

## **COMMITTEE REPORT**

**Application No: 22/00687/REG03**

**Details of location and proposal and Relevant History:**

**Storage Yard Adjacent To Argyle Works, Lower Bristol Road, Westmoreland, Bath, Bath And North East Somerset**

The application site relates to a 0.09-hectare storage yard adjacent to Argyle Works on the Lower Bristol Road. The lawful use of the site is as a Council Highways Maintenance Depot, which is falls within a sui-generis use class.

Planning permission is sought for the erection of 8no. affordable dwellings and associated works.

The applicant for this development is Bath and North East Somerset Council. The Planning Scheme of Delegation States:

Any applications for which the Council or ADL (Aequus Developments Limited) is the applicant, involving more than two properties, will be reported to the Planning Committee unless the Chair and Vice-Chair of the Planning Committee deem them too trivial, in which case they will be dealt with under officer delegation.

The Chair and Vice Chair have had site of the Officer's Chair report and have the following comments:

Chair:

The officer has worked with the applicant to bring most of this proposal into compliance with our policies, subject to the conditions noted above. The one outstanding issue is the amount of available parking. As the applicant is B&NES, I believe this proposal should therefore be debated by the committee in a public forum.

Vice Chair:

I have looked carefully at the plans & note the modifications made to address issues raised by consultees as the application has been assessed against relevant planning policies & accessed as policy compliant as it stands.

However, as this application is on behalf of the Council, although it can be delegated for Officer decision, I recommend it is determined by the planning committee, so the process allows any issues to be debated in a public arena.

Relevant Planning History:

13/03956/FUL

PERMIT - 5 November 2013

Change of use of store room to residential flat.

**Summary of Consultation/Representations:**

Consultation Responses:

Education: No objection

Contaminated Land: No objection subject to conditions

Housing Services: No objection; fully support

Environmental Protection: No objection subject to conditions

Environmental Monitoring: No objection subject to conditions

Highways:

21st March 2022: Scope for revision

8th April 2022: Scope for revision

29th July 2022: If the application was determined today, the proposed car and cycle parking would not meet the minimum parking standards in the adopted B&NES Placemaking Plan. The applicant has demonstrated that the proposed parking standards would meet the draft Transport SPD, but at the current time highways understand this only carries very limited weight as it has not been through examination or adoption as council policy.

Ecology:

23rd March 2022: Revision to the landscape/planting scheme is required

28th May 2022: No revisions or additional information appear to have been submitted specifically to address ecology comments

5th August 2022: No objection subject to conditions

Arboriculture:

24th March 2022: Objection

30th May 2022: Objection

1st August 2022: No objection subject to conditions

Drainage and Flooding:

15th March 2022: Scope for revision

28th July 2022: Scope for revision

30th August 2022: No objection subject to conditions

Environment Agency:

30th August 2022: No objection subject to conditions

Representations Received:

One comment of support has been received:

In support of this application - important social housing to include those most in need in B&NES.

Two comments have been received and are summarised as follows:

- Site address is wrong
- House Automobile Engineers not associated with the development

Bath Preservation Trust have commented on the application and their comments are summarised as follows:

- In principle, BPT is strongly in favour of the provision of affordable housing within the city to meet high demand and address the housing crisis

- Concerns in regard to design
- Dominance of car parking; building could be pulled forward
- Lack of private outdoor amenity space
- Highly sustainable location and so less car parking could be an option
- Roadside areas of greenspace not safe for children
- Further details of stone required
- Material use unclear

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

### **Placemaking Plan:**

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

- D1: General urban design principles
- D2: Local character and distinctiveness
- D3: Urban fabric
- D5: Building design
- D6: Amenity

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

#### National Policy:

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

#### SPD's:

The City of Bath World Heritage Site Setting Supplementary Planning Document (August 2013) is also relevant in the determination of this planning application.

#### **Officer Assessment:**

The main issues to consider are:

- Principle of development
- Character and appearance
- Trees
- Ecology
- Residential amenity
- Flooding
- Contaminated land
- Highway safety and parking
- Sustainable Construction

#### PRINCIPLE OF DEVELOPMENT:

The application site relates to a 0.09-hectare storage yard adjacent to Argyle Works on the Lower Bristol Road. The lawful use of the site is as a Council Highways Maintenance Depot, which falls within a sui-generis use class.

