the garden) with a Bath Stone wall and steps leading to the retained portion of the garden, install a floor mounted electrical vehicle charging point comprising of a post approximately 205mm square by 1130mm high with attached charging 'pod' (located in the rear southern corner of the parking area) and introduce a dropped kerb. Both existing stone pillars that 'frame' the existing pedestrian access point to the garden would be retained as would the existing side stone boundary

walls. A Cherry tree and Silver Birch located towards the northeast side boundary would both be retained.

In terms of significance and special interest the Bath stone ashlar wall that runs adjacent to the road, together with the pedestrian access to the garden that is marked by way of two stone pillars is a positive aspect of the listed building and its setting and makes a positive contribution to the character and appearance of this part of the conservation area and City of Bath World Heritage Site. The existing stone boundary walls (that extend to the sides and front of the application site) together with pedestrian access point clearly outline/de-mark the original domestic garden associated with the property; original boundary treatments are regarded to be part of the architectural composition and in this case, given that Highbury Place directly faces onto the private gardens the boundary treatment adds to the architectural and historical interest of the terrace as a whole and is a key element of its setting. The proposed opening up of the wall to create a parking area would therefore unacceptably alter this important element of the streets character, fail to sustain the heritage significance and also appear incongruous within the established and long-standing historical garden setting. Furthermore, the proposed use of buff paving as finished surface to the proposed parking area would appear uncharacteristic and out of place. The current pedestrian entrance to the garden (framed by stone pillars) has a direct relationship with the entrance door to the application property at 10 Highbury Place and links the house to its respective garden; creation of a second larger opening would diminish this important link.

Policy HE1 of the Placemaking Plan states that alterations, extensions or changes of use, or development within the vicinity of a listed building, will be expected to have no adverse impact on those elements which contribute to their special architectural or historic interest, including their settings. Further, 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. Policy CP6 of the Core Strategy supports high quality design and seeks to protect, conserve and seeks opportunities to enhance the historic environment including the character and setting of designated and other heritage assets. Part 16 of the NPPF (2016) requires that heritage assets be conserved in a manner appropriate to their significance. In determining applications the NPPF advises that local planning authorities should take account of: (a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; (b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and (c) the desirability of new development making a positive contribution to local character and distinctiveness.

The proposed formation of an opening in the existing garden/roadside boundary wall in order to facilitate an off-road parking area and electric vehicle charging point (EVCP) would cause harm to the character of the conservation area, world heritage site and setting of the listed building. Whilst it is acknowledged that parking in the area can be difficult, the loss of historic fabric and character will result in harm and the provision of parking, even with an EVCP, are not considered to result in public benefit that would be sufficient to outweigh the level of harm caused. Furthermore, the proposed creation of an off-road space would not significantly alleviate parking as any parking space gained off-road would result in a broadly equivalent loss of on-road parking due to need for a vehicular access point to serve the parking space thus meaning no net gain of parking

overall. It is also of relevant to note that there would not appear to be any parking restrictions on the adopted section of Highbury Place; the street is located just outside Permit Parking Zone 15. From what Highways DC can ascertain from street view images, extensive on-street parking takes place on most of the north side of Highbury Place.

It is acknowledged that a majority of the garden boundary walls that extend along the terrace have already been removed (some, it would appear, without the necessary consent) and that few garden boundary walls remain fully intact with the exception of those serving Nos. 9 and 10 Highbury Place. As the current appearance of the street confirms removal of these historic walls is unfortunate and clearly has a significant and detrimental impact upon the character of the area, streetscene and setting of the listed buildings. Given the loss of such walls it is therefore even more important that the character is not permitted to diminish or be eroded any further; indeed, the garden boundary wall that is the subject of this application together with the next-door garden boundary wall serving No. 9 Highbury Place are the last remaining intact boundary walls and therefore a heightened importance on them being retained in entirety. Although the existing pillars would be retained (together with a short section of boundary wall) the loss of enclosure that would result would undoubtedly diminish/dilute the existing relationship between the property and domestic garden. In this case the proposed works should be resisted, and great weight given to the retention of the boundary wall in its entirety not least to retain the respective street and domestic garden character at this end of the street.

A similar application at 1 Highbury Place (18/04210/LBA and 18/04209/FUL) was refused for the reasons that the proposed development would cause harm to the setting of the listed building and appearance of the streetscene to the detriment of the character and appearance of the Bath Conservation Area and World Heritage Site due to the loss of prominent boundary treatment and garden. Although the applications were allowed on Appeal it is considered that the climate change emergency declared by the Council in March 2019 represents a significant change in circumstances. A Climate Emergency is defined as, 'A situation in which urgent action is required to reduce or halt climate change and avoid potentially irreversible environmental damage resulting from it.' BaNES also declared an Ecological Emergency in July 2020. Ecological Emergency means that BaNES have committed to protect and enhance Bath and North East Somerset's natural environment and wildlife biodiversity. One of the four priority areas for local action is using thoughtful planning and building to protect existing plant and animal habitats.

