

# Bath & North East Somerset Council

MEETING: **Planning Committee**

MEETING DATE: **16th November 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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## REPORT OF THE HEAD OF PLANNING ON APPLICATIONS FOR DEVELOPMENT

**Item No:** 01  
**Application No:** 21/05471/OUT  
**Site Location:** Parcel 5159 Minsmere Road Keynsham Bath And North East Somerset



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

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

**Application Type:** Outline Application

**Proposal:** Outline planning application for 70 homes (Use Class C3); new vehicular and pedestrian access on to Minsmere Road, public open space; tree planting and habitat creation; site drainage and associated infrastructure, with all matters reserved except for access.

**Constraints:** Saltford Airfield 3km buffer, Agric Land Class 1,2,3a, Agric Land Class 3b,4,5, Policy CP8 Green Belt, Policy CP9 Affordable Housing Zones, Housing Development Boundary, Policy KEB3 Safeguarded Land East Keynsh, Policy LCR5 Safeguarded existg sport & R, Policy LR6A Local Green Spaces, LLFA - Flood Risk Management, MOD Safeguarded Areas, Policy NE2A Landscapes and the green set, Policy NE3 Local Nature Reserve, Policy NE5 Ecological Networks, Placemaking Plan Allocated Sites, All Public Rights of Way Records, SSSI - Impact Risk Zones, Policy ST8 Safeguarded Airport & Aerodro,

**Applicant:** Taylor Wimpey UK Ltd

**Expiry Date:** 18th November 2022

**Case Officer:** Chris Griggs-Trevarthen

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

## **REPORT**

### **REASONS FOR REPORTING TO COMMITTEE**

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

Chair, Cllr. Sue Craig

"I have reviewed this application and note the comments from all parties. The officer has worked with the applicant to bring aspects of the proposal into line with current policies however, it does still signify a departure from the current development plan. It is the officer's view that material considerations exist to justify that departure, and these are outlined in the officer's report, however, I believe that these warrant debate in the public forum of the planning committee."

Vice Chair, Cllr. Sally Davis

"The Officer has assessed the application and amended details against relevant planning policies as the report explains and considers it should be permitted subject to conditions and legal agreement."

This application is clearly controversial, and I believe would benefit from debate in the public arena so all views and the impact of a decision on this site are considered by the planning committee."

UPDATE: The application was deferred at the 19th October 2022 committee to request officers seek further on-site ecology improvements and biodiversity net gain (BNG) and to seek more clarity over the triggers for the agreed financial contributions.

As a result of negotiations, the applicant has agreed to the inclusion of the following additional ecological features:

Five new bird boxes (on top of the 35 x bat/bird boxes already agreed);

Inclusion of bee bricks on surrounding trees;

Inclusion of insect hotels; and

Three information/interpretation boards, this should highlight the ecological sensitives of Manor Road Community Woodland.

Additional on-site BNG has also been sought and the applicant has agreed additional improvements in habitat quality which would be suitable on-site with the Council's ecologist. The proposals therefore increase the amount on-site BNG, but also retain all of the previously proposed off-site BNG such that there would be a 12.57% net gain against the emerging policy target of 10%.

### **DESCRIPTION**

The application site comprises approximately 3.31 hectares comprising agricultural fields east of Minsmere Road to the eastern edge of Keynsham. The site is irregular in shape and is bounded to the north by recent Crest Nicholson/Curo development 'Hygge Park';

Minsmere Road and associated existing residential development that forms the existing settlement edge to the west; and Manor Road Community Woodland Local Nature Reserve (LNR) and the Bristol/Bath Green Belt to the east. To the south the site is bounded by agricultural land that borders Manor Road.

The site is designated as safeguarded land under Placemaking Plan (PMP) policy KE3B - Safeguarded Land East Keynsham. It is classified as grade 3b agricultural land and currently falls outside of the housing development boundary for Keynsham.

The application seeks outline planning permission for 70 homes (Use Class C3); new vehicular and pedestrian access on to Minsmere Road, public open space; tree planting and habitat creation; site drainage and associated infrastructure, with all matters reserved except for access.

The application is a resubmission of a previous outline application which was submitted in 2018 but then subsequently withdrawn.

## **PLANNING HISTORY**

A previous application on this site was withdrawn in 2018. Details below.

Application reference 18/02899/OUT

Outline planning permission with all matters reserved other than access for the construction of up to 80 no. dwellings, new vehicular and pedestrian access on to Minsmere Road, drainage, public open space and all associated infrastructure.

APPLICATION WITHDRAWN 16th November 2018

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

Application reference 16/00850/OUT (Hygge Park)

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

PERMITTED 4th October 2017

The Council has also recently considered an application on safeguarded land to the north-east on land to the south of the A4, Withies Green (Emerging policy allocation KE3c). Details below.

20/02673/OUT

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

RESOLUTION TO GRANT - PENDING S106 AGREEMENT 4th May 2022

## **ENVIRONMENTAL IMPACT ASSESSMENT**

The proposed development represents an urban development project under schedule 2 of Environmental Impact Assessment Regulations 2017. However, the overall area of the development does not exceed 5 hectares and the development does not include more than 150 dwellings and therefore does not meet the threshold or criteria for screening. Furthermore, the site is not located within a sensitive area, as defined by the regulations. The proposals are therefore not EIA development.

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

**ECOLOGY:** No objection, subject to conditions

**PARKS AND OPEN SPACES:** No objection, subject to obligations/contributions

**LANDSCAPE:** No objection, subject to conditions

**HIGHWAYS:** Objection

The Transport Technical Note 01 satisfies several issues raised in the initial highway's response. However, a number of fundamental issues remain as detailed .

In summary these are:

1. Agreement that the applicant will either deliver or provide a financial contribution through a S106 agreement towards measures number 2 and 6 of the Keynsham Safeguarded Land Sustainable Travel Strategy:

Measures 2: Enhanced local town centre bus service connecting the development site with the town more widely and providing an opportunity to interchange with mass transit services in the future. It has been assumed that these services would be able to access development sites in this area and consideration should be given to the introduction of modal filters to allow services to access the development from the west via the Chandag Estate to enable more efficient servicing of East Keynsham.

Measure 6: Liveable neighbourhood interventions within the Chandag Estates to produce conditions suitable for mixed traffic cycling on key streets.

2. Improvements identified to local bus stops.

3. The ability to deliver the essential pedestrian and cycle connections required to make a sustainable development.

4. Drawing 2001-040-SK01-C with waiting restrictions or swept path analysis.

Officer note: The applicant has now agreed to the requested financial contributions and bus stop improvements. The pedestrian and cycle connections are discussed further in the highways section of the officer assessment below.

**URBAN DESIGN:** Scope for revision

In the event that outline permission were to be given, it is recommended that in addition to being tied to the parameters plans it should also include a commitment to fulfil the stated vision and goals as set out in the Design and Access Statement pp 38-39 in order to provide confidence that the requirements of Policies D1, D2, D3 and D4 will be satisfied as the scheme progresses.