The current Core Strategy and Placemaking Plan does not have any specific policies which would seek to restrict this use and therefore, the loss of the use is not resisted.

The erection of 8no. dwellings located within the built-up area of Bath is considered acceptable in principle, subject to the material considerations below.

#### CHARACTER AND APPEARANCE:

The application site is located on the Lower Bristol Road. This part of the Lower Bristol Road features a mix of building typologies. On the opposite side of the street is four-storey, purpose-built, student accommodation block as well as a small retail park. To the east of the site is Vernon Terrace which consists of a row of two-storey dwellings. Immediately adjacent to the west is a car garage, with a forecourt to the frontage.

Officers consider that the site is read within the context of the Vernon Terrace to the east and Argyle Terrace to the west and should therefore reflect and respect the characters of these dwellings.

The proposed dwellings will be contained within one block. The building will be two-storey, although a third floor will be located in the roof space with dormers to the front and rear. To the frontage, the building will appear terrace like, although officers note this is broken in the middle at ground floor level by the vehicular access to the car parking area. The pitched roof designed reflects the dwellinghouses to the east and west. The street section drawings show the height of the building in relation to the adjacent structures. The ridge of the roof will sit below the roof ridge of Vernon Terrace and Argyle Terrace but is significantly taller than the adjacent garage which is single storey. Officers do not consider the height and massing to be unacceptable in this location and the building is set back within the site, lessening its impact upon the street scene. Overall, officers are satisfied that the design reflects the local character and that the scale and massing is appropriate within its context.

The Bath Preservation Trust have raised that the proposal fails to accord with policy D4 in that it is dominated by car parking. Policy ST7 dictates that this scheme should provide 15 car parking spaces. 8 are being proposed, which already represents a shortfall in respect of the policy standards. The acceptability of this will be assessed in the highways and parking section of this report, but it serves to demonstrate that the amount of parking has already been reduced significantly below the required standards. In terms of the layout of the plot, the car parking area is located to the rear of the site. The BPT have noted that there is the space to push the building forward and create additional green space to the rear. However, officers consider setting the building back within the site to be appropriate in this case. This enables the front of the site to have space for sufficient green landscaping and for the existing trees to be retained and unimpeded by the development. This part of the Lower Bristol Road is dominated by hard standing and built form, with little soft landscaping. This development represents an opportunity to improve the green infrastructure along this part of the street and therefore officers consider that the siting of the car parking at the rear of the site to be appropriate in this case.

Comments in regard to materials have also been raised. There is little detail in regard to the stone which will be used to finish the majority of the front elevation of the building. It has been confirmed that this will be a natural stone and a materials schedule and samples will be secured by condition. In principle, officers have no objection to the materials proposed on the elevation drawings and consider that a condition can secure the detail. A condition will also be added to secure a schedule and samples for the proposed boundary treatments to ensure a satisfactory finish in this location.

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.

#### WORLD HERITAGE SITE:

The proposed development is within two World Heritage Sites; therefore, consideration must be given to the effect the proposal might have on the outstanding universal values of the World Heritage Sites and their setting. In this instance, due to the size, location and appearance of the proposed development it is not considered that it will result in harm to the outstanding universal values or the setting of the World Heritage Sites. The proposal accords with policy B4 of the adopted Core Strategy (2014) and Policy HE1 of the Placemaking Plan for Bath and North East Somerset (2017) and Part 16 of the NPPF.

#### ARBORICULTURAL IMPLICATIONS:

A Tree Preservation Order was made on 27th November 2020 to protect two Silver Birch growing on either side of the entrance. The trees are considered to make a significant contribution towards this main route into Bath. The scheme has been revised in response to concerns raised by the Council's Arboricultural Officer.

The final iteration of revised plans show that the building has been repositioned 2m further back into the site and away from the protected Silver Birch Trees. The position of the steps have been moved away from the base of the trees and the landscaping around them has been improved and simplified, which should improve the rooting environment. The alterations to the wall beside T1 to allow vehicular access required to address the proposed layout is noted, and it is considered that the contents of the Arboricultural Method Statement within the revised Tree Report is sufficiently detailed so that a pre-commencement condition is not required in this case.