It is confirmed that the 1 Highbury Place applications referenced above were determined by the Council in November 2018 and therefore before the climate change emergency was declared. In this current climate change emergency context, it would seem somewhat contradictory to support car use through the provision of an off-street parking area, and, loss of garden/green space. In addition, and as stated elsewhere the gain in one off-street parking space would be off set by the loss of one on-street parking space suggesting no gain in parking provision overall.

The Appeal decision relating to 1 Highbury Place states that 'the majority of neighbouring properties have removed sections of the same front wall to create parking spaces, and in some cases have added garages' and therefore did not consider, that allowing the proposals would result in the setting of an undesirable precedent.' The Appeal decision goes on to state that 'the wall enclosing the front part of the garden would be partly

removed in order to provide a vehicular access into the parking space.' This would be a permanent change that the Planning Inspector considered would cause less than substantial harm to the heritage assets. The Planning Inspector observed that Highbury Place has some on-street car parking, but that car parking is generally in short supply. In this regard and taking account of comments supplied by third parties who neighbour the site, the local Councillor and comments of the highway authorities the Planning Inspector considered there to be a public benefit to the proposals through the provision of an off-street parking space, which would result in reduced pressure on car parking within the street.

In accordance with Paragraph 199 of the NPPF (2021), when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. This is supported by Policy HE1 which states that great weight will be given to the conservation of the district's heritage assets. Any harm to the significance of a designated or non-designated heritage asset must be justified.

In this case it is concluded that the harm caused to the designated heritage asset, is, in the context of the significance of the asset as a whole and in the language of the NPPF, less than substantial. In such circumstances Paragraph 202 of the NPPF (2021) requires that any harm be weighed against the public benefits of the proposal, including securing the optimum viable use of the building. The proposed off-street parking space would be for the private gain of the applicant and would appear to result in loss of an on-street parking space, which would arguably be to the disadvantage of other residents. Although an electric vehicle charging point is included as part of the proposal it is considered that there is no reasonable/available means to either secure provision of an EVCP, its on-going use, or, for the applicant and/or subsequent occupiers to be required to invest in/use an electric vehicle. In this case it is considered that the public benefits would be very minor and would not outweigh the harm caused to the listed building, its setting and wider conservation area through the proposed works. As such, the proposal would not comply with paragraph 202 of the NPPF.

The Council has a statutory requirement under Section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in considering whether to grant listed building consent for any works to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Taking account of the above and in this instance the proposed works would fail to preserve the special interest of the listed building and as such this proposal would not meet this requirement.

With respect to any buildings or other land in a conservation area the Council has a statutory requirement under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of that conservation area. Taking account of the above and in this instance the proposed works will not preserve nor enhance this part of the Bath Conservation Area and as such this proposal fails to meet this requirement.

In summary it is considered that the proposed works would cause harm to the significance and special interest of the listed building and its setting. The proposal is therefore contrary

to policy CP6 of the adopted Core Strategy (2014), policy HE1 of the Placemaking Plan for Bath and North East Somerset (2017), Part 16 of the NPPF (2021) and Sections 16 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### **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. This application involves a listed building and has been assessed against the relevant policies and guidance as identified, and these have been fully taken into account in the recommendation made. In this current climate change emergency context, it would seem somewhat contradictory to support car use through the provision of an off-street parking area as well as loss of garden/green space. Furthermore, it is not proposed to re-use any of the Bath stone that would be surplus following the proposed wall removals. Combined, these factors would suggest a lack of sustainable credentials to the scheme.

#### **RECOMMENDATION**

REFUSE

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

1 The proposed development would cause undue harm to the listed building and its setting due to the loss of a prominent section of boundary wall, loss of historic fabric, loss of portion of established domestic garden, and proposed use of incongruous buff paving. As such the proposal is considered to be contrary to Policy HE1 of the Placemaking Plan for Bath and North East Somerset (2017), Policies B4 and CP6 of the Core Strategy (2014), Part 16 of the NPPF (2021) and Sections 16 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### **PLANS LIST:**

1 This decision relates to the following drawings and document;

Date: 10.02.2022 Drwg. No. PL01 Drwg. title: Site location plan

Date: 10.02.2022 Drwg. No. PL02 Drwg. title: Existing site plan

Date: 10.02.2022 Drwg. No. PL03 Drwg. title: Existing elevations

Date: 10.02.2022 Drwg. No. PL04 REV D Drwg. title: Proposed site plan

Date: 10.02.2022 Drwg. No. PL05 REV C Drwg. title: Proposed elevations

Date: 28.03.2022 Drwg. title: Tree Protection Plan - Rev A

Date: 10.02.2022 Document title: Arboricultural Statement

2 In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework. Notwithstanding informal advice offered by the Local Planning Authority the submitted application was unacceptable for the stated reasons and the applicant was advised that the application was to be recommended for refusal. Despite this the applicant chose not to withdraw the

application and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision. In considering whether to prepare a further application the applicant's attention is drawn to the original discussion/negotiation.

### **3 Community Infrastructure Levy**

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