

Bath & North East Somerset Council

MEETING: **Planning Committee**

MEETING DATE: **24th August 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.

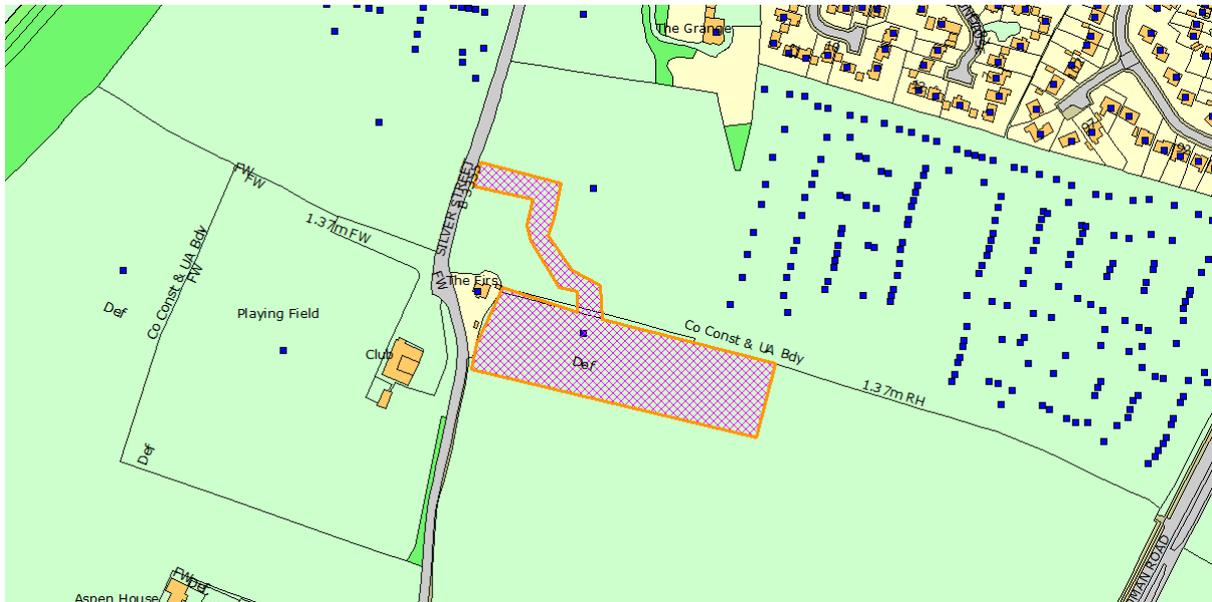
- [2] The papers identified or referred to in this List of Background Papers will only include letters, plans and other documents relating to applications/proposals referred to in the report if they have been relied on to a material extent in producing the report.
- [3] Although not necessary for meeting 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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ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
01	21/02973/OUT 8 August 2022	Waddeton Park Ltd Parcel 3589, Silver Street, Midsomer Norton, Bath And North East Somerset, Outline planning permission for formation of access road, footpath and cycle links, open space, landscaping and associated works (All matters except access reserved).	Midsomer Norton Redfield	Isabel Daone	Delegate to PERMIT
02	20/02964/FUL 30 August 2022	Jon Foulds Lansdown Lawn Tennis & Squash Racquets Club, Northfields, Lansdown, Bath, Bath And North East Somerset Installation of floodlights for tennis courts 8, 9 and 10.	Lansdown	Isabel Daone	PERMIT
03	22/02560/FUL 19 August 2022	Mr Adam Elmes 31 St Mark's Road, Widcombe, Bath, Bath And North East Somerset, BA2 4PA Widening of existing opening in stone wall by 450mm and the positioning of a charging point for electric car.	Widcombe And Lyncombe	Caroline Power	REFUSE
04	22/01578/LBA 19 July 2022	Mr Adam Elmes 31 St Mark's Road, Widcombe, Bath, Bath And North East Somerset, BA2 4PA External alterations for widening of existing opening in stone wall by 450mm and the positioning of a charging point for electric car.	Widcombe And Lyncombe	Caroline Power	REFUSE
05	22/01966/FUL 24 August 2022	Miss Diane Breuil 22 Lambourn Road, Keynsham, Bristol, Bath And North East Somerset, BS31 1PR Hip to gable and dormer loft conversion, single storey rear extension and two storey side extension.	Keynsham East	Christine Moorfield	PERMIT

REPORT OF THE HEAD OF PLANNING ON APPLICATIONS FOR DEVELOPMENT

Item No: 01
Application No: 21/02973/OUT
Site Location: Parcel 3589 Silver Street Midsomer Norton Bath And North East Somerset



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

Ward Members: Councillor Chris Watt Councillor Paul Myers

Application Type: Outline Application

Proposal: Outline planning permission for formation of access road, footpath and cycle links, open space, landscaping and associated works (All matters except access reserved).

Constraints: Agric Land Class 1,2,3a, Coal - Standing Advice Area, Contaminated Land, Policy CP9 Affordable Housing Zones, Greenfield site, SSSI - Impact Risk Zones,

Applicant: Waddeton Park Ltd

Expiry Date: 8th August 2022

Case Officer: Isabel Daone

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

REPORT

In accordance with the Council's Scheme of Delegation, the application was referred to the Chair and Vice Chair of the Planning Committee. Both decided that the application should be debated and decided by the Council's Planning Committee. Their comments are as follows:

Vice Chair:

"I have looked at this carefully noting comments from third party & statutory consultees including both Ward Cllrs planning committee request.

This application applies to access only linked to a site in a neighbouring authority it is controversial. The case Officer has worked with the developer to address concerns raised & provide further information; amendments have been made as the application has progressed & there are clear planning obligations included in the report. However, I think it should be debated by the planning committee, so all concerns are heard in a public forum."

Chair:

"I have reviewed this application and note the comments from both ward councillors [sic] and other statutory consultees. Due to the complex and controversial nature of the proposal I believe it should be debated in the public forum of the planning committee"

Details of location and proposal and Relevant History:

The application seeks outline planning consent for the formation of an access road, footpaths, cycle links, open space, landscaping and associated works at land at Silver Street in Midsomer Norton. All matters are reserved except for access.

The application site to be considered as part of the application is a 0.61 hectare parcel of land which lies within the B&NES boundary. In parallel to this application, an application has been submitted to Mendip District Council for outline planning permission for the erection of up to 270 dwellings, the formation of vehicular accesses, open space, landscaping, and associated works on 11.73 hectares of land. This is located immediately adjacent to the B&NES application site.

Relevant Planning History:

16/01899/OUT
APP - 11 July 2016
Development of 0.37 ha of public open space

2021/1480/OTS
Outline planning permission for the erection of up to 270 dwellings, formation of vehicular accesses, open space, landscaping and associated works with all matters reserved except for access
Permitted by the Mendip Planning Board, subject to a Section 106 agreement

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation Responses:

COUNILLOR PAUL MYERS (12th July 2021):

"I am writing to formally request the calling in to committee of the above application. Whilst I appreciate that this application is for little more than an access road, it is a controversial application on the basis that it is in fact part of the much larger and significant proposed White Post housing development in Mendip abutting our border. My own and public concern in general is that this larger housing development will have a significant adverse

impact on Midsomer Norton's infrastructure whilst adding no commensurate planning gain contribution to tackle it. This larger development, if approved by Mendip, would mean all these new home owners would largely access Midsomer Norton's Schools, roads, doctors' surgeries, green space etc. In my view Mendip I'd they were to pursue the development At the White Post should handover significant planning gain to provide for investment in Midsomer Norton projects such as the town Park And other infrastructure projects and banes should ensure that such moneys are specified/ring fenced for Midsomer Norton in any agreement. It is essential that the public generally and ward councillors have the opportunity to speak at full committee about these concerns as a basis for a strong case being put to Mendip."

COUNCILLOR CHRIS WATT (12th July 2021):

"I would like to echo the words of my colleague Cllr Paul Myers and encourage you to ensure that this application comes to the planning committee. It has long been unacceptable that such significant developments can be simply tacked onto our town by a neighbouring planning authority without the requisite investment in enabling infrastructure. This is made worse by the democratic deficit relegating the views of our residents in importance by Mendip planners. This is an opportunity to see a democratic expression of those views through our resident's primary authority and hopefully for them to taken fully into account"

MIDSOMER NORTON TOWN COUNCIL (14th July 2021):

Comment - access between the two estates is OK but the general consensus is the new estate should have its own access road with improved roads at the top of Silver Street (B3355) at the same standards of the B&NES side.

PLANNING POLICY:

5th November 2021 - Objection. When the access is taken in isolation then no objection would be raised subject to highway approval. However, the access is being proposed in conjunction with a development of 270 homes within Mendip Local Authority. Planning Policy have objected to the development as the construction of additional housing will worsen the imbalance between jobs and homes and would result in cumulative impacts on key infrastructure.

DRAINAGE AND FLOODING (27th July 2021):

No objection.

ECOLOGY:

19th August 2021 - More information required

26th May 2022 - No objection subject to conditions

ARBORICULTURE:

20th August 2021 - The combined emergency access and path beside the tree identified as T21 should be moved to the south to avoid the root protection area. A detailed arboricultural method statement will be required should be conditioned.

14th October 2021 - The amendments to the illustrative masterplan indicate that the combined emergency access and path beside the tree identified as T21 (Pine) has been moved to avoid the root protection area. A detailed arboricultural method statement will be required and should be conditioned. As trees are proposed for removal in the interest of development, they trigger an obligation for replacement under planning policy (Planning Obligations Supplementary Planning Document). The loss of 2a and 4 equates to 5 replacements which can be readily accommodated along the administrative border with Mendip District Council. No objection subject to conditions.

HIGHWAYS:

15th July 2021 - Scope for revision

20th April 2022 - Scope for revision

28th May 2022 - No objection subject to conditions

PARKS AND GREENSPACES:

10th May 2022 - A S106 Greenspace contribution is requested to meet the unmet requirement for recreational greenspace generated from an increased population due to this development. £488,255 towards the provision, improvement and maintenance of off-site public open greenspace within Midsomer Norton and Westfield. No objection subject to this.

Representations Received:

24 comments of objection have been received by the Local Planning Authority. All comments have been read and assessed by the case officer. Given the volume of comments received, they have not been provided verbatim here but have been summarised.

- Drainage concerns
- Greenfield site
- Traffic increase
- Insufficient services/infrastructure
- Create more pollution
- Loss of hedgerow
- Impact upon ecology
- Greenfield site
- Lack of green space proposed within the site
- Overdevelopment of the site
- Insufficient landscaping
- Proposal lies within Mendip but will impact B&NES residents
- Increased pollution levels

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:

CP5: Flood Risk Management
CP6: Environmental Quality
DW1: District Wide Spatial Strategy
SV1: Somer Valley Spatial Strategy
SD1: Presumption in favour of sustainable development

Placemaking Plan:

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

D1: General urban design principles
D2: Local character and distinctiveness
D3: Urban fabric
D5: Building design
D6: Amenity
LCR6a: Local green spaces
NE3: Sites, species, and habitats
NE5: Ecological networks
NE6: Trees and woodland conservation
ST7: Transport requirements for managing development

National Policy:

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

LOW CARBON AND SUSTAINABLE CREDENTIALS

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

OFFICER ASSESSMENT

REASON FOR DEFERRAL AND UPDATE ON HIGHWAY MATTERS:

This application was deferred by members of the Planning Committee on 29th June 2022 to allow for officers to fully investigate whether a controlled pedestrian crossing between the site access and the school on the opposite side of Silver Street would be necessary and justified. Officers have assessed these matters and the outcome of investigations and discussion is set out below. Since the B&NES Committee on 29th June 2022, the Mendip Planning Board have resolved to permit the development within Mendip (for 270 houses), subject to a Section 106 agreement being secured.

It is considered that the development within Mendip would generate around 78 primary/secondary children, the majority of which are likely to walk/be walked to school given the proximity to both primary and secondary schools during the AM peak hour. The Transport Assessment predicts walking to represent 18 and 21 two-way person trips in the Am and Pm peaks respectively and a 12 hour generation of 167 person trips.

Taking the pupil yield figures, this shows significant uplift in potential pedestrians using the crossing facility compared with the TA figures. Although there is insufficient information to definitively determine that these pedestrians will use the crossing, given the proximity to both primary and secondary schools and walking/cycle link along the western side of Silver Street, it is likely that the majority of these will walk/cycle to school and cross at this point. It is also worth noting that Primary School pupils will generate parents likely to be undertaking a two-way trip at drop off and pick up, potentially doubling the number of peds in the Am peak and Pm school peak.