The proposed tree planting show within the Hard and Soft Landscaping Plan is considered acceptable in principle and a detailed scheme can be secured by condition.

#### ECOLOGY:

Revised landscaping details have been submitted in response to the Ecologists comments, which now include a vegetated zone that has been extended around the boundary of the site. The landscape scheme is stated as outline with an indicative species list that is not exhaustive. As such, a detailed landscaping scheme will be secured by condition.

A number of conditions have been recommended by the Council's ecologist to secure wildlife mitigation and enhancement, the removal of Japanese Knotweed and external lighting details which will be added to any decision notice.

#### 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 building will consist of 8no. dual aspect apartments orientated north south. All of the units meet the Nationally Described Space Standards. The use of these standards is not enshrined in B&NES planning policy, however, provides an indication that the units will provide a sufficient level of amenity for future occupiers.

It has been raised by the Bath Preservation Trust that the proposal does not provide adequate communal or private outdoor amenity space. Officers note that there is little outdoor space within the site and that the space to the frontage is not particularly appealing for occupiers. However, the development is for apartments, and generally it is more accepted that such developments will not have access to outdoor space in the same way a dwellinghouse would. The nearest park (Brickfields Park) is a 6-minute walk away, with Victoria Park being 15 minutes. Given the sustainable location of the development it is considered that the lack of outdoor space on site is not a reason for refusal in this case.

The site is located close to one of the main arterial roads through Bath; the Lower Bristol Road. A Noise Assessment has been submitted to support the application and has been reviewed by the Council's Environmental Protection Team. The report advises that extra mitigation measures are required to protect future residents from Traffic Noise and such measures can be secured by condition. In addition a construction management plan will be conditioned to help protect the residential amenity of the neighbouring occupiers.

Overall, it is considered that the proposed development will result in a good level of amenity for future occupiers.

The residential amenity of the neighbouring occupiers must also be considered. The submitted site plans demonstrate that the building will be adjacent to existing built form, residential to the east and a garage to the west. This limits any potential impacts for overbearing and overshadowing.

Officers note that there will be some additional overlooking to the neighbouring properties, particularly into the garden area of the property to the rear. However, this property is already overlooked to a degree and given the high density of the residential development in this location, some overlooking is to be expected. There will not be any direct views into windows on these properties which would significantly harm the residential amenity of the neighbouring occupiers and there have been no objections from residents. Officers consider that an acceptable level of residential amenity will be maintained for neighbouring residents and as such the proposal complies with policy D6.

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.

#### DRAINAGE, FLOODING AND CONTAMINATION:

##### Sequential Test:

The site is largely located in Flood Zone 1, but a small section of the northern part of the site is within Flood Zone 2. Residential development is classified as "more vulnerable". As such, the NPPF and NPPG, as well as Core Strategy Policy CP5 conclude that residential development in these locations can be appropriate provided that it is demonstrated that there are no any sequentially preferable sites that are reasonably available in a lower flood zone - Flood Zone 1 in this case.

The NPPG dictates that the definition of an appropriate area of search should be defined by local circumstances, as should any assessment of the availability of any more sequentially preferable sites.

The applicant has presented a number of criteria against which the sequential test has been formulated. Officers have reviewed these criteria and consider them acceptable and reasonable. Based on these criteria, 35 sites were identified within the Bath Urban Area for further investigation.

Officers agree with the assessment of the identified sites. The applicant has highlighted that 2 of the sites identified do have a likelihood of coming forward for development and may, therefore, represent a sequentially preferable site. The first had a live application at the time the sequential test was drafted - 21/06677/FUL and it has been noted by the applicant that this site could be permitted. However, since this was drafted, the 21/06677/FUL has been refused and it cannot be considered a sequentially preferable site.

The second site is Avon Buildings where a prior approval application was approved for the demolition of two buildings on site which has been undertaken. The site does not have an existing consent, nor has it been marketed as a housing opportunity.

Officers consider that the sequential test has been met and is passed.

##### Other Flooding Matters:

In accordance with the NPPF and Core Policy Strategy CP5, a Flood Risk Assessment has been submitted and the Environment Agency have been consulted. They have no objection to the FRA subject to a condition securing compliance with the document and the mitigation measures being implemented. Officers consider this condition to be reasonable and necessary.