CONTAMINATED LAND: No objection, subject to conditions

HOUSING: No objection, subject to obligations/conditions

ENVIRONMENTAL PROTECTION: No objection, subject to conditions

PUBLIC RIGHTS OF WAY: No objection, subject to conditions

DRAINAGE AND FLOOD RISK: No objection, subject to conditions

ARCHAEOLOGY: No objection, subject to conditions

AVON AND SOMERSET POLICE: No objection, subject to comments

It is difficult to give crime prevention advice at such an early stage in the planning process but I am pleased to note that crime prevention is mentioned. Having viewed the information as submitted I find the design to be in order and look forward to seeing more detailed plans and, in due course, an application for Secured by Design.

ARBORICULTURE: Objection

The proposed access impacts on the future of an offsite maple which provides amenity and the indicative development indicates that insufficient space has been provided to buffer the Manor Road Community Woodland from harm.

The site is included within the West of England Nature Partnership Nature Recovery Network map as part of the woodland strategic network so I question the principle of development on this site.

There is reasonable risk of unacceptable harm to trees and woodland of wildlife, landscape, historic, amenity, productive or cultural value so the proposal is not considered to comply with policies NE.1 and NE.6.

NATURAL ENGLAND: No objection

KEYNSHAM TOWN COUNCIL: Objection

1. Initially, Keynsham Town Council reiterate their strong objects to the outline application 18/02899/OUT - Parcel 5159 Minsmere Road in that the B&NES Core Strategy document clearly establishes the strategic policy framework for how the Local Authority will manage the development and use of land up to 2029. Policy KE3b Safeguarded Land at East Keynsham states that land associated to this outline application is removed from the Green Belt and safeguarded for possible development unit 2026. However, the safeguarded land is not allocated for development at the present time and Policy CP8 will

apply. In any event no planning permission should be considered for safeguarded Green Belt land before the Local Plan Partial Update (LPPU) Public Examination outcome has been determined. There are no exceptional circumstances to bring this forward and it is not for developers to pre-empt LPA decisions on Local Plans for where and when new housing should be built in an LPA area. Also, Keynsham Town Council have constantly made a stance that infrastructure to support any future development in Keynsham should be in place before any further development be granted which is not the case in this instance.

2. Policy CP8 states that openness of the Green Belt will be protected from inappropriate development in accordance with national planning policy. This planning application contravenes the Prime Minister public statement on 6th October 2021 that new homes should be built on brown field sites where homes make sense, not green field sites. That statement by the Prime Minister was: "you can also see how much room there is to build the homes that young families need in this country. Not on green fields, not just jammed in the South East, but beautiful homes on brown field sites in places where homes make sense." Keynsham Town Council therefore asks Bath and North East Somerset Council to respect national planning policy for where new homes are located as re-emphasised by the Prime Minister and stop the continual over-development of Keynsham and therefore refuse outline planning permission.

3. Keynsham Town Council have serious concerns in respect of this cul-de-sac development. The proposal of only one access onto this site, even if there is a proposal to widen this section of Minsmere Road will be detrimental to the area which already has to manage issues associated with an already busy through road with limited good sufficient and regular public transport alternatives to personal vehicle use. Keynsham and the surrounding area's insufficient transport infrastructure needs to be improved before any further new housing developments of this scale are permitted.

4. Keynsham's road infrastructure has been highly stressed for numerous years, exacerbating air pollution and unacceptable congestion levels. This has been somewhat alleviated by COVID restrictions in the short term but of course this may not continue on in the future. All future large developments outside of those currently passed by Bath and North East Somerset Council should be halted until a full traffic study has determined:

- (i) the full impact of external regional development on Keynsham's external transport connections.
- (ii) the full impact of current permitted development within Keynsham Town Council area on its transport connectivity.
- (iii) realistic "post Covid" traffic flows.

In addition, no further schemes of 10 or more dwellings in Keynsham should be given outline approval until the results of the 2021 Census have been officially published and assessed. It is unlikely that all the above data and study results would be available before 2026.

Keynsham's overdevelopment, especially in the Keynsham East area (with proposals for further extensive development in Keynsham North) is already causing regular traffic gridlock on the town's main and side roads during commuting hours, which will only be exacerbated by this proposed development without serious up front infrastructure improvements to alleviate this issue.



5. There is considerable concern as to the potential impact on the adjacent Manor Road Community Woodland which has won awards for being an Outstanding Conservation Area in The South West in Bloom competition. In the Environmental Assessment produced by Tyler Grange the statement in respect of the achievement of a biodiversity net gain of 10% is considered as unachievable by Keynsham Town Council. The document refers to this being achieved through an off-site option. This applicant's nearest development at Somerdale in Keynsham has its own Landscape and Ecology Plan and to date the biodiversity works associated with this plan has yet to be included hence the 10% will need to be achieved elsewhere. This needs to be clearly stated before any works can commence.

6. The concerns raised by the Friends of Manor Road Woodland Group need to be addressed seriously.

7. Keynsham Town Council are also of the opinion that new housing developments should incorporate provision of large open green spaces/new public parks, not just small, grassed areas with a few trees. This would help ensure existing green spaces such as those along the River Avon valley and nearby Woodland are not inundated with high numbers of visitors including daytrippers, disrupting, or destroying wildlife habitat in the process.

The application is therefore contrary to Bath and North East Somerset Placemaking Policies CP8, GB1 (adverse impact on the Green Belt), D6 (significant harm to the amenities of existing nearby residents and proposed occupiers in respect of traffic issues, damage to flora and fauna) and ST7 (no provision made for improvements to the transport system required to render the proposal acceptable).

In conclusion, this application is totally premature and badly timed. The proposed development site is also located in an environmentally sensitive area (Site of Special Scientific Interest) and is poorly located for sustainable travel and therefore, is directly in breach of Bath and North East Somerset Council's declarations of climate and ecological emergencies.

#### SALTFORD PARISH COUNCIL: Objection

Saltford Parish Council objected to planning application 18/02899/OUT which was subsequently withdrawn by the applicant and the case for the Parish Council's objection still stands, i.e. existing traffic congestion confirmed by the B&NES Senior Highways Development Control Engineer's objection, no exceptional circumstances to justify bringing this forward before Core Strategy developments and the necessary local infrastructure improvements have been implemented, etc.

This planning application contravenes the Prime Minister's public statement on 6th October 2021 that new homes should be built on brown field sites where homes make sense, not green field sites. That statement by the Prime Minister was: "you can also see how much room there is to build the homes that young families need in this country. Not on green fields, not just jammed in the South East, but beautiful homes on brown field sites in places where homes make sense." Saltford Parish Council therefore asks B&NES Council to respect national planning policy for where new homes are located as re-

emphasised by the Prime Minister and stop the continual over-development of Keynsham and therefore refuse outline planning permission.