Although the existing crossing facility was initially deemed suitable for the proposals and from the information set out in the Transport Assessment, the request from the Planning Committee to investigate improvement facilities has prompted the Council to look into these matters further. From a further assessment, it appears that the potential pupil yield information which has been supplied by our Education Officer and provided to Highways Officers suggests that a significant number of school aged residents will be generated by the proposals. Given the proximity to the schools, an improved crossing facility would encourage sustainable travel for existing/future residents and be beneficial to highway safety. Given the increased use of this junction which will occur as a result of the development, a financial contribution towards the cost of a crossing is considered justified.

The Travel Plan Target is to increase walking as a modal share from 9.8% to 11.6%, which an improved crossing would help to achieve.

It has been concluded that due to the road speeds stated in the Transport Assessment, that a controlled crossing is necessary. Speed surveys were carried out on 21st and 22nd July 2022 to determine what type of crossing would be the most appropriate. The 85th percentile speeds recorded were 34.5mph (northbound towards Midsomer Norton) and 37.4mph (southbound away from Midsomer Norton). Across the same period the mean speeds were 29.4mph (northbound) and 31.4 mph (southbound). Having reviewed the data with the Highways Development Management Team and the Traffic and Network Management Team, it has been concluded that based on the initial assessment of the site and speed surveys that a toucan crossing would be the most appropriate crossing type in this location. This is because the Traffic Signs Manual states that zebra crossings are not suitable if approach speeds have an 85th percentile of 35mph and above. A toucan crossing would also be consistent with the crossing which is located 300m to the north. The estimated cost for such a crossing, including the detection loops and commuted sum for the Section 278 signal crossing is £180,419.53. This contribution towards an upgraded crossing is considered necessary and justified for the reasons set out above. The applicant has agreed to this contribution, and it will be secured through a legal agreement as appropriate. The applicant has agreed to the revised Heads of Terms which are set out below:

UPDATED HEADS OF TERMS:

The updated Heads of Terms are as follows:

1. A financial contribution of £10,000 towards improving local bus infrastructure
2. A financial contribution of £392,300.77 towards the Somer Valley Enterprise Zone Cycleway
3. A financial contribution of £21, 285 towards Targeted Training and Recruitment
4. A financial contribution of £488,255 towards Green Space and Parks Infrastructure
5. A financial contribution of £180,419.53 towards a controlled pedestrian/cycle crossing on Silver Street

PREVIOUS COMMITTEE REPORT:

The main issues to consider are:

- Principle of development
- Character and appearance
- Residential amenity
- Highway safety
- Green space and parks

PRINCIPLE OF DEVELOPMENT:

The application site relates to a 0.61 hectare parcel of land located within the Bath and North East Somerset Boundary. An access is proposed, along with cycle links, footpaths and other associated works. The site will form an access to a development within the Mendip Local Authority boundary, which borders Midsomer Norton to the south. This site is allocated in the Mendip Local Plan (Part II) for a minimum of 250 dwellings (allocation reference MN1). An outline application has been submitted to Mendip District Council for the erection of up to 270 dwellings and associated infrastructure (2021/1480/OTS)

The B&NES planning policy team has commented on the application which is currently being considered by Mendip District Council. B&NES planning officers understand that this application is being recommended for approval by the Mendip case officer and will be debated at the July committee within the district.

B&NES were consulted on 2021/1480/OTS and objected to the scheme on the following basis:

The B&NES Core Strategy (adopted in July 2014) sets out the spatial elements of the Council's vision and objectives and translates them into a plan. The Core Strategy is complemented by the Placemaking Plan (adopted in July 2017) which allocates specific sites for development and outlines a district-wide suite of Development Management policies. On 19th June 2020 the West of England Combined Authority (WECA) announced its intention to develop an SDS (Spatial Development Strategy) for the WECA area covering South Gloucestershire, Bath and North East Somerset and Bristol City, with full collaboration from those authorities. This will be a strategic level plan establishing the housing requirement for the WECA area and the individual authorities and setting the spatial strategy. Each council is also developing its own Local Plan, that will need to be consistent with this work. In addition, B&NES Council is preparing a partial update to its adopted Core Strategy and Placemaking Plan (together comprising the Local Plan) that is currently proposed to address housing land supply issues in the shorter term.

The adopted Core Strategy Policy DW1 sets out overall housing targets and spatial distribution of housing development and Policy SV1 sets out the spatial strategy for the Somer Valley. It enables around 2,470 new homes to be built at Midsomer Norton, Radstock, Westfield, Paulton and Peasedown St John within the Housing Development Boundary. The Housing Development Boundary was revised through the Placemaking Plan. Policy SV1 also prioritises development on brownfield sites focusing on Midsomer Norton and Radstock Centres and the redevelopment of vacant and underused industrial land and factories. New greenfield housing development outside the Housing Development Boundary is contrary to the spatial strategy in this area.

The site sits within Mendip District Council adjoining the boundary with Bath and North East Somerset and will form an extension of the permitted Silver Street development. The permitted Silver Street development has so far delivered a new primary school and highway works. Work has commenced on the delivery of around 90 dwellings.

One of the key strategic issues the B&NES Core Strategy and Placemaking Plan seeks to address is an imbalance between jobs and homes resulting from recent incremental housing development, a decline in the manufacturing sector in this area and a high degree

of out-commuting. The Core Strategy/Placemaking Plan therefore seeks to facilitate more employment, including allocating the Somer Valley Enterprise Zone, and only facilitates some additional housing primarily reflecting already committed sites (either permitted or allocated in the previous Local Plan).

Permitting the proposed development adjacent to the B&NES boundary would therefore be contrary to the adopted B&NES Development Plan, worsening the imbalance between jobs and homes and resulting in unsustainable levels of out-commuting for work. Furthermore, the proposed development would add cumulative impacts on key infrastructure within Westfield and Midsomer Norton.

Notwithstanding the above, B&NES note and accept that the site has been allocated for housing with the Mendip Local Plan Part II. B&NES have an application solely for an access within their boundary. The access will serve an allocated housing site which would be contrary to B&NES policies. However, the application for housing is within the Mendip Local Authority boundary and is being assessed against their policies. B&NES officers therefore accept that the site is allocated for housing and that housing development will likely come forward on this site within the Mendip Plan period. Therefore, whilst B&NES continue to object to the location of the proposed housing site within Mendip, it is not considered that it would be reasonable to object to an access to an allocated housing site in principle. Additionally, officers note that a vehicular access from Silver Street in the same location was permitted as part of 20/02303/OUT to serve housing within B&NES land. As such, the principle of development in this location is accepted, subject to the material considerations discussed below.

CHARACTER AND APPEARANCE:

This is an outline planning application and therefore, the appearance of the development is a reserved matter. However, an indicative layout has been provided at this stage.

Policy D1, D2, D3 and D4 of the Placemaking Plan have regard to the character and appearance of a development and its impact on the character and appearance of the locality. Development will only be supported where, amongst other things, it responds to the local context in terms of appearance, materials, siting, spacing and layout.

Policy D3 is of particular relevance as this seeks that development proposals will contribute positively to the urban fabric and be designed for ease of walking and cycling, providing high quality routes. Additionally, developments should be permeable and offer a choice of routes through the site, connecting it with existing route networks. The proposed development will provide a car, cycle and pedestrian link to an allocated housing site. This will allow the allocated housing site to be linked with the wider urban area and provide permeability through the site. Without this access, the development would be segregated from the wider community, accessible only from the A367 within Mendip. Officers consider that the proposed access is within the spirit of policy D3 in this regard and can be viewed positively in this respect.

There are areas of green space proposed within the B&NES land and it is not considered that the proposal is likely to cause a significant detrimental impact to the character and appearance of its context.

RESIDENTIAL AMENITY:

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

The proposed access has already been accepted in some capacity as part of application 20/02303/OUT. The proposal will result in additional vehicular trips and footfall moving through the development site approved under 20/02303/OUT and this has the potential to impact upon future occupiers. However, any additional movements will be transient and are not considered to be of a nature which would cause significant noise and disturbance that would justify a refusal reason on this basis. Should the dwellings approved under 20/02303/OUT have been built out and are occupied at the time of the construction of the access, there would be the potential for noise and disturbance during this phase. However, a construction management plan condition is recommended by the case officer which would mitigate these potential impacts.

Given the design, scale, massing and siting of the proposed development the proposal would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, smell, traffic or other disturbance. The proposal accords with policy D6 of the Placemaking Plan for Bath and North East Somerset (2017) and part 12 of the NPPF.

HIGHWAYS SAFETY AND PARKING:

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

Access is the only matter to be determined at outline application stage. The Council's Highways Officer has assessed the scheme. Many of the comments given by the Highways Officer relate to the impact of the wider scheme, including the housing element within Mendip. The case officer has had regard to these comments, and they have formed part of the planning assessment.

A vehicular access to the site is proposed to the east via a new T-junction with the A367 Fosseway. This access is not a connection to the B&NES adopted highway and falls within the Mendip Local Authority area; B&NES officers will therefore not comment on this aspect of the scheme, given that it does not fall within the scheme which has been submitted to B&NES Council. Access to the north-west of the site is via a connection to a vehicular access which has previously been granted consent under 18/02095/OUT and adapted as part of application 20/02303/OUT. This access, via Silver Street, is a connection to the B&NES adopted highway.

Revised information has been received in relation to the Silver Street access which demonstrates how vehicle, pedestrian and cycle movements will be managed between the current application site and the site to the north, including lane markings and crossing facilities. Highways Officers are satisfied that a sufficient level of detail has been provided and that it is acceptable from a highway safety perspective. The provision of a

carriageway through the Mendip site from Fosseyway, linking to Silver Street in B&NES will benefit the operation of local junctions by distributing traffic and providing route choice.

The B&NES Highways Officers have commented on a number of aspects which relate to the site allocation within Mendip, as opposed to the access within the B&NES site. Given that these matters are not directly relevant to the access application, the assessment of such matters will not be repeated within this report. However, full comments are available to view on the public website.

Of relevance are proposed mitigation measures. It is clear that an additional 270 dwellings located adjacent to the B&NES boundary is likely to cause pressure on the surrounding road network, notwithstanding the acceptance of the capacity analysis (noted in the Highway Officer's comments). Within the Mendip Plan Local Plan allocation for the housing site (MN1), provision is made in the policy for infrastructure contributions within B&NES, as it is recognised that any scheme in this location will impact upon B&NES infrastructure.

The proposal will facilitate walking and cycling connections from the Mendip development site to the existing B&NES developments (and those to be constructed) to the north. The existing footpath along the frontage of the site on Fosseyway is proposed to be improved to provide for a 3m wide shared foot/cycleway from the site access junction to tie into the existing shared foot/cycleway along Beauchamp Avenue. In addition, 3m shared foot/cycleway will connect the site to the recently constructed shared foot/cycleway on to Silver Street to the north west. The site's off site and on site walking strategy will connect the new housing to surrounding new and permitted developments and public highways, such that accessibility on foot, cycle and bus will be improved for the wider area; the proposed access application within B&NES contributes to this. Additionally, the proposed development within B&NES will provide safe pedestrian and cycle routes to the new Norton Hill Primary School and the existing Norton Hill secondary school.

B&NES officers have concerns that the proposed housing development, allocated within Mendip, will increase the imbalance between housing and jobs in the area. Whilst it is recognised that this application is for assessment in Mendip and that, given it is allocated, housing will come forward on this site, officers consider it important that B&NES residents do not become disadvantaged due to the extra pressures on infrastructure which will likely be caused by the Mendip proposals. The applicant has therefore agreed to a contribution of £392,300.77 towards a cycleway within the proposed Somer Valley Enterprise Zone. This contribution will facilitate a sustainable transport link to employment land in the area. The cost of the cycleway is estimated at this time, and the cost is to be split between the three allocated Mendip sites which border Midsomer Norton. MN2 is for up to 190 dwellings (there is a live application for this site) and MN3 is allocated for 60 dwellings (there is not yet an application for this site). As such, the contribution for MN1 is proportionate for the number of dwellings proposed. Officers consider that this contribution is acceptable and that it will help to offset the potential harm caused by allocation MN1 in terms of homes to employment land imbalance.