The Councils' Drainage team have requested a condition securing a detailed drainage design to ensure surface water is appropriately managed and this is considered acceptable.

Contamination and Flooding:

A Contamination report has been submitted with the application which has been assessed by the Council's Contaminated Land Officer and the Environment Agency. A limited site investigation has been undertaken, which confirms the presence of contamination, although none of this contamination appears significant.

However, the investigation is limited in scope and the assessment with regards to controlled waters is not sufficient in relation to the measured concentrations. The desk study appears to identify the possibility that Volatile Organic Compounds may be present, however no laboratory testing has taken place.

The piling works at the site also require a robust risk assessment and oversight package. The report states that the "Avon Act" is likely to apply which restricts the depth of piling to 15m. However, the Environment Agency consider that this may not be sufficiently shallow to protect any Hot Springs below the site. The Environment Agency have not recommended a condition with regards to piling and have stated that it is the assessment of B&NES Council as the relevant authority to assess how best to protect the Bath Hot Springs in relation to piling. Such a condition is considered reasonable and necessary in this case and will be added to any decision notice.

It is considered that further details in regard to contamination can be secured by condition and as such conditions securing a remediation scheme, verification report and unexpected contamination reporting will be attached to the decision notice.

Subject to these conditions being attached, the Environment Agency and Contaminated Land Officer have no objection to the scheme.

**ENVIRONMENTAL MONITORING:**

The site is located within an Air Quality Management Area. Policy PCS3 states that development will only be permitted where the proposal does not give rise to polluting emissions which have an unacceptable adverse impact on air quality, health, the natural or built environment or local amenity. The development should not be located where it is at unacceptable risk from existing sources of air pollution and any new development should be consistent with the local air quality action plan.

An Air Quality Assessment has been submitted as part of the application and the methodology is broadly acceptable. The Council's Environmental Monitoring Officer has queried whether the impact of changing the building height on the street canyon has been factored into the assessment. The applicant has confirmed that this has been factored in. Concern was also raised in regard to the emissions from the garage next door. However, this garage is a small MOT garage which is not considered likely to have a significant effect on air quality for new occupiers. There are other residential properties located in the same proximity to the garage site.

A construction management plan will be secured to control dust from construction.



## 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.

Accessibility, public transport, walking and cycling:

While the site is in a relatively accessible location, the Lower Bristol Road is not a suitable environment for most people to cycle given the number of vehicles which use this route each day. However, there is a shared used cycle route some 90m to the west of the site which gives access to the Bath and North East Somerset cycle route network. There are footways on both sides of the road which are of adequate quality, and these give access to nearby bus stops as well as other local services. The footway immediately bordering the site is only 1.4m wide and ideally this would be increased to 2m. However, it is acknowledged that this is an existing situation and there would be a negligible change in the number of trips generated by the development to justify any changes.

Trip impact and highway capacity

The trips associated with 8no. flats will be relatively insignificant compared to the volume of traffic carried by the Lower Bristol Road. The development will also result in a cessation of trips associated with the existing land use. The highway is capable of accommodating the traffic associated with the development.

Access, layout, highway safety

The existing access to the site is substandard by today's highway design guidelines and the existing pavement adjacent to the site is relatively narrow.

The proposed access modifications will deliver a betterment in terms of reducing the height of the boundary wall to improve vehicle visibility splays and reducing the width of the access, whilst maintaining adequate width for two vehicles to pass. Whilst a visibility splay of 2.4m by 43m would usually be sought, this could not be achieved without third part land and what is proposed is a significant betterment to the existing situation. As such, it is considered acceptable in this case.

Car parking, cycle parking, electric vehicle charging

The site is located in the outer zone for Bath and therefore the parking required for the dwelling under the current policy (ST7) is 15 no. car parking spaces, comprising 13 unallocated spaces and 2no. visitor spaces. 8no. spaces are being proposed which represents a shortfall of 7no. spaces against current standards.

The Placemaking Plan says that a significant reduction in the proposed parking for the prescribed standards will need to be fully justified by an accessibility assessment. An accessibility assessment was submitted and allows a 25% reduction in the number of spaces required against the current policy; therefore, 12 spaces are required representing a shortfall of 4 spaces against the current standards.