The over-development of Keynsham is already causing regular gridlock to traffic within the town's main and side roads over prolonged periods of the working/commuting day that overflows through Saltford on the Bath Road (A4) and the country lanes between our two communities. That problem of insufficient road capacity needs to be rectified before any further new housing developments are considered at Keynsham East or Keynsham and the surrounding area.

In any event no planning permission should be considered for safeguarded Green Belt land before the Local Plan Partial Update (LPPU) Public Examination outcome has been determined. There are no exceptional circumstances to bring this forward and it is not for developers to pre-empt LPA decisions on Local Plans for where and when new housing should be built in an LPA area.

B&NES Council will be aware that Saltford Parish Council, in its response to the draft LPPU consultation, asked that a sub-regional "ecological recovery and development land trade" approach be considered for the West of England area so that new housing developments are built in the right locations with low carbon transport infrastructure on previously developed brownfield sites and the biodiversity improvements are created elsewhere in those LPAs like B&NES Council that are short of brownfield sites but have green field sites suitable for ecological recovery and protecting food security etc. The Minister of State for Housing welcomed such an approach in his letter dated 10.12.2021 to Rt Hon. Jacob Rees-Mogg MP.

To enable unsustainable development planning applications to be rejected at an earlier stage, Saltford Parish Council asks B&NES Council to use its discussions with WECA on a sub-regional approach to ecological recovery, i.e., via a system of ecological recovery and development land trading, as a matter of urgency. This will enable the West of England to meet housing need (not demand) in places where homes make sense.

New public parks, not just small, grassed areas with a few trees, should accompany and be located in the immediate vicinity of new housing developments. This would help ensure existing green spaces such as those along the River Avon valley are not inundated with high numbers of visitors including day-trippers on hot weather weekends, disrupting or destroying wildlife habitat in the process; this has increasingly been the experience of recent years.

Saltford Parish Council asks that this application be determined by the B&NES Council Planning Committee as it is:

(a) an unnecessary second attempt to override the B&NES Local Plan before it has been updated that if permitted would call into question the legitimacy of B&NES Council's local planning consultation process (as described in (d) below) and would also directly contravene national planning policy as re-iterated by the Prime Minister in October 2021;

(b) Keynsham and the surrounding area's insufficient transport infrastructure needs to be improved before any further new housing developments of this scale are permitted;

(c) Keynsham lacks sufficient green space for both (i) ecological/wildlife recovery and (ii) recreation, as a result of new developments in recent years; and

(d) B&NES Council should not pre-empt the Inspector's findings on the forthcoming public examination of the proposed LPPU for this parcel of land by permitting this application. Such a decision would call into question the legitimacy of B&NES Council's local planning process, particularly on a controversial development like this that has gained widespread opposition from the local community during the LPPU consultation and the previous planning application for this site (18/02899/OUT).

#### COUNCILLOR ANDY WAIT: Objection

This is currently Safeguarded land and therefore cannot be built on. Also, it is over development and the 17% ecology uplift has not been identified.

#### SALTFORD ENVIRONMENT GROUP: Objection

Saltford Environment Group objected to the previous planning application for this site, 18/02899/OUT, as other new developments in the Core Strategy followed by identification of a genuine need for further housing had not been completed whilst new or enhanced infrastructure (especially transport) was not already in place and found to be coping with the recent newly created demands placed on it. That situation as described in 2018 remains whilst traffic congestion in Keynsham and the surrounding area has continued to worsen considerably.

The Prime Minister publicly stated on 6th October 2021 that new homes should be built on brown field sites where homes make sense, not green field sites. He said: "you can also see how much room there is to build the homes that young families need in this country. Not on green fields, not just jammed in the South East, but beautiful homes on brown field sites in places where homes make sense." Furthermore, CPRE's recent report "Recycling our land: the state of brownfield report, 2021" found that previously developed land could accommodate over 1.3 million new homes in England - an increase of almost 10% on 2020.

SEG therefore asks B&NES Council to adhere to Government planning policy as explained by the Prime Minister and refuse this planning application. B&NES Council should negotiate with WECA on a sub-regional approach to ecological recovery, i.e., via ecological recovery and development land trading, an approach recently welcomed by the Minister of State for Housing in his letter to Jacob Rees-Mogg MP of 10th December 2021. This will enable the West of England to meet housing need (not demand) in places where homes make sense, as identified by CPRE, whilst protecting biodiversity and the green fields and Green Belt land in the West of England for ecological recovery and protecting food security etc.

The UK is one of the world's most nature-depleted countries being in the bottom 10% globally and last among the G7 group of nations, with an average of just 53% of its native wildlife intact (source: Natural History Museum's Biodiversity Trends Explorer report, October 2021). It is essential therefore to meet new housing need where it makes sense

on brown field sites whilst protecting from development existing green field and Green Belt land to optimise that land for ecological recovery to help reverse the catastrophic losses of the UK's native wildlife. That would be a positive response to the ecological emergency from the West of England and B&NES Council; any further destruction of existing and potential wildlife habitats is not sustainable development.

SEG agrees with the comments from Saltford Parish Council in its response to this planning application that new public parks, not just small, grassed areas with a few trees, should accompany and be located in the immediate vicinity of new housing developments. This would help ensure existing green spaces such as those along the River Avon valley are not inundated with high numbers of visitors including day-trippers exceeding the visitor capacity of those locations on hot weather weekends and disrupting or destroying wildlife habitat in the process; this has increasingly been the experience of recent years.

In summary, Keynsham and the surrounding area's woefully inadequate transport infrastructure needs to be improved and Keynsham already lacks sufficient green space for both ecological/wildlife recovery (a local and national priority) and for recreation, as a result of new developments in recent years.

There are no exceptional circumstances to justify this proposed inappropriate development. SEG also agrees with Saltford Parish Council's observation that B&NES Council should not pre-empt the Inspector's findings on the forthcoming public examination of the proposed LPPU for this and other parcels of land in Keynsham by permitting this application. Such a decision would call into question the legitimacy of B&NES Council's local planning process, particularly on a controversial development like this that has gained widespread opposition from the local community during the LPPU consultation and the previous planning application for this site (18/02899/OUT).

#### CPRE AVON AND BRISTOL: Objection

The Campaign for the Protection of Rural England (CPRE) wishes to object to this application. We objected to the previous application 18/02899/OUT for the same parcel of land which was withdrawn. (Please see our letter of 7th August 2018.) These objections concerned the loss of important Green Belt separating Keynsham and Saltford and the increase in car traffic from the housing. We pointed out the severe congestion in the area at peak times which will no doubt rise further once the pandemic is over as a result of the completion of more new houses nearby. We also pointed out the inadequacies of the applicant's transport assessment which did not seem to bear any relation to the experiences of local residents or the actual public transport arrangements. Since that time public transport services have been cut further. The local 178 bus service, which has ceased to serve Minsmere Road for several years, was threatened with cancellation and has received what may only be a temporary reprieve.