Additionally, the applicant has also agreed to a contribution of £10,000 towards the improvement of local bus network infrastructure. This includes:

- a new pole and flag to Norton Hill School stop (westbound)

- a new shelter, bus markers and raised kerb to be moved to where the bus stop is currently situated at Norton Hill School stop (eastbound)
- the installation of infrastructure for travel in both directions on Fossefield Road

Officers consider that these contributions will improve the public transport infrastructure in the locality. Highways Officers have requested conditions to secure a construction management plan, travel plan and resident's welcome pack. The case officer considers that a construction management plan is reasonable and necessary to ensure that construction of the access does not cause harm to highway safety. However, it is not considered that B&NES Council can reasonably condition a travel plan and resident's welcome pack for houses which will not be within B&NES land. The B&NES application is for the access land only.

ECOLOGY:

Following an initial round of consultation with Ecology, additional information was submitted to provide further details of survey and assessment of the affected hedge within the B&NES part of the wider site. The report addresses concerns raised by the Council's Ecologist and the findings/conclusions of the report are accepted.

Measures will need to be in place to avoid harm to wildlife during the construction of this part of the site. Additionally, measures to protect retained habitats and details of proposal to provide new, extended and enhanced habitats with improved ecological value will also be required. This can be secured by condition. The reserved matters application will be expected to detail these matters within the submission. It is considered that the conditions recommended will be compatible with the wider Mendip site.

ARBORICULTURE:

As with ecology, an initial round of consultation with Arboriculture raised concerns in regard to the layout and impact to trees. It is important to note that layout is a reserved matter and at this stage, the masterplan is purely illustrative. However, the illustrative layout has been amended to indicate that the combined emergency access and path beside the tree identified as T21 (Pine) will be moved to avoid the root protection area. A detailed Arboricultural Method Statement will be required and should be secured by condition. The loss of two trees equates to 5 replacements which could readily be accommodated within the Mendip Local Authority Boundary.

PARKS AND GREEN SPACE:

The B&NES Parks Team have reviewed the planning application. The proposed access within the B&NES site would not trigger the requirement for any on or off site parks/green space contributions. However, policy MN1 of the Mendip Local Plan Part II allows for contributions to infrastructure within B&NES, to offset the impacts of the scheme which have the potential to occur within the B&NES community.

The Mendip application is for 270 dwellings and although at this time the scale of the dwellings is not known, it can be estimated that these will be occupied by 621 residents. The Green Space Strategy 2015 has assessed the existing supply of Parks and Recreation Ground in the Midsomer Norton area to be in deficit of -10.64ha and Westfield

in deficit of 5.72ha. Based on the figure of 621 future occupiers, 20,369m² of green space is required for the Mendip development. The figures below show the typology of green space, followed by Ha per 1000 population, m² per person and demand generated for each typology:

Allotments - 0.3, 3, 1863
Amenity Green Space - 0.3, 3, 1863
Parks and Recreation Grounds - 1.3, 13, 8073
Play Space (Children) - 0.05, 0.5, 311
Play Space (Youth) - 0.03, 0.3, 186
Natural Green Space - 1.3, 13, 8073

Having reviewed the submission, it is stated that 3.76ha of open space comprising formal, informal and play space will be provided. The majority of the on-site greenspace is illustrated as a landscape buffer on the perimeter of the site and "attenuation". The play area and land directly adjacent totals 1296m². In total, 36,304m² of green space is proposed on site.

B&NES officers consider that allotment space needs to be provided within the Mendip land, although it is accepted that B&NES have no control over the delivery of such infrastructure. There are no allotment projects which could be contributed toward in B&NES.

There remains 6777m² of unmet requirement for Parks and Recreation Ground (the play area provision has been deducted from the P&R total). 84% of this need is unmet. There are greenspace improvement projects within Westfield and Midsomer Norton available for funding which would be suitable for accommodating the additional demand generated from the Mendip MN1 development.

The Parks and Recreation contribution is £936 per person. For the 621 estimated residents this equates to £581,256. A deduction of 16% can be made due to the provision of onsite play and therefore the overall capital cost of providing green space for 621 occupants off-site is £488,255. The applicant has agreed to pay this contribution.

The contribution is considered to meet the three tests of Regulation 122 of the CIL Regulations 2010 (as amended) and the NPPF as follows:

- Necessary to make the development acceptable in planning terms
The proposed development for an access is directly related the Mendip application for the MN1 allocated site. The access forms part of the wider site and is segregated into a different application only because it falls within a different Local Authority boundary. Without the Mendip allocation, the access would be unnecessary and would lead to an open field - the two are intrinsically linked and one cannot be assessed without some consideration of the other. Without the above contribution, the overall development (MN1) would cause significant pressure on greenspace infrastructure within B&NES which needs to be mitigated in accordance with the Green Space Strategy. Additionally, policy LCR6 clearly states that new developments will be required to make provision for contributions towards greenspace to mitigate impact. Policy MN1 of the Mendip Local Plan allows for necessary infrastructure contributions to be sought within B&NES. The access will link the MN1 site to the wider B&NES community.

- Directly related to the development

The calculations are directly related to the estimated residential occupancy of MN1. Policy MN1 of the Mendip Local Plan Part II allows for contributions towards infrastructure within B&NES. Again, as the access is directly related to the wider proposals within Mendip it is considered that the contribution is directly related to the development.

- Fairly and reasonably related in scale and kind to the development

The contributions are considered fairly and reasonably related in scale and kind. The proposed access will help to facilitate a development which will increase pressure on greenspace in an area where there is a deficit.

PLANNING OBLIGATIONS:

As above, the developer has agreed to the following contributions:

1. A financial contribution of £10,000 towards improving local bus infrastructure
2. A financial contribution of £392,300.77 towards the Somer Valley Enterprise Zone Cycleway
3. A financial contribution of £488,255 towards Green Space and Parks Infrastructure

In addition to the above, the developer has agreed to a contribution of £21, 285 towards Targeted Training and Recruitment. As stated above, the access application directly relates to the creation of a large housing site which will add additional pressures on employment in the area. This contribution will seek to help address this by creating apprenticeships and work placements in relation to the scheme.

OTHER MATTERS:

A number of residents have raised that the scheme will increase pollution. Officers consider that the creation of the access itself, which features walking and cycle routes, is unlikely to cause an increase in pollution to a point which would form a planning reason for refusal.

PUBLIC SECTOR EQUALITY DUTY:

The Public Sector Equality Duty requires public authorities to have regard to section 149 of the Equality Act 2010. The comments from third-parties have been fully assessed as part of the planning application. It is considered that the proposal would not cause undue harm to any third party and that the planning obligations to be secured and planning conditions recommended mitigate the potential impacts of the development. The council has complied with its public sector equality duty in this case.

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.

CONCLUSION:

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

The proposed legal agreement will be drafted in such a way that secures the payment of the agreed financial contributions upon the commencement of either this development, or the concurrent Mendip development site. The agreement will be drafted in discussions with Mendip District Council to ensure a consistent approach.

RECOMMENDATION

Delegate to PERMIT

CONDITIONS

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

1. A financial contribution of £10,000 towards improving local bus infrastructure
2. A financial contribution of £392,300.77 towards the Somer Valley Enterprise Zone Cycleway
3. A financial contribution of £21, 285 towards Targeted Training and Recruitment
4. A financial contribution of £488,255 towards Green Space and Parks Infrastructure
5. A financial contribution of £180,419.53 towards a controlled pedestrian/cycle crossing on Silver Street

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

1 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 Construction Management Plan (Pre-commencement)

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

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

Reason: To ensure that safe operation of the highway and in the interests of protecting residential amenity in accordance with policies ST7 and D6 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.

3 Wildlife Protection and Enhancement (Pre-commencement)

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

(i) Method statement for pre-construction 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 for the protection of retained habitats; and proposed reporting of findings of update checks to the LPA prior to commencement of works where applicable;

(ii) Detailed proposals for wildlife mitigation and compensation measures, including measures to avoid measurable net loss of biodiversity and achieve measurable biodiversity net gain either within the development boundary or on balance across the wider development site; new planting and habitat creation; provision of bat and bird boxes, and provision of routes for safe passage of wildlife;

(iii) Retained and proposed ecological features; habitat boundaries; species compositions; specifications; and proposed numbers and positions to be shown on all relevant plans and drawings as applicable;

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

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

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

No development shall take place until a detailed arboricultural method statement and 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 of the Placemaking Plan. This is a condition precedent because the works comprising the development have the potential to harm retained trees. Therefore, these details need to be agreed before work commences.

5 Ecological Compliance Statement (Pre-occupation)

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

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

6 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.

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.

7 External Lighting (Bespoke Trigger - requires approval of details prior to installation of new lighting)

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

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

8 Reserved Matters (Pre-commencement)

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

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

9 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.

10 Plans List (Compliance)

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

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

PLANS LIST:

1 This decision relates to the following plans:

17 Feb 2022 190920 L 01 01 B LOCATION PLAN - CONSOLIDATED

17 Feb 2022 190920 L 01 03 B LOCATION PLAN - B&NES

17 Feb 2022 190920 L 02 02 K ILLUSTRATIVE LAYOUT

20 Jan 2022 190920 L 01 02 A LOCATION PLAN - MENDIP

17 Feb 2022 47493/5501/SK08 Rev D SILVER STREET ACCESS WITH PROPOSED PED/CYCLE IMPROVEMENTS

17 Feb 2022 47493/5501/SK05 Rev E NORTHERN PEDESTRIAN-CYCLE ACCESS CONCEPT DESIGN

17 Feb 2022 47493/5501/SK04 Rev E PROPOSED SITE ACCESS

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 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

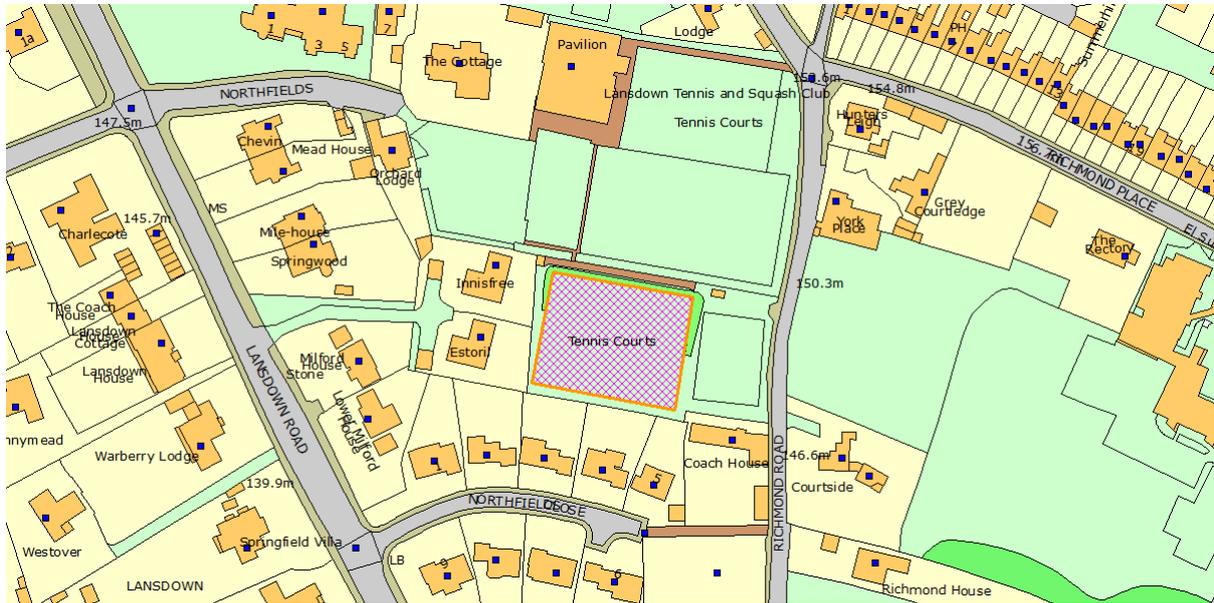
The CIL regulations are non-discretionary in respect of exemption claims. If you are intending to claim a relief or exemption from CIL (such as a "self-build relief") it is important that you understand and follow the correct procedure **before** commencing **any** development on site. You must apply 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. If you have any queries about CIL please email cil@BATHNES.GOV.UK

5 Responding to Climate Change (Informative):

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

Item No: 02
Application No: 20/02964/FUL
Site Location: Lansdown Lawn Tennis & Squash Racquets Club Northfields
Lansdown Bath Bath And North East Somerset



Ward: Lansdown **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor Mark Elliott Councillor Lucy Hodge

Application Type: Full Application

Proposal: Installation of floodlights for tennis courts 8, 9 and 10.