Officers note that as part of the Local Plan Partial Update, a new Transport Supplementary Planning Document is being drafted which proposes updated parking standards for car and cycle parking. This has not yet been adopted. Under the new parking standards, 9.25 spaces will be required for the development, which represents a shortfall of 1.25 spaces. The accessibility assessment score would allow for a reduction under the new standards of up to 35% which would mean that the number of car parking spaces proposed (8) would be acceptable if this SPD were adopted and whilst not adopted it is to be noted.

In regard to cycle parking, 16no. spaces are proposed and under the current policy ST7, 18no. spaces are required which represents a shortfall of 2no. space. However, if the new SPD were to be adopted the development would require between 13no. and 16no. spaces.

As such, the proposed parking does not accord with the current policy standards and in this respect, the scheme is not policy compliant. A further assessment of this is made in the planning balance section below.

#### Waste and emergency access

Waste and emergency access vehicles would access the site from the Lower Bristol Road which is acceptable.

#### Travel plan

Whilst the proposal is not of such a scale that would require a full residential travel plan, it is recommended that resident's travel packs should be issued to new occupiers, and this can be secured by condition.

#### SUSTAINABLE CONSTRUCTION AND RENEWABLE ENERGY:

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

For minor new build development, a 58.5% reduction in CO2 emissions is required by sustainable construction. In this case the submitted SCC shows that a 21% CO2 emissions reduction has been achieved from energy efficiency and/or renewables. Therefore, the proposed development is compliant with policy CP2 in this instance.

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

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

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

#### 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.

#### EQUALITIES:

Officers have had regard to the Public Sector Equality Duty. Upon reaching the recommendation, it is the officer's judgement that there are not any particular equalities impacts that would weigh in

favour of refusing the application or seeking to amend the proposals further. Officers consider that Section 149 of the Equalities Act 2010 has been met.

#### PLANNING BALANCE:

The proposal fails to accord with policy ST7 of the development plan as there is a shortfall of parking against the current adopted standards for both vehicles and cycles.

In this case, officers consider that the merits of the scheme must be balanced against the fact that a non-compliant number of parking spaces are being proposed.

The proposed units are to be located in a sustainable location, which is within walking distance of local shops, services and public transport links.

The scheme will deliver 100% affordable units on a Brownfield Site within the Bath Urban Area and this is significant. The site is heavily constrained with two TPO trees to the frontage. Officers consider that more parking could, in theory, be provided at the front of the site, but this would be to the significant detriment of the visual amenity of the area. The scheme is considered to be well designed and able to provide ecological and visual enhancements to the locality.

Studies have also shown that car ownership is generally lower for lower income households. The proposed units will be available for social-rent (the Council's preferred tenure) and will be accessed by those on lower incomes, reducing the likelihood of car ownership. The benefits of providing 8, social-rent properties within this location are considered to outweigh the harms of a lack of car parking.

It is also noted that were the application to be assessed against the new SPD (should it be adopted) it would likely be policy compliant.

Therefore, on balance, officers consider that the development should be permitted subject to conditions. It is recognized that, as the proposal is not in accordance with policy ST7, granting permission would represent a departure from the development plan. The scheme has therefore been advertised as such.

The fact the proposal is providing 100% affordable dwellinghouses weighs heavily into the planning balance and officers therefore consider that a condition securing an affordable housing scheme is reasonable and necessary to secure suitable affordable housing in perpetuity at the site. A legal agreement cannot be sought in this instance because the Council is the applicant and cannot enter into a legal agreement with itself.

#### **Recommendation:**

#### **PERMIT**

##### **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 Affordable Housing Scheme (Pre-commencement)**

Prior to the commencement of the development hereby approved, an Affordable Housing Scheme to secure 100% affordable housing shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall detail the following:

1. The affordable housing mix
2. The tenure of the affordable units
3. The allocation standards
4. The management standards

The affordable units on the site shall be permanently retained as affordable units in accordance with the submitted Affordable Housing Scheme and shall not be occupied otherwise than in accordance with that scheme.