We fully endorse the comments made by Saltford Parish Council and Saltford Environmental Group. In particular the loss of the Green Belt and the need to delay major housing developments in the area until further improvements to the transport corridor are agreed, funded and constructed. This is unlikely for many years.

We have concerns that the Council may be minded to approve this application in advance of the examination of the revised Local Plan because it is mentioned as being removed

from its Safeguarded state. During the consultation period we raised in our letter of 16th February 2021 specific comments about the calculation in the draft revision of the housing numbers required. In particular we pointed out that the calculation method should have taken account of the considerable slack in the existing numbers and the success in meeting those targets plus the decision to use a non-standard method and the failure to use the allowance permitted to take account of the existence in our area of the Area of Outstanding Natural Beauty and Green Belt. Furthermore since these calculations were made the Government as made it clear that priority should be given to brownfield sites in preference to greenfield sites such as this. The Council has declared a Climate Emergency and is introducing elsewhere measures to reduce car usage and the resulting pollution. There must also be queries over the population estimates used. This is because of the reduction of life expectancy as a result of the Covid pandemic and other factors as well as the effects on migration of this and the so called "Brexit exodus".

In summary we consider that this application should be refused, or at least a decision delayed, until after the examination of the revised Local Plan

### THIRD PARTIES/NEIGHBOURS:

A total of 259 OBJECTION comments were received. The main issues raised were:

Many of the comments incorrectly referred to the land as Green Belt or referred to the fact that it was previously Green Belt Land. There was significant concern about the loss of another field and the potential coalescence of Keynsham and Salford resulting in a loss of identity for both settlements. There was also concern about harm to openness.

Most of the comments were concerned with the loss of a green field which is a well used open space for the community. It was suggested that it has been used by the community for recreation (walkers, dog walkers, etc.) for at least 45 years and that the development would result in the loss of a peaceful, calm and tranquil space. Loss of access to green spaces was also cited as a concern as it was considered important for good mental health.

Several comments felt that brownfield sites should be built on first rather than greenfield sites, citing similar comments made from the former Prime Minister.

Many comments were concerned about the impacts of the development upon congestion in the local road network. It was suggested that there was already too much traffic (including rat running) and on-street parking within the Chandag Estates and that the roads were not suitable for any increase in traffic. The proximity to existing schools was noted alongside the vulnerability of pedestrians and other highways users in this area (older people, children, dog walkers, horse riders, etc.). It was felt that proposals would increase congestion on the busy A4 Bath Road and within the town centre resulting in gridlock. It was suggested that the modal shift assumptions in the application were too optimistic and that new occupiers will inevitably drive cars. There was also criticisms of the submitted travel plan and transport assessment.

The comments suggested that the proposed road access to the site is very limited, would create a bottleneck, and would conflict with delivery/other vehicles reversing from Deveron

Grove and other nearby streets. The on-street parking along Minsmere Road was suggested as making this access too tight and that this was exasperated by insufficient parking in the surrounding area. It was also suggested that the proposals had poor access for emergency vehicle having only a single access point.

Several felt that no more housing was required and that the Council's past performance against housing targets demonstrated this. It was suggested that the proposed housing would be unaffordable for local people.

It was suggested that part of the access was proposed of communal land maintained at the expense of Colne Green residents and that developers were not contributing towards this.

There were significant concerns about the disruption caused during any construction including noise, dust, pollution and litter. It was suggested that nearby roads were not suitable for construction traffic and the operations would leave mud and spoil along the roads.

A large number of the comments indicates that there is insufficient infrastructure to cope with more housing in this area. Reference was made to poor public transport services, difficulty getting GP or dentist appointments, issues with sewage, lack of school places and lack of shops and services. It was suggested that development is unsustainable unless the infrastructure is put in first.

There were several criticisms of the green infrastructure and tree planting proposals which many considered inadequate. There was detailed criticism of the submitted ecology report, claiming there was a lack of a rationale for not testing for Great Crested Newts and that the proposed lighting scheme was inadequate. Many felt that the proposals would adversely affect wildlife with reference being made to eels, owls, foxes, birds, badgers, bats, woodpeckers, ducks, rabbits, squirrels, etc. all utilising the site.

There were also criticisms of the biodiversity net gain proposals. It was felt that provision of off-site BNG at Somerdale would not benefit the wildlife adversely affected on this site. The baseline of the land to be improved was queried, with some pointing out that the land should already be being maintained by Taylor Wimpey. There were also concerns about potential tree losses associated with the development.

There was concern that new housing would place more pressure on the Manor Road Community Woodland Local Nature Reserve (LNR) due to increased footfall. It was noted that recent developments had already resulted in erosion of footpaths and more vegetation getting trodden on.

There was some concern about the appearance of the development, with one comment considering town houses and flats to be out of keeping with the area. It was considered that development of housing would result in the loss of an attractive meadow and detract from the rural setting of Keynsham.

Comments were concerned about noise, mess and pollution associated with new development. In particular, it was noted that the proposals could impact upon the Air Quality Management Areas in Saltford and Keynsham.

Several pointed out that the land is currently safeguarded and is not supposed to be brought forward for development until after the local plan has been reviewed. They therefore described the proposals as premature and suggested that the outcome of the Local Plan Partial Update should be awaited. It was also suggested that priorities have changed since the land was safeguarded and that it shouldn't now be brought forward for development.

It was asserted that there were issues with surface water flooding on the site, with several commenting that the field is often flooded during heavy rain. Reference was made to a natural spring on the site which may be affected by the proposals.

Some concerns were raised about consultation undertaken for older and more vulnerable residents in the area.

It was suggested that the proposals were contrary to the Climate Emergency and Ecological Emergency declarations as they would result in a loss of green space, an increased carbon emissions and loss of wildlife.

There were also concerns about the potential for the proposals to result in an increase in crime levels.

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

The comments expressed general support. One suggested that it is important that infrastructure is considered, but that on balance the proposal provides more much needed new homes.

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

Concern about strain being put on infrastructure and traffic generated by new housing. It is suggested that there are not enough planned amenities to support existing families and that more housing will add to these problems.

Comments suggest that green spaces should be preserved as they play a role in supporting mental wellbeing in an already stressful and increasingly busy Keynsham.

There is concern about the potential impact upon the adjacent Manor Road Community Woodland. A number of criticisms and queries about the Environmental Assessment submitted with the application area raised in relation to the woodland. It is noted that the existing footpaths are in a poor condition. There is concern about impacts on the water table, biodiversity net gain, TPO trees and ecological mitigation proposals.