Constraints: Article 4 Bath Demolition Wall, Article 4 Reg 7: Estate Agent, Article 4 HMO, Agric Land Class 1,2,3a, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Conservation Area, Policy CP9 Affordable Housing Zones, Policy LCR5 Safeguarded existg sport & R, MOD Safeguarded Areas, Policy NE2A Landscapes and the green set,

Applicant: Jon Foulds
Expiry Date: 30th August 2022
Case Officer: Isabel Daone

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

REPORT

The application site relates to an existing tennis and squash club located on Northfields in Lansdown. The site provides a number of tennis and squash courts, as well as a car park and club house. The site is located within the Bath World Heritage Site and Conservation Area.

The application has been revised following officer, consultee and neighbour comments. The proposal seeks planning permission for the provision of 10no. flood light columns on courts 8,9 and 10. These will largely be 6.7m in height, reduced as part of the scheme, with 2no. columns being 6m in height.

REASON FOR COMMITTEE:

This application was referred to the Chair and the Vice Chair of the planning committee as Councillor Hodge requested it to be heard by committee should the case officer be recommending approval. The Chair and Vice Chair decided that the application should be debated by the Planning Committee and their comments were as follows:

CHAIR: COMMITTEE

I have reviewed this application and note the comments and objections from the ward councillor and other third and statutory parties. The officer has worked with the applicant to address the issues raised by adjustments to the proposal and conditions placed against an approval however, given the ongoing concerns raised by the ward councillor and Ecology officer, I believe that this application should be debated at planning committee.

VICE CHAIR: COMMITTEE

I have read this detailed application which has been modified as it has progressed through the planning process to address concerns raised by third party & statutory consultees, I also note the Ward Cllr planning committee request. The application has been assessed against relevant planning policies & conditions are suggested to mitigate the impact of the lighting. The Officer & applicants have worked together on concerns raised however I recommend the application be determined by the planning committee so these concerns can be debated in the public arena.

Relevant Planning History:

97/00829/FUL

PERMIT - 14 November 1997

Part re-building of existing club house, and alteration and extension to changing rooms including temporary bar store (revised application)

02/02736/FUL

PERMIT - 27 March 2003

Erection of 8 no. 8 metre floodlights and retrospective permission for the retention of light fittings to existing floodlighting to floodlit courts on the northern terrace

09/02173/FUL

PERMIT - 25 June 2010

Construction of new hard tennis court with surrounding fencing and floodlights

16/01700/FUL

PERMIT - 15 June 2016

Installation of new floodlights for tennis court no 4

16/03646/TCA

NOOBJ - 22 August 2016

1x Sycamore - crown lift over path by removing 1 limb, prune to clear flood light; 1 x Sycamore - crown lift to allow cars to park beneath.

19/01857/VAR

PERMIT - 24 June 2019

Variation of condition 3 (hours of operation) of application 02/02736/FUL (Erection of 8 no. 8 metre floodlights and retrospective permission for the retention of light fittings to existing floodlighting to floodlit courts on the northern terrace).

19/01858/VAR

PERMIT - 24 June 2019

Variation of condition 2 (operating hours) of application 16/01700/FUL (Installation of new floodlights for tennis court no 4).

22/01259/TCA

NOOBJ - 27 April 2022

Goat Willow on West of car park- dismantle and re-plant with more upright species

22/01940/FUL

PCO - - Replacement floodlighting for Courts 1-7 and Centre Court.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation Responses:

A number of comments have been received in regard to the application. The case officer has read all comments in full, and a summary is presented below. Full comments can be viewed on the public website.

COUNCILLOR LUCY HODGE:

18th September 2020 -

- Committee referral if minded to approve
- Lighting in close proximity to residential properties will fundamentally change the evening and night-time environment for nearby residents
- Independent lighting consultant has confirmed that there will be light spillage into the rear gardens of Innisfree, Estoril and dwellings along Northfields Close, but the conclusion of "only a negligible effect" is not borne out by residents' comments
- Light spill will impact those sleeping prior to 10pm
- Noise arising from extended evening use of the courts until 10pm all year round

18th June 2021 -

- Residents have not been notified of the revisions
- Increase in height of lights, with lower intensity and potentially less spill
- Residents remain very concerned about the impact on residential amenity of an extensive flood lit area very close to their boundary
- 10m poles are intrusive
- Insufficient hedge screening

27th May 2022 -

- I note further objections from all the directly affected properties and I endorse these concerns
- I object to the revised proposal (8th May) due to the detrimental impact on the visual and residential amenity of residents in terms of light and noise pollution (contrary to D6)

- Commercial interests of the club seem to be given more weight than the amenity of neighbours
- Incremental increase in lighting
- Historic applications for lighting have been refused
- Conditions have controlled lighting hours
- Complaints from neighbours in relation to lights remaining on beyond the existing curfews
- Lighting specification is difficult to interpret
- 100 lux is very bright
- No vertical sections provided
- Contour map shows 10 lux at the boundary which is significant
- Project map does not reflect the worst case lux levels
- Detrimental to residential amenity in terms of light and noise pollution (policies D6 and D8)
- Referring to Cross section 1-1, the two 6 m masts on the south boundary, which are twice as high as the evergreen hedge (3m), will be clearly visible above the hedge. The three 6.7 m masts on the west will be clearly visible to Estoril and Innisfree. It should not be incumbent on both these properties with short gardens to maintain very high hedges (over 7m) to mitigate any future installation of floodlighting.
- Very high light spill and a localised increase in light levels up to 100 lux are noted in the Ecology report which states that "there may be impacts on residential and visual amenity
- Bright light will be evident emanating from the masts at points at least 3 metres above boundary walls/fencing/hedging at times of the year when darkness would normally be anticipated
- Unwanted artificial light will be present, when it was not before, having an impact on enjoyment of gardens and homes
- An appreciation of an outlook of a dark night sky will not be possible before 9pm for all affected properties for many months of the year
- There is a potential impact on mental health of not experiencing the usual seasonal darkness that one would expect within and beyond one's garden
- Extended hours of use of these courts, will inevitably have a noise implication where a peaceful setting existed before
- I am concerned that in coming to a decision on this application during June, there will be no possibility of observing the impact of the existing floodlighting in the locale during evening darkness. Can anyone be certain of a correlation between the measured lighting parameters in a report and the real life impact of new light or light spill at the level of a child's or elderly person's bedroom window until 9pm every day of the week even if light is not shining directly in?

ECOLOGY:

14th October 2020 - Further information is required to demonstrate that the proposed additional new lighting will avoid risk of harm to bats and bat activity

12th April 2021 - Although the updated information is welcomed and addresses some of the previous ecological comments, the impact on wildlife, particularly light-sensitive bat species still needs to be assessed. This may require input from a suitably qualified ecologist.

6th July 2021 - The ecological report is welcomed. The report identifies that there will be some light spill (up to 50 lux) onto boundary habitats. These habitats may provide some opportunities for dispersing/commuting bat species and other wildlife but are unlikely to form significant corridors due to their location, existing lighting and lack of connectivity. In addition, it has been demonstrated that the hours of operation will not result in substantial impacts during the season of peak bat activity.

Therefore, there is no ecological objection on legal grounds to the proposals. The proposals broadly meet the ecological requirements of Policy D8. However, light spill remains high, and improvements could be minimised further in accordance with best practice.

23rd May 2022 - The previous ecological comments still apply for the revised scheme. There will be some light spill (up to 100 lux) onto boundary habitats. These habitats may provide some opportunities for dispersing/commuting bat species and other wildlife but are unlikely to form significant corridors due to their location, existing lighting and lack of connectivity. In addition, it has been demonstrated that the hours of operation will not result in substantial impacts during the season of peak bat activity. The hours of operation remain as originally proposed in the revised submission. Therefore, there is no ecological objection on legal grounds to the proposals. The proposals broadly meet the ecological requirements of Policy D8. However, light spill remains high and improvements could be minimised further in accordance with best practice.

LANDSCAPE:

20th September 2020 - No objection subject to conditions

THIRD PARTY REPRESENTATIONS:

Bath Preservation Trust (Comment):

- We note the existing precedent on the site for night-time illumination of this scale. However, we would additionally highlight the potential impact on residential amenity caused by excessive illumination close to the boundary between the tennis courts and properties on Northfields Close
- We therefore trust that the case officer will decide this application in relation to policy D6
- Should this application be approved we feel that the proposed hours of use in the Planning Statement (up until 10pm) would be out of keeping with the condition imposed on other floodlights site
- We would therefore recommend that application 16/01700/FUL is used to inform the proposed hours or use

7 OBJECTION comments have been received and the main comments are summarised as follows:

- Light pollution
- No substantial trees/hedging to mitigate
- Visual impact in the conservation area
- Difference in ground level will mean floodlights will tower over properties
- Obtrusive and incongruous
- Revisions to not alter concerns

- Harm to ecology
- Club has not consulted with neighbours
- Failed to observe existing kerbs on lighting hours
- Contrary to D8
- Contrary to D6
- Contrary to HE1
- Noise impacts
- Impacts already experienced on Richmond Road illustrates how the new scheme will impact residents
- Lights turned off at 10:10pm when it should be 10pm

10 SUPPORT comments have been received and are summarised as follows:

- Allows people to remain fit and healthy
 - Allows people to participate after school
 - LED lighting to be focused on court area, so little light spill
 - Would allow courts to be utilised better
 - Difficult to get a court in the evenings
 - Out of 11 courts, only 3 are not floodlit and these are unplayable in the evening
- October - March
- Courts already used so noise impact minimal
 - Community benefit

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:

- B1: Bath Spatial Strategy
- B4: The World Heritage Site and its Setting
- CP6: Environmental Quality
- DW1: District Wide Spatial Strategy

SD1: Presumption in favour of sustainable development

Placemaking Plan:

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

D1: General urban design principles

D2: Local character and distinctiveness

D3: Urban fabric

D5: Building design

D6: Amenity

D8: Lighting

HE1: Historic environment

NE2: Conserving and Enhancing the landscape and landscape character

NE2A: Landscape setting of settlements

NE3: Sites, species and habitats

NE5: Ecological networks

NE6: Trees and woodland conservation

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

PRINCIPLE OF DEVELOPMENT:

The application site is located within the urban area of Bath where the principle of development is acceptable, subject to the material considerations below.

CHARACTER AND IMPACT TO HERITAGE ASSETS:

The application site is located within the Bath Conservation Area and World Heritage Site. A number of objections have raised concern regarding the impact upon the Conservation Area and landscape as a result of the proposal.

Bath and North East Somerset Council's Local Plan Policy B4 states that there is a strong presumption against development that would result in harm to the Outstanding Universal Value of the World Heritage Site, its authenticity or integrity.

Policy D8 asserts that proposals for artificial lighting will only be permitted where they would not give rise to an unacceptable level of illumination; it can be demonstrated that additional lighting will have not detrimental effect on residential amenity, the historic environment or local ecology; and any adverse impact is minimised through design, technological solutions and controlling the hours of use.

Policy HE1 makes clear that development within or affecting the setting of a conservation area will only be permitted where it will preserve or enhance those elements which contribute to its special character or appearance.

Policy NE2 infers that in order to be permitted development needs to conserve or enhance local landscape character, landscape features, local distinctiveness and important views; seek to avoid or adequately mitigate any adverse impact on landscape; and that proposals with the potential to impact on the landscape/townscape character of an area or on views should be accompanied by a Landscape and Visual Impact Assessment (LVIA) undertaken by a qualified practitioner.

Policy NE2A makes clear that development should seek to conserve and enhance the landscape setting of settlements and their landscape character views and features and that development that would have an adverse impact on the landscape setting which cannot be adequately mitigated will not be permitted.

Within the club, a number of the courts have floodlights which have been permitted as part of previous planning applications. Given the existing situation, it is not considered that a Landscape Visual Impact Assessment is justified in this case as this is not the first occurrence of floodlighting at the site.

The site lies at approximately 150m AOD on the south east facing slope of Lansdown, at the heart of a sub-urban area surrounded by roads, housing and educational establishments. It is bounded by The Royal High School to the north, Richmond Road to the east and residential properties to the south and west.

Given the sites elevated position it is likely that distant views of the site are possible from elevated positions on the southern slopes of the Avon River Valley, such as Bathwick Meadows. The site is unlikely to be readily discernible from the surrounding residential and educational developments, however the existing floodlighting may make it a more prominent feature in night-time views.

Given the slender nature, relatively low height and wide spacing of the proposed columns, close and middle distant views from the surrounding roads and properties are unlikely to

significant; however, given that the proposal involves additional lighting the night-time view will be changed and may make the club a more noticeable feature within its context. However, with the exception of the occupiers of adjacent dwellings, it is unlikely that the additional floodlighting would make a significant and appreciable difference to the current situation where eight out of eleven courts are already floodlit. The visual change to the occupiers of adjacent dwellings is not considered to be significant to a point which would warrant a refuse reason on this basis; whilst outlook will be changed, the floodlights are considered to be visually appropriate within their context.