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

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

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

1. Deliveries (including storage arrangements and timings);
2. Contractor parking;
3. Traffic management;
4. Working hours;
5. Site opening times;
6. Wheel wash facilities;
7. Site compound arrangements;
8. Measures for the control of dust
9. Temporary arrangements for householder refuse and recycling collection during construction.
10. The sound power levels of the equipment, their location, and proposed mitigation methods to protect residents from noise and dust

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

Reason: To ensure that safe operation of the highway and in the interests of protecting residential amenity in accordance with policies D6, PCS3 and ST7 of the Bath and North East Somerset Placemaking Plan. This is a pre-commencement condition because any initial construction or demolition works could have a detrimental impact upon highways safety and/or residential amenity.

### **4 Dust Control (Pre-commencement)**

No development shall commence until a Construction Dust Environmental Management Plan for all works of construction and demolition has been submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall comply with the guidance the BRE Code of Practice on the control of dust from construction and demolition activities. The development shall thereafter be carried out in accordance with the approved details.

Reason: To protect the amenities of the occupants of adjacent residential properties in accordance with Policies D6 and PCS3 of the Bath and North East Somerset Placemaking Plan. This condition is a precedent because the construction activities have the potential to harm the neighbouring occupiers.

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

No development shall commence, except for ground investigations and demolition required to undertake such investigations, until a detailed remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by the Local Planning Authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:
  - i) All previous uses
  - ii) Potential contaminants associated with those uses
  - iii) A conceptual model of the site indicating sources, pathways and receptors
  - iv) Potentially unacceptable risks arising from the contamination of the site
2. A site investigation scheme, based on the findings of (1) above to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site
3. The results of the site investigation and the detail risk assessment referred to in (2) and based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action

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

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

Reason: To protect the water environment and to ensure that the development does not contribute to and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework. This is a pre-commencement condition because the initial works comprising the development have the potential to uncover harmful contamination.

#### **6 Japanese Knotweed Eradication (Pre-commencement)**

Prior to the commencement of works, excavations, or vegetation clearance on site full details of a scheme and a method statement for the eradication of Japanese Knotweed shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be in accordance with current best practice guidelines and legislation and shall include details of timescales, methodology, personnel, long term monitoring and remediation measures. The approved scheme shall thereafter be implemented in accordance with approved details and timescales.

Reason: to prevent the spread of Japanese Knotweed from the site and to eliminate it to avoid future risk of its spread or harm to property and ecology. 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.

#### **7 Detailed Drainage Design (Pre-commencement)**

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

Reason: To ensure that an appropriate method of surface water drainage is installed and in the interests of flood risk management in accordance with Policy CP5 of the Bath and North East Somerset Core Strategy and Policy SU1 of the Bath and North East Somerset Placemaking Plan. This is a condition precedent because it is necessary to ensure that a suitable drainage scheme is agreed and installed prior to the building being constructed.

### **8 Piling controls (Bespoke Trigger)**

No piling or other penetrative founding methods are permitted unless details have first been submitted to and approved in writing by the Local Planning Authority. Any proposals for foundation methods that interconnect/span different ground strata and geology must be supported by an assessment of the risks to controlled waters. The development shall thereafter be carried out in accordance with the approved details.

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

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

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

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

Soft landscape details shall include:

1. Planting plans
2. Written specifications (including cultivation and other operations associated with plant and grass establishment)
3. Schedules of plants, noting species, planting sizes and proposed numbers / densities
4. All ecological measures and planting /habitat provision as described in the ecological report

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

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

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

Any trees or plants indicated on the approved scheme which, within a period of 10 years from the date of the development being completed, die, are removed, or become seriously damaged or diseased shall be replaced during the current or first available planting season with other trees or plants of species, size and number as originally approved unless the Local Planning Authority

gives its written consent to any variation. All hard and soft landscape works shall be retained in accordance with the approved details for the lifetime of the development.

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

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

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

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

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

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

#### **12 Boundary Treatment Submission of Schedule and Samples (Bespoke Trigger)**

No construction of the boundary treatments shall commence until a schedule of materials for the boundary treatments, including the front boundary walls has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include:

1. Detailed specification of the proposed materials (Type, size, colour, brand, quarry location, etc.)
2. Photographs of all of the proposed materials;
3. An annotated drawing showing the parts of the development using each material.
4. A sample panel of the front boundary wall showing the re-construction

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

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

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

No occupation shall commence until a verification report that demonstrates the completion of the works set out in the approved remediation strategy and the effectiveness of the remediation carried out has been submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To ensure that the site does not pose any further risk to the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete in accordance with policy PCS5 of the Bath and North East Somerset Placemaking Plan and chapter 15 of the National Planning Policy Framework.