## **POLICIES/LEGISLATION**

The Development Plan for Bath and North East Somerset comprises:

- o Bath & North East Somerset Core Strategy (July 2014)
- o Bath & North East Somerset Placemaking Plan (July 2017)
- o West of England Joint Waste Core Strategy (2011)

- o Bath & North East Somerset saved Local Plan policies (2007) not replaced by the Core Strategy or the Placemaking Plan

## **CORE STRATEGY**

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

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

## **PLACEMAKING PLAN**

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

- SU1 Sustainable Drainage
- SCR1 On-site renewable energy requirement
- SCR5 Water Efficiency
- D1 Urban Design Principles
- D2 Local Character & Distinctiveness
- D3 Urban Fabric
- D4 Streets and spaces
- D5 Building Design
- D6 Amenity
- D8 Lighting
- D10 Public Realm
- NE1 Development and Green Infrastructure
- NE2 Conserving and enhancing the landscape and landscape character
- NE2A Landscape Setting of Settlements
- NE3 Sites, species and habitats
- NE4 Ecosystem services
- NE6 Trees and woodland conservation
- GB1 Visual amenities of the Green Belt
- PCS1 Pollution and nuisances
- PCS2 Noise and vibration
- PCS3 Air Quality
- PSC5 Contamination
- PCS6 Unstable land
- PCS7A Foul sewage infrastructure



LCR2 New or replacement facilities  
LCR3A Primary School Capacity  
LCR6 New and replacement sports and recreational facilities  
LCR9 Increasing the provision of local food growing  
H7 Housing Accessibility  
RE4 Essential dwellings for rural workers  
ST1 Promoting sustainable travel  
ST2A Recreational Routes  
ST3 Transport Infrastructure  
ST7 Transport requirements for managing development

## **NATIONAL POLICY AND GUIDANCE**

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

## **EMERGING POLICY**

The Council is currently in the process of reviewing the Development Plan as part of the Local Plan Partial Update ("LPPU"). Following the submission of the draft LPPU in December 2021 to the Secretary of State for examination, hearings took place in June/July this year. The Inspector has confirmed through his post-hearings letter that, without prejudice to his final conclusions, the LPPU is likely to be capable of being found legally compliant and sound subject to the incorporation of some Main Modifications. The following policies from the draft LPPU are considered relevant to the current application:

DW1 District Wide Spatial Strategy  
KE1 Keynsham Spatial Strategy  
KE3d East of Keynsham - Former Safeguarded Land  
SCR6 Sustainable Construction Policy for New Build Residential  
SCR8 Embodied Carbon  
SCR9 Electric vehicles charging infrastructure  
NE2 Conserving and Enhancing the Landscape and Landscape Character  
NE3 Sites, Habitats and Species  
NE3a Biodiversity Net Gain  
H7 Housing Accessibility  
ST1 Promoting sustainable travel and health streets  
ST2a Active Travel Routes  
ST3 Transport Infrastructure  
ST7 Transport requirements for managing development

The LPPU has reached an advanced stage of the Examination process, the policies of the LPPU cannot, at this stage, be taken as policies that are adopted as part of the development plan. The weight to be applied to the LPPU policies in determining planning applications will, until the Plan is formally adopted, be a matter for the decision maker according to the provisions of paragraph 48 of the National Planning Policy Framework.

## **LOW CARBON AND SUSTAINABLE CREDENTIALS**

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

## **OFFICER ASSESSMENT**

The main issues to consider are:

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

### **1. PRINCIPLE OF DEVELOPMENT**

#### *Development Plan*

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

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

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

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

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

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

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

#### *Emerging policy*

The Council is undertaking the Local Plan Partial Update (LPPU) in order to provide greater certainty about the delivery of the Core Strategy objectives including replenishing housing supply in order to ensure the Core Strategy housing requirement can be met. Following the submission of the draft LPPU in December 2021 to the Secretary of State for examination, hearings took place in June/July this year.

The weight to be afforded to emerging policies is governed by paragraph 48 of the National Planning Policy Framework. This states that:

*"Local planning authorities may give weight to relevant policies in emerging plans according to:*

*(a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*

*(b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*

*(c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)."*

The examination Inspector has confirmed through his post-hearings letter that, without prejudice to his final conclusions, the LPPU is likely to be capable of being found legally compliant and sound subject to the incorporation of some Main Modifications. The LPPU has reached an advanced stage of the Examination process and, in light of the Inspector's initial conclusions, objections regarding allocation policy KE3d can be considered to be largely resolved. Furthermore, given the Inspector's comments about the likely soundness

of the LPPU, it is considered that policy Ke3d and other relevant policies are consistent with the policies in the National Planning Policy Framework.

It is therefore considered that emerging policy KE3d can be afforded significant weight in the consideration of this planning application.

Emerging Policy KE3d seeks to allocate the currently safeguarded land for residential development of around 70 dwellings, subject to a number of development requirements and design principles including the implementation of a number of sustainable transport mitigation measures.

The principle of development of this site for 70 dwellings is therefore in accordance with the emerging policy and this weighs heavily in favour of the proposals. Compliance with the other development requirements and design principles of the emerging policies are discussed throughout this report.

### *Housing Supply and delivery*

It remains relevant to consider the Council's housing delivery and supply position.

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

The Housing Delivery Test was introduced when the NPPF was revised in 2018. The test compares a council's past three years of housing delivery against its three-year requirement. The results of the test are published by the government annually. As the Council has significantly exceeded its housing requirement for the past three years the Council is confident the test will be passed this year.

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

The Council's last housing trajectory (2021) showed that in the future delivery was predicted to begin to drop below the required annual figures. The reduction in annual delivery would have resulted in failure of the housing delivery test during the plan period.

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

five-year housing land supply. The supply of specific deliverable sites should in addition include a buffer of 5% to ensure choice and competition in the market for land.

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

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

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

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

Part of the purpose of the LPPU is to address the above issues housing supply and delivery by replenishing the availability of housing land through new allocations. It is for these reasons that KE3d was included as an allocation in the LPPU. In his initial letter, the examining Inspector has agreed that, based upon the site allocations in the LPPU, the Council can demonstrate a five-year housing land supply and that the KE3d allocation forms part of this.

In summary, there was an identified shortfall in housing land towards the end of the plan period and the LPPU set out to allocate additional sites to maintain the 5YHLS and pass the Housing Delivery Test. A grant of planning permission for the current application would therefore contribute to ensuring that the Council maintains its five-year housing land supply and is able to pass the Housing Delivery Test.

### *Sustainable location*

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

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

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

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

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

The CS Inspector also considered that when passing along the A4 corridor, the safeguarded land would be partly behind frontage development and that the remaining area of land within the Green Belt between Keynsham and Saltford would still be sufficient to achieve the separate identify of these settlements (paragraph 195). The perceived effect on narrowing the gap between Keynsham and Saltford would be limited.