Courts 8, 9 and 10 are largely bounded by trees and tall hedgerows which help to provide screening from local views and neighbouring properties. It is noted that during the course of the application, a hedge was removed along the boundary of Estoril. However, a new hedge within the boundary of the tennis court is proposed and this can be secured by planning conditions. Officers consider that this will soften the impact of the development.

The use of the site as a Tennis Ground is marked on the 1844-1888 OS map, although the area occupied by Courts 8,9 and 10 is not formally marked until the 1947-1965 OS map. What is clear however, is that the existing site pre-dates the adjacent housing and that the use of the site for tennis is well established and is, in itself, a local landscape feature. It therefore contributes to local distinctiveness and local landscape character.

However, it is noted that the floodlighting of the courts is a much more recent phenomenon and whilst it adds to the utility of the courts, it does have an impact upon the night-time character and context. However, this is an existing situation and given that the current application is not the first occurrence of floodlighting on the site, a Land and Visual Impact Assessment is not considered to be justified.

It is considered that the proposed floodlighting is unlikely to significantly alter or add to the landscape and visual impact of the current floodlighting and will not have a detrimental impact upon the World Heritage Site, Conservation Area or Landscape Setting of Bath. There is no objection in this regard, and the Council's Landscape Officer also has no objection to the scheme in this regard.

RESIDENTIAL AMENITY:

A number of local residents and Councillor Lucy Hodge have raised concerns in regard to the impact of the proposals on residential amenity. The concerns raised primarily relate to the increase in noise and the impact of the increased levels of light spill from the site. These matters will be assessed in turn.

It has been raised that the floodlighting will allow courts 8, 9 and 10 to be used more frequently than as existing and this will cause additional noise and disturbance for nearby occupiers. The Tennis Courts are well established. In the summer months, and months where light is available into the evening, these courts can be used. In the Winter, where the courts are unlit, the use of them is more restrictive. The additional lighting, proposed to be used until 9pm, will allow the use of the courts up to these hours in the Winter, as well as the hours currently enjoyed in the summer months when light is naturally available. The proposal must be considered within the existing context and use of the site. As existing, eight out of eleven courts are lit and there is noise issuing from those playing on the courts during later hours. The introduction of flood lighting on courts 8,9 and 10 will bring noise

closer to residential properties for more hours during the Winter. However, the noise will be associated with an existing use which can use the courts unrestricted in the summer months. It is not considered that the introduction of flood lighting will significantly harm the neighbouring occupiers in terms of increased noise levels, given the existing established use. As such, a refusal on this basis is not considered justified.

Policy D8 has regard to lighting and states that applications for lighting will be permitted provided that it does not have a detrimental impact upon visual and residential amenity. Whilst not enshrined in the policy, the pre-amble surrounding policy D8 cites the Institution of Lighting Professionals Guidance Note as being a useful document to be used as guidance when assessing applications for artificial lighting.

The application will result in additional lighting and light spill towards nearby residents. Officers must make an assessment as to whether this impact would be detrimental in accordance with policy D8. The Guidance Note for obtrusive light referenced above splits areas into Environmental Zones. It is considered that this site would have a lighting environment of low to medium district brightness. The guidance notes states that for these areas, maximum values of vertical illuminance on nearby premises should be 5-10 lux. Where it is considered that the site falls within two zones, the lower threshold should be applied.

Page 20 of the submitted lighting design states the maximum values of illuminance on nearby properties. These are as follows:

Innisfree - 0.96 lux
Estoril - 1.36 lux
2 Northfields Close - 0.2 lux
3 Northfields Close - 0.65 lux
4 Northfields Close - 1.25 lux
5 Northfields Close - 0.76 lux
Coach House - 3.13 lux

All of these vertical levels are below the 5 lux which is stated in the guidance as being acceptable.

The luminaires themselves will utilise LED technology. The light heads will have hoods, which will help to angle the area of light downwards towards the tennis courts. This will help to limit the light spill from the flood lights.

Officers consider that the proposed lighting complies with the relevant guidance, although it is accepted that this is not enshrined in B&NES policy and can act as a guide only. However, this is a widely recognised, expert document which has been applied to this application.

The proposal will result in lighting closer to existing residential properties and officers do not dispute that there will be an impact as a result. Officers must, therefore, assess the level of impact.

The proposed lighting column height has been reduced, again to help mitigate the impact for neighbouring residents. The lights must be of a certain height for their function;

however, the reduction in height from 8m to 6.7/6m will help reduce the impacts of light spill. A number of comments have referenced the existing lighting and its impact. Officers note that these columns are much taller and operate a halogen bulb system which is outdated technology in comparison to that proposed. It is not considered that the existing lighting is directly comparable to the proposal.

The proposed lighting will be shut off at 9pm and this can be controlled by condition. Details of measures to turn off lights when not in use will also be controlled via condition and officers understand that the cut off will be digitally programmed to ensure that the lights are not left on due to human error. In the summer months, the lighting is unlikely to be necessary, with the exception of overcast days. The operation of the flood lights until 9pm is not considered to be unreasonable in this location and given the existing situation with the other flood lights. A condition will be applied to secure additional hedge planting along the boundary with Estoril inside the Tennis Court's boundary, which will provide additional screening.

Overall, officers note and accept that there will be some impact to neighbouring residents, but it is not considered that this impact will be detrimental and a refusal reason on this basis is not considered justified. Officers consider that the submitted information regarding the lighting is sufficient to demonstrate compliance with relevant guidance and acceptability with regard to B&NES planning policies.

ECOLOGY:

During the course of the application the scheme has been revised. The Council's Ecologist has been consulted on the latest iteration of the scheme. The height of the lighting columns has been reduced, although the number of fittings has increased. This results in a localised increase in light levels, up to 100 lux, but there are no additional ecological impacts of note over and above those already identified. Additional habitats for light-sensitive species are unlikely to be impacted.

An Ecological Appraisal Report was submitted as part of the application. The report assesses the habitats present within the site including amenity grassland which is not of notable ecological value and boundary treelines/hedgerows to the east, south and west. Boundary habitats are identified as being of potential ecological value for nesting birds and commuting bats. Based on the justification provided in the report, it is accepted that the features are unlikely to provide a significant commuting/dispersal corridor and are unlikely to provide any resource of note for horseshoe and Bechstein's bats related to the Bath and Bradford-on-Avon SAC. In addition, there is strong justification in Section 3.27 of the ecology report regarding seasonal use and the proportion of the night where lighting would be required.

Only significant displacement of bat species which would impact on reproduction or survival is an offence by law. In this case, the proposal would not cause such displacement and therefore, there is no credible risk that the scheme would be non-compliant with the Conservation of Habitats and Species Regulations 2017 (as amended).

It is stated in the submission that the light spill onto boundary vegetation will be high in regard to lux levels (up to 50 lux in places). As a result, it is likely that there will be some minor, non-significant negative impacts on boundaries likely to be used by wildlife;

although these cannot be considered to be a wildlife corridor as referenced by policy D8. In regard to ecology, it is considered that there are further improvements which could be made, however there is no outright objection from the Council's Ecologist and the scheme is not considered to be refusable on ecological grounds.

Conditions securing that the proposal is carried out in accordance with the submitted lighting specification and controls over the hours of operation have been recommended. Additionally, a further condition is recommended which secures details of measures to controls to limit light spill (such as automated timers and shut off switches) is also recommended.

TREES:

It is considered that the floodlighting has the potential to impact upon adjacent trees, although give the limited requirements for below ground works the impacts are unlikely to be significant. Notwithstanding this, the adjacent vegetation has amenity and landscape value. Therefore, conditions are recommended which secure an Arboricultural Survey, Impact Assessment and Tree-Protection Plan and Arboricultural Compliance. This will protect adjacent vegetation.

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.

CONCLUSION:

Officers understand and have assessed the concerns of the neighbouring residents in regard to residential amenity. Whilst the proposal will impact the neighbouring residents, subject to conditions which secure the hours of lighting and details of measures to mitigate light impacts (such as cut off when not being used etc.) the scheme is not considered to have a significant impact which would warrant a refusal in accordance with policy D6. It is noted that the Council's Ecologist does consider that further improvements to the lighting could be undertaken in order to further minimise the potential impact to local ecology. However, there is no outright objection from Ecology. The applicant has made several revisions to the proposal and has worked with officers to minimise light spill. The proposed flood lights must be fit for function and provide community benefit in that they will enable the tennis courts to be better utilised by members of the community. Officers are satisfied that the proposal is acceptable and complies with the relevant policies.

As such, subject to conditions, the application is recommended for permission by officers.

RECOMMENDATION

PERMIT

CONDITIONS

1 Standard Time Limit (Compliance)

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

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

2 Arboricultural Method Statement and Tree Protection Plan (Pre-commencement)

No development shall commence until a detailed Tree Survey, Arboricultural Impact Assessment, Arboricultural Method Statement and Tree Protection Plan following the recommendations contained within BS5837:2012 have been submitted to and approved in writing by the Local Planning Authority. The Arboricultural Method Statement shall incorporate a provisional programme of works; supervision and monitoring details by an Arboricultural Consultant and provision of site visit records and certificates of completion to the local planning authority. The statement should include the control of potentially harmful operations such as site preparation (including demolition, clearance, and level changes); the storage, handling and mixing of materials on site, burning, location of the site office, service run locations including soakaway locations and movement of people and machinery. No development or other operations shall thereafter take place except in complete 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 Local 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.

3 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 within 28 days of the 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 Local Plan. To ensure that the approved method statement is complied with for the duration of the development.

4 Wildlife Protection and Enhancement Scheme (Compliance)

The development hereby approved shall be carried out only in accordance with the mitigation and enhancement measures detailed in Section 4 of the Ecological Appraisal report (Crossman Associates, May 2021). This shall include avoidance, mitigation and enhancement measures for bats and nesting birds, including installation of six new bird boxes. If any amendments to the recommended approach are proposed, details shall be submitted in writing to and agreed by the Local Planning Authority. The revised measures shall then be implemented in accordance with the approved details before use of the new floodlighting.

Reason: To prevent ecological harm and to provide biodiversity gain in accordance with policies NE3 and D5e of the Bath and North East Somerset Local Plan.

5 Hours of Illumination (Compliance)

The floodlighting hereby permitted shall only be switched on during the hours of 13:00 to 21:00 hours Monday to Sunday (inclusive).

Reason: In the interests of residential and visual amenity.

6 External Lighting (Compliance)

No new external lighting, other than the floodlighting approved as part of this application, shall be installed without further planning permission being granted.

Reason: To avoid harm to bats and wildlife in accordance with policy CP6 of the Bath and North East Somerset Core Strategy and policies NE3 and D8 of the Bath and North East Somerset Placemaking Plan.

7 Light switch off (Bespoke Trigger)

Prior to the installation of the proposed flood lighting columns, details of measures to limit the use of lights when not required shall be submitted to an approved in writing by the Local Planning Authority. Such details shall include automated timers to turn off lighting outside the permitted hours of operation.

Reason: To avoid harm to bats and wildlife and residential amenity in accordance with policies NE3, D6 and D8 of the Bath and North East Somerset Local Plan.

8 Flood lighting design (Compliance)

The proposed flood lighting shall be installed in accordance with the specification and details within the "Outdoor Tennis Lighting Design" document (Luminance Pro Lighting Systems, dated 23rd February 2022).

Reason: To ensure the lighting is installed in accordance with the approved details and to protect the residential amenity of the neighbouring occupiers in accordance with policy D6.

9 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:

10D Proposed Site Plan. Received 11th July 2022

11C Cross Section 1-1 Existing & Proposed. Received 11th July 2022

12 A Cross Section 2-2 Existing & Proposed. Received 8th March 2022

009 Location Plan. Received 17th August 2020

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

4 Community Infrastructure Levy - General Note for all Development

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

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

Community Infrastructure Levy - Exemptions and Reliefs Claims

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

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

5 Responding to Climate Change (Informative):

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

Item No: 03
Application No: 22/02560/FUL
Site Location: 31 St Mark's Road Widcombe Bath Bath And North East Somerset
BA2 4PA



Ward: Widcombe And Lyncombe **Parish:** N/A **LB Grade:** II

Ward Members: Councillor Alison Born Councillor Winston Duguid

Application Type: Full Application

Proposal: Widening of existing opening in stone wall by 450mm and the positioning of a charging point for electric car.