#### **14 Compliance (Bespoke Trigger)**

No development or other operations shall take place except in complete accordance with the approved Arboricultural Method Statement (Ethos Environmental Planning July 2022). A signed compliance statement shall be provided by the appointed Arboriculturalist to the Local Planning

Authority within 28 days of completion and prior to the first occupation of the buildings.

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

#### **15 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 ecological measures and recommendations of the approved Ecological Assessment in accordance with approved details, has been submitted to and approved in writing by the Local Planning Authority.

Reason: To demonstrate compliance with the ecological mitigation and compensation measures, 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.

#### **16 Indoor Acoustic Insulation (Pre-occupation)**

Prior to the occupation of any of the dwelling units hereby approved, an assessment from a competent person(s) shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the development has been constructed to provide sound attenuation against external noise in accordance with BS8233:2014. The following levels must be demonstrated to have been achieved:

1. Maximum internal noise levels of 35dBLAeq,16hr and 30dBLAeq,8hr for living rooms and bedrooms during the daytime and night time respectively;
2. For bedrooms at night individual noise events (measured with F timeweighting) shall not (normally) exceed 45dBLAmax.

Reason: To protect the residential amenity of occupiers in accordance with policy PCS2 of the Bath and North East Somerset Placemaking Plan.

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

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

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

#### **18 Wildlife Mitigation Scheme (Compliance)**

The development hereby approved shall be carried out only in accordance with Section 8 of the Ecological Assessment by Ethos Ltd dated November 2021. All such measures shall be adhered to retained and maintained thereafter for the purpose of wildlife conservation.

Reason: to avoid harm to ecology including protected species and to avoid net loss of biodiversity.



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

No new external lighting shall be installed until full details of the proposed lighting design have been submitted to and approved in writing by the Local Planning Authority. These details shall include:

1. Lamp models and manufacturer's specifications, positions, numbers and heights;
2. Predicted lux levels and light spill;
3. Measures to limit use of lights when not required, to prevent upward light spill and to prevent light spill onto nearby vegetation and adjacent land.

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

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

### **20 Infiltration Drainage (Bespoke Trigger)**

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

Reason

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

### **21 Parking (Compliance)**

The areas allocated for vehicle and cycle parking and turning on drawing number ARG-AHR-ZZ-00-DR-A-90-001 P14; shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.

Reason: To ensure sufficient parking and turning areas are retained at all times in the interests of amenity and highways safety in accordance with policies D6 and ST7 of the Bath and North East Somerset Placemaking Plan.

### **22 Plans List (Compliance)**

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

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

### **PLANS LIST:**

This decision relates to the following plans:

ARG-AHR-BA-00-DR-A-20-000 P9. Apartment Plans- Sheet 1. Received 19th July 2022  
ARG-AHR-BA-02-DR-A-20-000 P8. Apartment Plans- Sheet 2. Received 19th July 2022  
ARG-AHR-BA-ZZ-DR-A-20-150 P7. Block A- Elevations- Sheet 1. Received 19th July 2022  
ARG-AHR-BA-ZZ-DR-A-20-151 P7. Block A- Elevations- Sheet 2. Received 19th July 2022  
ARG-AHR-BA-ZZ-DR-A-20-200 P3. Block Sections. Received 19th July 2022  
ARG-AHR-ZZ-00-DR-A-90-001 P14. Site Plan - Ground Floor. Received 19th July 2022  
ARG-AHR-ZZ-01-DR-A-90-001 P4. Site Plan - First Floor. Received 19th July 2022  
ARG-AHR-ZZ-02-DR-A-90-001 P4. Site Plan - Second Floor. Received 19th July 2022  
ARG-AHR-ZZ-05-DR-A-90-001 P3. Site Plan - Roof. Received 19th July 2022

Tree Protection Plan. Received 12th May 2022

## **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.

### **Condition Categories**

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

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

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

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

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

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

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

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

**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.

**Case Officer:**

Isabel Daone

**Authorising Officer:**

Sarah James