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

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

### *Safeguarded land*

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

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

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

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

### *Prematurity*

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

"Para 50.

Refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination; or - in the case of a neighbourhood plan - before the end of the local planning authority publicity period on the draft plan. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process."

It is relevant in the consideration of this application, that the site is proposed to be allocated for around 70 dwellings in the LPPU. The application is therefore consistent with the emerging update to the local plan.

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

### *Conclusions on principle of development*

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

However, significant weight can be given to the emerging allocation policy (KE3d) in the LPPU, given its advanced stage, lack of unresolved objections and consistency with the NPPF. There are also several other significant material considerations including the following:

1. The site forms part of the five-year housing land supply as an emerging allocation within the LPPU:
  - a. Without the housing allocated in the emerging LPPU, there will likely be a failure of the housing delivery test during the plan period
  - b. There would also likely be an inability to demonstrate a five year housing land supply during the plan period

The grant of planning permission for approximately 70 dwellings on this site would make a sizable contribution towards replenishing the housing supply, meeting the housing delivery

test and maintaining a five year land supply for the rest of the plan period thereby allowing the Council to retain control of the location of new development in line with its spatial strategy.

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

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

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

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

## 2. TRANSPORT AND HIGHWAYS

### *Access*

Access is not a reserved matter. Detailed proposals have been provided for a vehicular access to Minsmere Road on the western edge of the site across land which is currently utilised as a driveway to a parking area serving the Colne Green properties. The access is proposed as a footway crossover which would provide priority to pedestrians travelling along Minsmere road crossing at the side road.

Following discussions with the applicant, a stage 1 Road Safety Audit (RSA) has been submitted to address some of the minor concerns that the Highways Officer raised with an earlier iteration of the access. This has addressed the issues raised and it is considered that the proposed access onto Minsmere Road is suitable and safe and will not prejudice highways safety.

### *Sustainable Transport Measures*

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

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



The transport assessment submitted with the application seeks to consider the development in isolation against the baseline of a fully delivered PMP effectively to "re-set" the baseline and seeks to justify that there is a threshold of development which could be delivered without mitigation that could be described as not having a "severe" impact. This is contrary to the position of the made Development Plan, which is that no more development can come forward without mitigation.

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

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

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

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

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

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

- 104. Transport issues should be considered from the earliest stages of plan-making and development proposals, so that: c) opportunities to promote walking, cycling and public transport use are identified and pursued;

- 106. Planning policies should: d) provide for attractive and well-designed walking and cycling networks with supporting facilities such as secure cycle parking (drawing on Local Cycling and Walking Infrastructure Plans);

- 110. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: a) appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of

development and its location; b) safe and suitable access to the site can be achieved for all users;

It is therefore clear that National and Local (existing and emerging) Planning Policy requires measures to enhance sustainable modes, both from a traffic impact and a provision of opportunities for sustainable travel perspective. Thus there is a strong justification for the mitigation based upon sustainable transport measures (as proposed within the LPPU site specific policy), regardless of the modelled traffic impact against the baseline.

Turning to the measures themselves, the LPPU has been informed by the Sustainable Transport Strategy (STS) produced in relation to the Safeguarded Land and potential additional future housing growth.

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

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

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

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

Furthermore, the delivery mechanism also needs to ensure:

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

Taking account of the relative quantum of development proposed by each of the safeguarded sites (KE3c around 210 dwellings and KE3d around 70 dwellings) and the requirement for measures to be fully funded and deliverable, Highways have accepted that a proportionate approach to providing the STS measures can be taken.

Measures 1, 3, 4 and 5 are to be provided by the development of the KE3c safeguarded land site and these measures are in the process of being secured as part of application 20/02673/OUT which has resolution to grant subject to the completion of a s106 agreement.

That leaves measures 2 and 6 to be delivered by the development of the KE3d safeguarded land. In the case of measure 2 (improvements to bus services) and measure 6 (Liveable neighbourhood interventions) there are practical reasons why the applicant cannot deliver these themselves. Instead, a financial contribution has been agreed to secure these measures.

Estimates for the entire package of Sustainable Transport Measures have been undertaken by the Council and the amount of the proposed financial contribution has been calculated on a proportional basis to ensure that it is fair and reasonably related to the scale and kind of each development across the two safeguarded land sites.

A contribution of £1,512,000 has therefore been agreed with the applicant towards the implementation of measures 2 and 6 and will be secured by way of a s106 agreement.

It is recognised that it would not be reasonable to impose a planning obligation or condition which makes the commencement of this development beholden to either the metrobus project or the commencement of the other Safeguarded Land site. Highways therefore reluctantly accept that there may be a short period of time where development has commenced, but the full package of measures is not in place. This acceptance is on the basis that there is a reasonable prospect of the remainder of the measures being in place in the short term as there is currently a resolution to grant in respect of the other safeguarded land site (ref: 20/02673/OUT).

Without the above mitigation, Highways have indicated that the junction capacity assessment for the development showed both the Chandag Road/Bath Road mini-roundabout and the Bath Hill/Bath Road/Wellsway roundabout would operate at or over capacity and suffer congestion. However, the package of Sustainable Transport Measures is forecast to result in around a 10% reduction in vehicle trip generation associated with the development site. Within Keynsham the measures will see cycling levels increase by between 25% and 75%, and public transport use increase by around 30%. More widely it is expected that the improved connections to the Bristol Bath railway path would result in an increase in cycle trips between Keynsham and both Bristol and Bath of around 15% compared to the baseline.

Combined, the measures are likely to reduce vehicle trips within the study area by around 219 during the morning peak hour and by around 180 in the afternoon peak hour. This would broadly offset the potential vehicle generation of the development proposals (across both safeguarded sites) and would reduce the impact of the development to the traffic level currently experienced.

#### *Accessibility, Public Transport, Walking and Cycling*

Whilst the above discussion about the Sustainable Transport Measures sets out a strategy to allow this site to come forward it does not set out nor replace a thorough assessment of

the local infrastructure, permeability of the site, individual site connections, maximising opportunities to travel sustainably both within the site and outside the polygon. This must be assessed and maximised by the development proposals.

Alongside the main access to Minsmere Road, the proposals show a number of other pedestrian and cycle accesses across the site.

A pedestrian/cycle route is shown connecting to the Hygge Park development to the north. This is shown as a 3m wide shared use path, which LTN 1/20 guidance suggests can be used for routes carrying up to 300 users per hour. Due to the fact that the path will be linking to another shared use path this is acceptable to achieve continuity of the route. There is a small piece of land between the two sites which is not in the ownership of the applicant but has been identified as part of the historic highway network and therefore these works can be delivered by the developer under a highways agreement. The requirement to deliver this route and maintain it as open for public use will form part of the s106 agreement.

A Public Right of Way (BA27/30) crosses the northern part of the application site between Windrush Road to the west and the Manor Road Community Woodland Local Nature Reserve. Where the route leaves the site to the west it crosses a parking area to the north of 68 Minsmere Road before connecting to Windrush Road.