Constraints: Article 4 Bath Demolition Wall, Article 4 Reg 7: Estate Agent, Article 4 HMO, Colerne Airfield Buffer, Agric Land Class 3b,4,5, Air Quality Management Area, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, British Waterways Major and EIA, British Waterways Minor and Householders, Conservation Area, Policy CP9 Affordable Housing Zones, HMO Stage 1 Test Area (Stage 2 Test Req), Listed Building, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, Policy NE5 Ecological Networks, River Avon and Kennet & Avon Canal, SSSI - Impact Risk Zones,

Applicant: Mr Adam Elmes

Expiry Date: 19th August 2022

Case Officer: Caroline Power

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

REPORT

Details of location and proposal and Relevant History:

No 31 St Mark's Road, forms one side of a pair of semi-detached grade II listed Victorian villas dating from circa 1860. The site is within the Widcombe and Kennet Canal section of the conservation area and the World Heritage Site.

PROPOSAL

This application seeks planning permission for the formation of a wider vehicular access with an electrical charging point and would include removal of a section of the existing boundary wall. The current entrance way is formed in the south east facing stretch of wall that fronts St Mark's

Road. There is currently an existing opening that appears to be original and is lined by two matching stone gate piers that allows vehicle access to the site. The proposed enlarged opening would measure approximately 3.2m, some 450mm wider than the current opening and would be

framed with the same ashlar stone piers, the western one is proposed to be demolished and rebuilt in the new location. In addition, an electric vehicle charging point would be installed on the site at the top of the drive, adjacent to the front door.

A listed building application 22/01578/LBA is being dealt with concurrently.

The application is referred to DMC at request of Cllr Born and Cllr Duguid (specifically in respect of 22/01578/LBA). 22/02560/FUL is also included as the applications are dual.

REFERRAL OF CASE;

Chairs Response- Councillor Sue Craig- I have reviewed this application and note the comments from all parties. I believe this a finely balanced decision between harm to the heritage asset and public benefit. As such, it should be debated in the open forum of the planning committee.

Vice Chairs Response-Councillor Sally Davies- I have read these applications carefully noting comments from both statutory & third party consultees. The main consideration with this application is regarding whether the proposal will have public benefits which outweigh substantial harm, I think this aspect would benefit from debate in the public arena therefore I recommend the application be determined by the planning committee.

PLANNING HISTORY;

DC - 20/01770/LBA - CON - 27 July 2020 - Internal alterations for replacement of an existing concrete floor in basement with a new insulated concrete floor complete with under floor heating

DC - 20/03890/CONDLB - DISCHG - 16 November 2020 - Discharge of condition 2 of application 20/01770/LBA (Internal alterations for replacement of an existing concrete floor in basement with a new insulated concrete floor complete with under floor heating).

DC - 21/04755/LBA - RF - 8 April 2022 - External alterations to widen opening in stone wall.

DC - 22/01578/LBA - PCO - - External alterations for widening of existing opening in stone wall by 450mm and the positioning of a charging point for electric car.

DC - 22/02560/FUL - PCO - - Widening of existing opening in stone wall by 450mm and the positioning of a charging point for electric car.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Highways

The Applicant proposes to widen an existing vehicular access point by 450mm to the East, by moving the existing right hand side wall. Highway Development Control (HDC) officers do not consider this to be prejudice to highway safety and note that the proposed increase in access width has the potential to increase the level of visibility on access/ egress of the

property. However, Officers are concerned that the proposal could potentially affect the vehicular access to the existing off-street car parking bay, located to the front of the dwelling. From the plans provided, it is unclear if the proposed works will encroach into the existing parking bay, or if the possible need to an extended dropped kerb would render the off-street car parking space unusable. The Applicant is requested to submit revised plans which demonstrate the existing off-street car parking space will not be affected by these works. Please note that as the proposed alterations to the existing vehicular access may require new dropped kerbs, this would require a Section 184 agreement from the Highway Authority. The application and fees for this are separate from the planning process.

An email has been received from the Agent on 27/07/2022. The Agent has advised that "Moving the column by 450mm as proposed would leave 550 mm clearance so the existing off-street car parking space will not be effected by the works". This satisfies the concerns raised by HDC officers and as such, I recommend that No Highway Objection be raised subject to Conditions.

Following a site visit by the Case Officer, it was requested that the Highways Officer should review their comments in the light of the site photographs that were taken.

As a result the following further Highways advice was submitted on 9/8/2022;

Whilst the applicant did confirm that the proposals would not require an extended dropped kerb crossover it is important that we understand the unintended consequences of this application to the existing on street parking as set out in our initial observations on 20th July 2022.

By relocating the stone pier entrance on the left-hand side of the entrance when looking at it from the street, it closes the gap between the entrance and the back of the on-street parking bay. When designing on-street parking, we endeavour to leave at least 1.5m clear either side of the last dropped kerb stone to provide room to manoeuvre. Widening the driveway entrance increases the conflict between users of the lawful on-street parking and the home owner and would not be acceptable.

As a result of this proposal we would need to remove 1no. on street parking bay in a Residents Parking Zone (RPZ), any proposed changes to the Central Zone RPZ are unlikely to be successful and have in the past always led to numerous objections and petitions from local resident as the scheme is oversubscribed.

If this application were to be permitted it would necessitate the removal of 1no on-street parking space that would have to be secured by condition or s106 clause. That condition or clause does not have a reasonable prospect of being delivered and as such does not meet the NPPF tests.

In summary, this application seeks to increase the ease of use of an existing off street parking space for the benefit of one household but would result in the loss of an on-street communal provision in an area which is oversubscribed; as such it is considered contrary to policy and therefore refusal is recommended. The proposal if permitted would favour the convenience of a private parking space over the needs of the whole community.

Other third Party Comments are on the parallel Listed Building Application; 22/01578/LBA.

POLICIES/LEGISLATION

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

RELEVANT CORE STRATEGY POLICIES

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

CP6 Environmental quality

B4 The World Heritage Site

CP2 Sustainable Construction

RELEVANT 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

ST7 Transport Requirements for Managing Development

Guidance:

Historic England Advice Note 2 Making Changes to Heritage Assets (2016)

BaNES Draft City Centre Character Appraisal Bath (2015)

BaNES Draft Widcombe and the Kennet and Avon Canal Character Appraisal Bath Conservation

Area (April 2020)

National Planning Policy Framework (2021) and the National Planning Practice Guidance can be awarded significant weight.

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.

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

The wall forms a unified boundary treatment at 30 & 31 St Mark's Road whilst matching similar design examples at 28 St Mark's Road and 32 & 33 St Mark's Road.

The demolition of the wall would cause harm to the listed wall, the setting of the listed building and the authenticity of this fabric and its appearance in the conservation area.

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 section of the original boundary wall this 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, adversely impacting on a number of heritage assets.

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

The Applicant proposes to widen an existing vehicular access point by 450mm, by moving the existing right hand side wall. Highway Development Control (HDC) officers do not consider this to be prejudice to highway safety and note that the proposed increase in access width has the potential to increase the level of visibility on access/ egress of the property.

However, Officers are concerned that the proposal could potentially affect the vehicular access to the existing off-street car parking bay, located to the front of the dwelling. From the plans provided, it is unclear if the proposed works will encroach into the existing parking bay, or if the possible need to an extended dropped kerb would render the off-street car parking space unusable.

Following a further review of this case, Highways have submitted a recommendation for Refusal. This is based on the following concerns;

Whilst the applicant did confirm that the proposals would not require an extended dropped kerb crossover, it is important that the implications of this alteration and the unintended consequences to the existing on-street parking, as set out in our initial observations on 20th July 2022 are fully understood.

By relocating the stone pier entrance on the left-hand side of the entrance, when looking at it from the street, it closes the gap between the entrance and the back of the on-street parking bay. When designing on-street parking, Highway's endeavour to leave at least 1.5m clear either side of the last dropped kerb stone to provide room to manoeuvre.

Widening the driveway entrance increases the conflict between users of the lawful on-street parking and the home owner and would not be acceptable. As a result of this proposal, there would be a requirement to remove 1no on-street parking bay in a Residents Parking Zone (RPZ). Any proposed changes to the Central Zone RPZ are unlikely to be successful and have in the past led to numerous objections and petitions from local resident as the scheme is oversubscribed.

If this application were to be permitted it would necessitate the removal of 1no on-street parking space that would have to be secured by condition or s106 agreement. That condition or clause does not have a reasonable prospect of being delivered and as such does not meet the NPPF tests.

In summary, this application seeks to increase the ease of use of an existing off-street parking space for the benefit of one household but would result in the loss of an on-street communal provision in an area which is oversubscribed. As such it is considered contrary to policy and therefore refusal is recommended. The proposal if permitted would favour the convenience of a private parking space over the needs of the whole community.

It should be noted that this view does not preclude the applicant being able to apply to install an EVCP in their garden. The two elements of this application are not linked.

Taking account of the above the means of access and parking arrangements are considered unacceptable and would result in the loss of an on-street parking space that will impact on the local parking provision of the street. The proposal is contrary to 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.

This stone boundary to the front of No 31, in its original form, is unusually ornate and being intended to be complementary to the style of the Italianette villa as part of the architect's original design, is an essential part of the original composition. The piers are designed to align with and frame front entrance to the villa beyond. The front boundary wall and piers in their original form and location are, therefore, considered to be an important part of the historic survival of this group of listed buildings; contribute to its significance and make a positive contribution to the historic character and appearance of the listed building, its setting and this part of Bath's Conservation Area. In addition, the boundary wall is specifically mentioned in the list description as an important architectural feature in its own right.

Additionally, the Council's Draft Widcombe and the Kennet and Avon Canal Character Appraisal: Bath Conservation Area (April 2020) specifically identifies the importance of traditional stone boundary walls and the positive contribution they make to character and appearance of the area: 'It is important that boundary walling is retained and maintained'.

Other elements of the area's characteristics cited within the Conservation Area Appraisal should also be taken into account in the assessment of this case;

* Garden boundary walls built of stone also add to the harmonious relationship between Bath stone buildings and their setting.

* The green character of gardens being lost to hard standings for parking cars, and/or paving, shingle, chippings replacing lawns and flower beds to minimise maintenance. Such changes not only have a visual impact but also heighten the problem of surface water run-off surcharging the drainage systems during periods of heavy rain.

* Ongoing traffic management to reduce traffic impact, including controlling traffic volumes and the pressures of on-road/verge/pavement parking.

* There are remaining examples of traditional street furniture from the Georgian and Victorian periods. They also provide clues to urban patterns within Widcombe that have been lost, especially in Holloway, Carlton and the area between Claverton Street and the river.

The historic front boundary wall is considered to be one of the only historically authentic walls still intact in this part of Widcombe and as such has a high significance in heritage terms.

In summary, in terms of significance and special interest, this Bath stone ashlar wall that runs adjacent to the road, together with the two stone piers that mark the entrance gateway, are a significant, authentic historic survival and an essential part of this historic composition of these listed buildings, their settings and the character and appearance of this part of the conservation area and City of Bath World Heritage Site.

Policy HE1 of the Placemaking Plan states that alterations, extensions or changes of use, or development affecting a listed structure, will be expected to have no adverse impact on those elements which contribute to its special architectural or historic interest. 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 (2021) 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 application proposes the demolition of part of the boundary wall and an entrance pier in order to improve vehicular access. A vehicle can access the driveway, but the applicants are of the view that the entrance is narrow.

The removal of the section of boundary wall, and especially the section of ornate, carved balustrade, that is proposed in order to widen the entrance by 450mm, would be unacceptably harmful and result in a loss of significant historic fabric. The demolition of part of the boundary wall and pier in order to widen the access would clearly result in this no longer being an authentic historic survival. The reconstruction of the pier as proposed would be harmful to the composition, as noted above, the piers are designed to align with and frame the front entrance to the villa beyond.

The demolition would cause harm to the listed wall, the setting of the listed building and the authenticity of this fabric and its appearance in the conservation area.

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 demolition of this part of the wall and pier would be entirely for the private gain of the applicant with no public benefits. As such, the proposal would not comply with paragraph 202 of the NPPF.

In addition, the proposed increase in width of the driveway opening could impact on the parking bays for on- road parking that currently exist to either side of the existing driveway to No 31 and lead to a loss of one on-street parking space. This has been confirmed by the Highways Officer who has, because of this, recommended refusal. This weighs further against there being any public benefit to this proposal and in fact is a public deficit.

The application mentions the proposed installation of an electric vehicle charging point (although its detail is not shown as part of the parallel planning application). There is no reason why, subject to a separate planning application which does not involve demolition of the wall and pier, this should not be supported. This cannot, therefore, form part of the public benefit argument as it should be considered as a separate element to this proposal and is not interdependent.

The Council has a statutory requirement under Section 66 (1) 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.

CONCLUSION

Taking account of the above, it is considered that the proposal is contrary to Policies D2, D5, HE1 and ST7 of the Placemaking Plan and B4 and CP6 of the Core Strategy. Highways have reviewed the case and concluded that the development would be contrary to policy ST7 of the PMP, on the grounds of public safety and amenity. The harm to the historic environment and implications on highways of providing an improved off-street parking space is not considered sufficient public benefit to overcome the harm identified to both the wider historic environment and Highway's safety through the alteration to the boundary wall.

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 Highways concerns. The proposal is therefore recommended for refusal.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 The proposed development would cause undue harm to the listed wall, the setting of the listed building and the authenticity of this fabric and its appearance in the streetscene, and be to the detriment of the character and appearance of the Bath Conservation Area due to the loss of a section of boundary wall. 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).

2 On-site parking;

The proposed development would result in the loss of 1no residents parking zone bay which would exacerbate highways safety and residential amenity issues associated with additional on-street parking and is therefore contrary to policy ST7 of the Bath and North East Somerset Placemaking Plan.

PLANS LIST:

1 OS Extract 07 Apr 2022 SITE LOCATION PLAN AND BLOCK PLAN
Drawing 07 Apr 2022 EXISTING AND PROPOSED FRONT WALL ELEVATI...

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. The Local Planning Authority acknowledges the approach outlined in paragraphs 39-43 in favour of front loading and operates a pre-application advice service. Notwithstanding active encouragement for pre-application dialogue the applicant did not seek to enter into correspondence with the Local Planning Authority. The proposal was considered unacceptable for the reasons given 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.

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

4 Responding to Climate Change (Informative):

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

Item No: 04
Application No: 22/01578/LBA
Site Location: 31 St Mark's Road Widcombe Bath Bath And North East Somerset
BA2 4PA



Ward: Widcombe And Lyncombe **Parish:** N/A **LB Grade:** II

Ward Members: Councillor Alison Born Councillor Winston Duguid

Application Type: Listed Building Consent (Alts/exts)

Proposal: External alterations for widening of existing opening in stone wall by 450mm and the positioning of a charging point for electric car.

Constraints: Article 4 Bath Demolition Wall, Article 4 Reg 7: Estate Agent, Article 4 HMO, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, British Waterways Major and EIA, British Waterways Minor and Householders, Adjoins City Boundary, Conservation Area, HMO Stage 1 Test Area (Stage 2 Test Req), Listed Building, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, Policy NE5 Ecological Networks, River Avon and Kennet & Avon Canal, SSSI - Impact Risk Zones,

Applicant: Mr Adam Elmes

Expiry Date: 19th July 2022

Case Officer: Caroline Power

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

REPORT

No 31 St Marks Road, forms one side of a pair of semi-detached grade II listed Victorian villas dating from circa 1860. The site is within the Widcombe and Kennet Canal section of the conservation area and the World Heritage Site.

PROPOSAL

This application seeks listed building consent for the formation of a wider vehicular access with an electrical charging point and would include removal of a section of the existing boundary wall.

The current entrance way is formed in the south east facing stretch of wall that fronts St Mark's Road. There is currently an existing opening that appears to be original and is lined by two matching stone gate piers that allows vehicle access to the site. The proposed enlarged opening would measure approximately 3.2m, some 450mm wider than the current opening and would be framed with the same ashlar stone piers. The western pier is proposed to be demolished and rebuilt in the new location. In addition, an electric vehicle charging point(EVCP)would be installed on the site at the top of the drive, adjacent to the front door.

A planning application 22/02560/FUL is being dealt with concurrently.

The application is referred to DMC at request of Cllr Born and Cllr Duguid (specifically in respect of 22/01578/LBA). 22/02560/FUL IS also included as the applications are dual.

REFERRAL OF CASE;

Chairs Response- Councillor Sue Craig- I have reviewed this application and note the comments from all parties. I believe this a finely balanced decision between harm to the heritage asset and public benefit. As such, it should be debated in the open forum of the planning committee.

Vice Chairs Response-Councillor Sally Davies- I have read these applications carefully noting comments from both statutory & third-party consultees. The main consideration with this application is regarding whether the proposal will have public benefits which outweigh substantial harm, I think this aspect would benefit from debate in the public arena therefore I recommend the application be determined by the planning committee.

PLANNING HISTORY;

DC - 20/01770/LBA - CON - 27 July 2020 - Internal alterations for replacement of an existing concrete floor in basement with a new insulated concrete floor complete with under floor heating

DC - 20/03890/CONDLB - DISCHG - 16 November 2020 - Discharge of condition 2 of application 20/01770/LBA (Internal alterations for replacement of an existing concrete floor in basement with a new insulated concrete floor complete with under floor heating).

DC - 21/04755/LBA - RF - 8 April 2022 - External alterations to widen opening in stone wall.

DC - 22/01578/LBA - PCO - - External alterations for widening of existing opening in stone wall by 450mm and the positioning of a charging point for electric car.

DC - 22/02560/FUL - PCO - - Widening of existing opening in stone wall by 450mm and the positioning of a charging point for electric car.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

For Highways Comments see Planning application 22/02560/FUL

Bath Preservation Trust- Supports the proposal. It was previously proposed in application 21/04755/LBA to remove a 0.65m area of boundary wall. The proposed amount of fabric

to be removed has been reduced and it is now proposed to remove 0.45m of boundary wall with a reduced material impact on historic fabric. We are supportive of the opportunity to improve the integration of the driveway access with the historic boundary wall. It is indicated that the opening as existing is a later, likely 20th century intervention due to the balustrade tracery ending in a half-arch against the western gate pier. The removal of a small section of wall would therefore allow for a more symmetrical articulation of the wall and the intersecting vehicle access. However, we recommend that further material details are provided as to how the stone tracery will be finished beside the pier which is to be moved.

Section 202 of the NPPF specifies that "where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use." It is considered that the proposal would constitute less than substantial harm to a heritage asset due to a minor loss of historic fabric. This must be considered against the following identified public benefits as part of the planning balance:

- Repairs to the historic west pier, which has been progressively damaged through ongoing driveway use and the narrow width of the driveway entrance. It is noted that widening works would also ensure that future damage would be prevented by allowing for adequate passing space.
- The replacement of the existing tarmac hardstanding with pennant paving, a surface treatment more in keeping with the character and setting of the listed building.
- Improved access to existing off-street parking space would help to reduce ongoing and future pressures on on-street parking and associated impact on the visual amenities of the area.
- Opportunity for sustainability measures such as the installation of EV charging.

We therefore conclude that the cumulative weight of public benefit would therefore outweigh identified less than substantial harm.

We note that in the case officer's Delegated Report for refused application 21/04755/LBA, concerns were highlighted that the granting of consent to increase the opening width would "set a precedent that would compromise the Local Planning Authority's ability to resist similar proposals in the future." We emphasise that planning applications should be considered on their own merits and therefore maintain that the suitability of alteration or demolition works to a boundary wall remains to be determined on a case-by-case basis. In this case, we conclude that the marginal loss of 0.45m of boundary wall would be appropriately balanced by a series of identified public benefits including repairs to historic fabric as well as sustainability measures which would accord with the council's environmental objectives.

The Widcombe Association- This application was considered by the Widcombe Association Committee members this evening. It was felt the issues it raises are balanced between the interests of conservation and sustainability - specifically in this case to accommodate a need for charging points for electric cars. We believe there are likely to be an increasing number of similar proposals in the future and that they highlight the need for the Council to consider the issues and develop some policy guidelines.

Councillor Call-in to Committee; COUNCILLOR WINSTON DUGUID

Councillor Born and myself request that the above application is called into committee for decision if officers are minded to refuse the application.

We both know and use, as pedestrians and cyclists, the road extensively. Footfall is very heavy with commuters walking to work as well as school, the railway station and the services of Widcombe Parade.

We have worked hard with local residents in the last three years to try to improve residents parking and to reduce idling on the road. St Marks is a narrow short cul de sac and can be a hot spot for cars picking up train users as well as car drivers parking who use Widcombe Parade, including the doctors and dentists, as well as the various activities put on in the community centre in the old St Mark's Church. Parking is at a real premium for the number of houses in the road.

The application raises a number of relevant points about how Bath protects its heritage through Conservation policy and yet adapts to the needs of sustainable living for this century. Indeed this application straddles conservation, planning, highways and indeed parking services policies and a considered proportionate response is needed.

The climate change emergency and the accompanying phasing out of fossil fuel supplied cars is key to Society's and Bath's sustainable future. The applicants want to be early adopters of electric cars and we believe should be supported with what many will seem to the naked eye as a conservation enhancing application. The application is to remove just 450 mm of wall (1.5 arches out of 20) and to balance this loss with a restoration of the current stone pier to its pristine condition and in addition to replace tarmac with natural pennant stone. The dimensional changes will bring the wall in line, in terms of size and position, with an adjacent property.

This application will enable electric cars to be charged on the driveway and keep them off the road day and night. Given the size of the driveway dimensions it is not clear whether Parking Services would allow a parking permit, as dimensions certainly exceed the current 2.5 by 5 metres criteria and may exceed by twice that amount. The only option for the applicant would be to take up a badly needed parking place on the road and then use an extension across the pavement. This would break current Highways policy and possibly make the applicants liable for any trip in an area used extensively by pedestrians of all ages in daylight, but for many months of the year, also in the dark.

The applicants have the support of their neighbours(13) as well as the support of the Widcombe Association and the Bath Preservation Trust.

From a sustainable development and health and safety perspective, the application is a sensitively designed and possibly conservation enhancing proportionate application that keeps our heritage intact, sits comfortably with what else is there in the street and has the overwhelming backing of local residents and the Bath Preservation Trust.

14 no Letters of Support.

Selection of Comments;

o Modern cars are wider than they used to be and the original opening does limit the choice of vehicle that could get through the opening without damaging one or other of the door mirrors. I recognise that there is already a parking shortage in the street, and having

a slightly wider entrance will ensure that any car owned can park on-site, not just the models with small enough clearance between door mirrors. Permitting this application might potentially improve the availability of on-street parking. It certainly improves the ability to choose an electric car by including on-site an EV charging point, and this can further the council's aim to reduce polluting emissions.

o I wholeheartedly support and applaud this application - we so need to embrace the move to electric/hybrid vehicles - in particular in a road such as St Marks where parking is very limited, where it lies so close to the city and also where so many other neighbours have successfully widened their driveways to accommodate one or even two cars on their driveways. This road is also highly populated by parents dropping children at nursery or clubs - it makes so much sense for a neighbour to be able to park off the road and free up space for disabled drivers who may well seek parking at close proximity to St Marks or the many other amenities in Widcombe.

This application does in no way compromise the beautiful heritage of this road and properties within.

o I fully support this application as it supports the move to more electric cars and allows easier on-drive parking at this property, freeing up spaces in the street for residents without off-road parking. The changes will have no impact on the look and feel of the road as other driveway openings in that run are already wider.

Moving to electric cars is good for St Marks Road and the environment, there is already limited parking on St Marks Road so keeping cars on driveways is always helpful. As a neighbour we see no detriment to the heritage of our road by an increase of width to an opening already there as many have already done on St Marks Road.

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:

- CP6 - Environmental quality
- B4 - The World Heritage Site
- CP2 Sustainable Construction

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)

BaNES Draft City Centre Character Appraisal Bath (2015)

BaNES Draft Widcombe and the Kennet and Avon Canal Character Appraisal Bath Conservation Area (April 2020)

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

CONTEXT

No 31, St Mark's Road forms part of a group of 5 no. architecturally similar, semi-detached and one single detached villa that form part of the contextual street setting of a high concentration of Grade II early to mid-19th century terraced and semi-detached dwellings along St Mark's Road, culminating in the Grade II, early 19th century St Mark's Church, now St Mark's Community Centre.

The listed villa group are united by the presence of a mid-19th century boundary wall with arched tracery and rounded stone piers to the front of each one of this group. The walls are explicitly included within the building's Grade II list description as a subsidiary feature of interest, where it is stated; 'These elements are part of original design and add to the overall architectural interest.'

The wall forms a unified boundary treatment at 30 & 31 St Mark's Road whilst matching similar design examples at 28 St Mark's Road and 32 & 33 St Mark's Road. This may be

attributed to a shared design approach or architect as part of the 1860s development along the north side of St Mark's Road.