Emerging policy KE3d (6)(f) requires a contribution to improve the existing footpath connection to Windrush Road, including to enable cycle access. However, the Highways Officer and Public Right of Way Team have indicated that it is not legal to allow cycling on a public right of way and the adjacent land is in third party ownership, outside of the control of the applicant or the Council. It is therefore proposed that a financial contribution should be made to the Council to upgrade the surface of the PROW and remove the kissing gate within the parking area adjacent to the north east corner of the site. This has been agreed with the applicant and can be included as part of the s106 agreement.

At the southern end of the site there is an existing path which runs east west across the site from the end of Witham Road to the Manor Road Community Woodland Local Nature Reserve. This is proposed as a pedestrian connection through the site and is welcomed. However, the route runs over third party land which sits between Witham Road and the western boundary of the application site and is not owned by the applicant or the Council. As this route is not a Public Right of Way and runs over third party land, there is no guarantee that easements/rights of access will exist in perpetuity. It cannot therefore be relied upon for accessibility and permeability and is afforded limited weight in terms of the benefit it brings to the development.

Whilst this is disappointing, evidence on the ground suggests that this route has existed for a very long time and there is no obvious reason why the third party landowner would wish to restrict access. Furthermore, this land is outside of the control of the applicant and there is no obvious alternative route to cite a footpath. It is therefore considered to be a reasonable approach and does not merit refusal of the application on this basis.

Having reviewed the accessibility of the site, the Highways Officer has also suggested that improvements are made to bus stops on Minsmere Road, Chandag Road, Limekilns Close and Lambourn Road. These improvements include new panels, real time

information, raised kerbs, new poles and flags, replacement timetable casing and a new shelter at the Minsmere Road stop. The applicant has agreed to delivery these improvements which will be secured as part of the s106 agreement.

It is considered that subject to the above matters being secured, the proposed development will have good levels of accessibility, will be suitably permeable and will provide acceptable infrastructure for walking and cycling.

#### *Other highways matters*

No information has been provided regarding parking (car, cycle, electric vehicle charging). Parking will be addressed at reserved matters stage and will likely be subject to policy ST7 in the emerging LPPU and the draft Transport and Parking SPD. Similarly, waste and recycling matters will also be addressed at the reserved matters stage.

A Travel Plan has been submitted with the application which sets out measures to encourage shifts away from private car use and towards more sustainable forms of travel. The Highways Officer has no objection to the submitted Travel Plan and this will be secured as part of the s106 agreement.

A number of concerns have been raised by local residents about potential disruption during the construction of the development. A construction management plan has been recommended by the Highways Officer and is considered essential if planning permission is granted. This will ensure that highways safety is maintained during construction and will mitigation impacts upon the residential amenity of surrounding occupiers.

### 3. ECOLOGY

An ecological assessment has been submitted with the application. The survey identifies that the site predominantly comprises semi-improved grassland with scattered scrub and tall ruderal vegetation, bordered by a treeline to the north and woodland to the east, with a patch of amenity grassland and a maple tree to the west. In addition, there are two ponds present on site and two ditches lie adjacent to the sites northern and eastern boundaries.

#### *Designated Sites*

Manor Road Community Woodland Local Nature Reserve (LNR) lies immediately adjacent to the site's eastern boundary. The proposals as submitted were initially unclear and appeared to suggest that there would be some felling of trees and vegetation clearance along the eastern boundary. However, further clarification has confirmed that there would be no vegetation removal on the eastern boundary and that the trees fall outside of the site boundary.

The Council's Arboriculturalist has advised that the trees within the current woodland have not reached their full-size potential and future canopy spreads should be factored in so as to secure adequate separation distances from dwellings and gardens. Following these comments, the proposals have been revised to increase the size of the buffer on the eastern edge of the site from 10 to 12m which is shown on the proposed parameter plans. This is the minimum green buffer to avoid harm to the adjacent LNR and further

improvements could still be achieved through the detailed design at the reserved matters stage.

The proposed development will also result in additional pressures on the adjacent woodland due to the increased recreational demand. The woodland has already come under significant pressure because of increased demand arising from other recent developments including Hygge Park to the north. An improvement project to reduce these risks and improve access to the nature reserve has been proposed by the Council and a financial contribution towards this has been request. The applicant has agreed to the request for an £132,514.85 contribution to cover these works and this will be secured as part of the s106 agreement.

The combination of the proposed buffer, consideration of the detailed design at reserved matters stage and the financial contribution towards mitigation works will ensure that the proposals do not harm the Manor Road Community Woodland Local Nature Reserve (LNR).

### *Bats and Lighting*

Ten species of bat were identified using the site during the bat activity surveys (Tyler Grange, 2021), including greater and lesser horseshoes. It should be acknowledged that detectors used are not full spectrum, so will have under-recorded the presence of horseshoe bats on site. The closest component unit of the Bath and Bradford-on-Avon Bats Special Area of Conservation (SAC) is located 9.6km from the site. There are however, known populations of horseshoe bats in the Keynsham area, albeit at lower densities than around the SAC sites. Functionally-linked habitat for horseshoe and Bechstein's bat populations for which the SAC is designated is protected under the Conservation of Habitats and Species Regulations 2017 (as amended).

A lighting strategy has been submitted with the application. Following comments from the ecologist, it has been modified so that a number of pinch points have been removed, consequently there will be no light spill greater than 0.5lux along the boundary.

Given that the application is at Outline stage, layout and house details are yet to be fixed. Detailed design will need to demonstrate that the commitment to sensitive lighting is met, by appropriate internal as well as external lighting design. This will be considered at the reserved matters stage.

Given that the proposals may impact bats from the SAC, a Habitats Regulations Assessment (HRA) has been completed for the development and concludes that the proposals will not have an adverse effect on the Bath and Bradford on Avon Bats SAC either alone or in combination with other plans or projects provided that suitable mitigation and lighting is secured by condition. Natural England have agreed with the Council's HRA and have raised no objection to the proposals, subject to the relevant mitigations being secured.

### *Other Protected/Notable Species*

In general, the survey effort and avoidance, mitigation and compensation proposals for other protected and notable species are accepted. Habitats on-site may support nesting birds and potentially dormouse, no reptiles were found during the surveys. Detailed method statements will need to be secured by condition and habitat creation demonstrated in detailed design.

There are hedgehog records in proximity to the site, suitable measures to protect them are required and if any are found during works they would also need to be moved to safety. This can be secured by condition.

The site offers suitable terrestrial and aquatic habitat for toads and records for this species were present in close proximity to the site. Vegetation on site will need to be sensitively cleared to ensure amphibians are not harmed during development works, this information can be secured by condition

Whilst acknowledged that only one of the five ponds in the survey area was subject to an eDNA survey (due to lack of or insufficient water), it is accepted that great crested newts are likely to be absent as evidenced by the negative result.