It is understood that in this case, the width of the opening to the drive belonging to No 31 is considered by the applicant to be too narrow to allow easy vehicular access. However, it does not preclude vehicular access.

The main issues here are the impact of the proposed demolition of the boundary wall on the significance of this structure, the setting and significance of the listed building and on the character and appearance of the conservation area.

BACKGROUND;

A previous application 21/04755/LBA at No 31 St Marks Road was submitted for the widening of the entrance way by 650mm. It did not include the proposed electric car charging point. This application was Refused on 8/4/2022 under delegated powers.

HERITAGE ISSUES;

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. There is also a duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the preservation or enhancement of the character of the surrounding conservation area.

Assets Significance;

This stone boundary to the front of the listed building, in original form, is unusually ornate and being intended to be complementary to the style of the Italianette villa as part of the architect's original design, is an essential part of the original composition. The piers are designed to align with and frame front entrance to the villa beyond. The front boundary wall and piers in their original form and location are, therefore, considered to be an important part of the historic survival of this group of listed buildings; contribute to its significance and make a positive contribution to the historic character and appearance of the listed building, its setting and this part of Bath's Conservation Area. As noted above, the boundary wall is specifically mentioned in the list description as an important architectural feature in its own right.

Additionally, the Council's Draft Widcombe and the Kennet and Avon Canal Character Appraisal: Bath Conservation Area (April 2020) specifically identifies the importance of traditional stone boundary walls and the positive contribution they make to character and appearance of the area: 'It is important that boundary walling is retained and maintained'.

Other elements of the area's characteristics cited within the Conservation Area Appraisal should also be taken into account in the assessment of this case;

* Garden boundary walls built of stone also add to the harmonious relationship between Bath stone buildings and their setting.

* The green character of gardens being lost to hard standings for parking cars, and/or paving, shingle, chippings replacing lawns and flower beds to minimise maintenance.

Such changes not only have a visual impact but also heighten the problem of surface water run-off surcharging the drainage systems during periods of heavy rain.

* Ongoing traffic management to reduce traffic impact, including controlling traffic volumes and the pressures of on-road/verge/pavement parking.

* There are remaining examples of traditional street furniture from the Georgian and Victorian periods. They also provide clues to urban patterns within Widcombe that have been lost, especially in Holloway, Carlton and the area between Claverton Street and the river

The historic front boundary wall is considered to be one of the only historically authentic walls still intact in this part of Widcombe and as such has a high significance in heritage terms.

In summary, in terms of significance and special interest, this Bath stone ashlar wall that runs adjacent to the road, together with the two stone piers that mark the entrance gateway, are a significant, authentic historic survival and an essential part of this historic composition of these listed buildings, their settings and the character and appearance of this part of the conservation area and City of Bath World Heritage Site.

Assessment of proposal;

Policy HE1 of the Placemaking Plan states that alterations, extensions or changes of use, or development affecting a listed structure, will be expected to have no adverse impact on those elements which contribute to its special architectural or historic interest. 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 (2021) 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 application proposes the demolition of part of the boundary wall and an entrance pier in order to improve vehicular access. A vehicle can access the driveway, but the applicants are of the view that the entrance is narrow.

The removal of the section of boundary wall, and especially the section of ornate, carved balustrade, that is proposed in order to widen the entrance by 450mm, would be unacceptably harmful and result in a loss of significant historic fabric. The demolition of part of the boundary wall and pier in order to widen the access would clearly result in this no longer being an authentic historic survival. The reconstruction of the pier as proposed would be harmful to the composition, as noted above, the piers are designed to align with and frame the front entrance to the villa beyond.

The demolition would cause harm to the listed wall, the setting of the listed building and the authenticity of this fabric and its appearance in the conservation area.

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 demolition of this part of the wall and pier would be entirely for the private gain of the applicant with no public benefits. As such, the proposal would not comply with paragraph 202 of the NPPF.

In addition, the proposed increase in width of the driveway opening could impact on the parking bays for on- road parking that currently exist to either side of the existing driveway to No 31 and lead to a loss of one on-street parking space. This has been confirmed by the Highways Officer who has, because of this, recommended refusal. This weighs further against there being any public benefit to this proposal and in fact is a public deficit.

The application mentions the proposed installation of an electric vehicle charging point (although its detail is not shown as part of the parallel planning application). There is no reason why, subject to a separate planning application which does not involve demolition of the wall and pier, this should not be supported. This cannot, therefore, form part of the public benefit argument as it could be considered as a separate element to this proposal and is not interdependent.

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. It can be noted also that there would be support for an electric vehicle charging point if a separate application for planning permission were to be submitted.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 The proposed development would cause undue harm to the listed wall, the setting of the listed building and the authenticity of this fabric and its appearance in the conservation area. 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 OS Extract 07 Apr 2022 SITE LOCATION PLAN AND BLOCK PLAN
Drawing 07 Apr 2022 EXISTING AND PROPOSED FRONT WALL ELEVATI...

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. The Local Planning Authority acknowledges the approach outlined in paragraphs 39-43 in favour of front loading and operates a pre-application advice service. Notwithstanding active encouragement for pre-application dialogue the applicant did not seek to enter into correspondence with the Local Planning Authority. The proposal was considered unacceptable for the reasons given 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.

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

4 Responding to Climate Change (Informative):

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

Item No: 05
Application No: 22/01966/FUL
Site Location: 22 Lambourn Road Keynsham Bristol Bath And North East Somerset BS31 1PR



Ward: Keynsham East **Parish:** Keynsham Town Council **LB Grade:** N/A
Ward Members: Councillor Hal McFie Councillor Andy Wait
Application Type: Full Application
Proposal: Hip to gable and dormer loft conversion, single storey rear extension and two storey side extension.
Constraints: Saltford Airfield 3km buffer, Agricultural Land Classification, Policy CP9 Affordable Housing Zones, Housing Development Boundary, Neighbourhood Plan, SSSI - Impact Risk Zones, Policy ST8 Safeguarded Airport & Aerodrome,
Applicant: Miss Diane Breuil
Expiry Date: 24th August 2022
Case Officer: Christine Moorfield
To view the case click on the link [here](#).

REPORT

The planning application is seeking permission to construct a single storey rear extension and a two storey side extension at 22 Lambourn Road, Keynsham.

This proposal is for a two storey side extension. A single storey rear extension is proposed. The side extension seeks to change the existing hipped roof to a gable end. The increased roof area accommodates an attic bedroom with the addition of a rear dormer. As submitted the proposed dormer was considered too large and it has, subsequently been reduced slightly.

The site is within the housing development boundary for Keynsham.

This application is presented to committee as Keynsham Town Council object to the proposal for the following reasons

- (i) Overdevelopment
- (ii) The incongruous design
- (iii) Loss of amenity for neighbours

The application was referred to the Chair of the Planning Committee who stated "I have reviewed this application and note the comments and objections from Keynsham Town Council. The officer has worked with the applicant to resolve some of the issues and the reduction in height of the dormer window is welcome however, it is still quite large, so I believe this application should be debated by the planning committee."

The Vice Chair stated "I have noted comments from both third party and statutory consultees including KTC objection comments. The Officer has worked with the applicant to amend the proposal and the dormer has been reduced slightly and I note there are a range of extensions in the area however I feel debate regarding the impact on the street scene should be debated in the public arena therefore I recommend the application be determined by the planning committee."

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

KEYNSHAM TOWN COUNCIL

Following amendments to the dormer the TC have commented as follows:

Keynsham Town Council object on the following grounds:

- (i) The proposal would constitute an over development of the site. The proposed development is therefore contrary to Bath and North East Somerset Council Placemaking Plan Policy D2.
- (ii) The incongruous design does not provide continuity of the street frontage and the development does not relate positively to the street scene. The proposed development is therefore contrary to Bath and North East Somerset Council Placemaking Plan Policy D3.
- (iii) The height of the property and excessive overbearing dormers will create overlooking on neighbouring properties affecting their amenity. The proposed development is therefore contrary to Bath and North East Somerset Council Placemaking Plan Policy D6.

Two letters of objection have been received

The main issues raised are as follows:

The proposal is very intrusive and overbearing.

It is set high on the existing roof, level with the apex and extending the full width of the existing property.

Visually proninant dormer and side extensions.

Alterations to roof totally change the architectural appearance of numbers 21 and 22 and is out of keeping with properties of that style in the area.

the dormer would preclude any future installation of solar panel.

We have no comments to make regarding the ground floor extension.

Proposals are inappropriate in this locality.

The dormer overlooks existing properties.

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

HIGHWAYS - Scope for revision

The existing access arrangements will not change under the proposals and as such vehicular and pedestrian access will continue to be via a private driveway access via Lambourn Road.

The proposed extension will not result in a change in the number of bedrooms available at the dwelling, however an increase of one bedroom will be achieved via an attic conversion as shown on submitted plan 0504/101B. The dwelling will therefore accommodate four bedrooms under the proposals. This means that that a minimum of three off-street parking spaces should be provided on-site in accordance with B&NES adopted standards.

Submitted drawing 0504/101B demonstrates that the existing garage will be retained which has dimensions of 2.5m x 4.8m and is therefore within the minimum dimensions to be considered to be suitable for vehicle parking. The planning application does not supply sufficient information as to the availability of other available on-site parking and therefore, DM cannot confirm that the proposals are in accordance with B&NES parking standards and as such the proposals are considered contrary to Policy ST7 of the Placemaking Plan. HDM recommends that the applicant seek to justify a deviation from B&NES parking standards using the Accessibility Assessment.

POLICIES/LEGISLATION

The National Planning Policy Framework (NPPF) is national which must be taken into account by the Council together with the related guidance given in the Planning Practice Guidance (PPG).

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:

CP6: Environmental quality

CP2: Sustainable Construction

Placemaking Plan:

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

D1: General Urban Design Principles

D2: Local Character and Distinctiveness

D3: Urban Fabric

D4: Streets and Spaces

D5: Building Design

D.6 Amenity

ST7: Transport Requirements for Managing Development

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

LOW CARBON AND SUSTAINABLE CREDENTIALS

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

OFFICER ASSESSMENT

Character and Appearance

This proposal seeks to extend the property to the side with a two storey extension. A single storey rear extension is proposed along with a rear dormer. The existing hip has been changed to a gable end. This increased roof area has been used to create an attic bedroom with the addition of a rear dormer. As submitted the proposed dormer was considered too large and it has, subsequently been reduced slightly.

It is noted that many of the surrounding semi detached properties of this age have been extended to the side the majority retaining a hipped roof form. There are several newer dwellings in the street that have gable ends and as such gable ends are not out of character with the area. It is evident that through these side extensions the character of the street has been altered and very few semi detached properties remain as a 'matching pair'. the extensions and in some cases the materials used such as render have resulted in the original character of the street as semi detached dwellings being eroded. It is also noted that to the west on Chandag Road a similar semi detached property has been extended in a similar way.

The extension is shown to be constructed of brick to match the existing with the single storey rear extension being timber clad. The roof is stated to be tiled but a condition to ensure tiles and bricks match in terms of colour is considered necessary.

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

Residential Amenity

Concerns have been raised that the proposal will result in a loss of privacy to neighbours. The introduction of a second floor in the attic has the potential to create additional overlooking of neighbouring properties. However, given the existing situation and the

length of the gardens, it is not considered that the level of overlooking as a result of this development would justify refusal of this application. Therefore, given the design, scale, massing and siting of the proposed development the proposal would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, smell, traffic or other disturbance. The proposal accords with policy D6 of the Placemaking Plan for Bath and North East Somerset (2017) and part 12 of the NPPF.

Highways

The garage driveway and access are existing. Given the garage and length of the drive it is considered that there is adequate car parking space for use in association with this proposal.

The means of access and parking arrangements are acceptable and maintain highway safety standards. The proposal accords with policy ST7 of the Placemaking Plan for Bath and North East Somerset (2017) and part 9 of the NPPF.

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.

RECOMMENDATION

PERMIT

CONDITIONS

1 Standard Time Limit (Compliance)

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

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

2 Materials (Compliance)

The materials to be used on the dormer window cheeks shall match in colour the tiles on the existing building.

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

3 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 0504.101 E dated 7/07/22 and
0504.001 dated 12/05/22

2 Condition Categories

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

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

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

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

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

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

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

3 Community Infrastructure Levy - General Note for all Development

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

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

Community Infrastructure Levy - Exemptions and Reliefs Claims

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

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

4 Civil or legal consents

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

5 Responding to Climate Change (Informative):

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

6 Permit/Consent Decision Making Statement

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