### *Biodiversity Net Gain*

A Biodiversity Technical Note and associated calculation has been submitted with the application. The BNG Technical Note identifies that the ecological baseline for the site is calculated at 12.12 habitat units (comprising modified grassland, ruderal/ephemeral vegetation, hardstanding, blackthorn scrub and bramble scrub) and 0 hedgerow units (as no hedges were present). The Habitat Features Plan (Dwg no. 0505/P01c) displays the baseline habitats present on site. The post-development habitats are calculated at 8.20 habitat units (comprising hardstanding, gardens, SUDs, introduced shrub, mixed scrub, modified grassland and urban trees) and 2.13 hedgerow units (comprising native and ornamental hedges). The Landscape Strategy Plan drawing 10505/P18e (within the LVIA) shows where habitats will be created and retained on site, this includes the retention of Pond P1. Yet Pond P1 appears to have been omitted from the calculation, clarification is requested. Overall, the scheme will result in a change of minus 3.72 habitat units (30.69%) and 2.13 hedgerow units (neutral BNG change, as no replacement hedgerow habitat was required) on-site. Therefore, off-site mitigation will be required to compensate for the loss of habitat units.

The application proposes utilising off-site land at Somerdale which is within the control of the applicant, Taylor Wimpey. The proposed off-site land is already covered by a Landscape and Ecology Management Plan associated with the Somerdale development. Therefore, to comply with existing planning obligations, the off-site baseline habitat type has been re-classified to floodplain grazing marsh. Given that the LEMP only refers to maintenance of the floodplain grazing marsh (as opposed to enhancement), its current classification as being in poor condition is considered appropriate. The BNG Assessment Report specifies that the existing habitat only meets condition criteria 3, 4 and 5, arguably it also meets criterion 6 (due to lack of bracken). Nonetheless, it is acknowledged that the habitat will still miss criterion 1 so would still be classified as being in "Poor" condition.

Given that the area of off-site habitat is covered by an existing LEMP, to comply with BNG requirements 'additionality' must be demonstrated. According to the BNG Assessment

Report the area will be enhanced to "Moderate" condition by keeping the combined cover of species indicative of sub-optimal condition less than 5% of ground cover currently nettle and ragwort present (whilst not listed on Schedule 9 of the WCA, they are still undesirable species so a reduction in their cover would be supported) to achieve condition criteria 6 (it assumed this is a typo and should read 7), overseeding with yellow rattle and overseeding with a suitable wetland mix (e.g. Emorsgate EG8) to achieve condition criteria 2 (it assumed this is a typo and should read 1). These measures are considered acceptable and should be secured by a LEMP and s106 agreement.

When considering both off- site habitat enhancement and on-site habitat creation proposals, the net habitat unit change is +1.35 habitat units providing a net gain of 11.12% habitat units. This is supported by the Council's Ecologist and demonstrates compliance with policy NE3 of the Placemaking Plan, NE3a (Biodiversity Net Gain) of the emerging LPPU and the National Planning Policy Framework.

UPDATE: Following the deferral of the application from the 19th October Planning Committee, the applicant has increased the amount of on-site BNG proposed through commitments to manage the habitats associate with the SUDs feature and the modified grassland to a 'good' condition rather than an average condition. This approach has been agreed as appropriate with the Council's Ecologist and this raises the total amount net gain to 12.57%.

In addition, the applicant has proposed further ecological enhancement measures including:

- Five new bird boxes (on top of the 35 x bat/bird boxes already agreed);
- Inclusion of bee bricks on surrounding trees;
- Inclusion of insect hotels; and
- Three information/interpretation boards, this should highlight the ecological sensitives of Manor Road Community Woodland.

The Council's Ecologist considers that this represents an ecological improvement on the previous scheme. They have recommended that these additional measures be secured by an appropriately worded planning condition.

The additional onsite BNG and ecological enhancement measures demonstrate that the applicant has sought to maximise on-site ecological features and has exceeded the policy requirements of the current development policy (NE3) and the emerging policy requirements (NE3a).

#### 4. DESIGN AND PARAMETERS

The application is in outline with matters of appearance, landscaping, layout and scale reserved. The masterplan provided is illustrative only, although several parameter plans have been provided including a land use and access plan, a scale plan and a green infrastructure plan. Various other plans have been submitted, including a Landscape Strategy Plan, Concept Plan, Layout Plan, Drainage Plan, etc, but none of these are offered as Parameter Plans and should be treated as indicative only.



The land use plan sets out the areas of public open space and areas of for residential development. This is reflective of the green infrastructure parameter plan which also shows these areas. These parameters ensure that a green buffer is maintained around the northern, eastern and southern boundaries of the site as well as ensuring that the route of Public Right of Way has some public open space either side of it. The area of public open space shown on the parameter plan is considered to be a minimum area and does not preclude details of the layout/landscaping at reserved matters stage from including further green areas within the land identified as 'Built Development Area'. The parameters also note the promotion of a Local Area for Plan (LAP) or a 'Play on the Way Trim Trail'

The Scale parameter plan indicates heights of up to 11m high (2.5 storey) would be appropriate. Scale remains a reserved matters and, as such, this height represents the maximum height that could be proposed, and any reserved matters application would have to be judged on its merits. The area to the west of the site is largely characterised by two storey homes, although there is a variety of house types. The proposed maximum height gives sufficient flexibility to allow for a suitably designed scheme to come forward whilst preventing any buildings from appearing markedly out of keeping.

Other noteworthy aspects of the parameter plans include the indicative alignment of the main access route which is shown taking a roughly central route through the site before terminating at the northern green space. It is also indicated as being a 'tree lined street' and, although little detail is given, it will be expected that this will be negotiated through the future reserved matters applications.

The Design and Access Statement (DAS) includes a vision that states:

- o "The development will promote happy and healthy living through the design of a locally distinctive, vibrant and high quality place"

And that it will, inter alia:

- o "design nature into streets and public spaces with attractive landscaping and tree planting"

- o "prioritise pedestrian and cycle use, supporting active lifestyles and creating liveable and healthy streets"

- o "celebrate the history and heritage of the local area through appropriate building typologies and approaches to landscaping, generating local identity, pride and belonging"

- o "incorporate positive contextual references of the local area relating to form, scale, massing, materials and architectural details"

- o "encourage social interaction through thoughtful design in public and private spaces"

The Council's Urban Designer views these and the other stated goals and aspirations in the DAS as commendable but indicates that there is a gap between these stated aims and the indicative proposals seen thus far. Indeed, the illustrative masterplan submitted does

not appear to create a high-quality place and instead contains standard housebuilder layouts which do little to prioritise pedestrian/cycle use or incorporate nature into the street. However, these proposals are indicative and there is scope within the proposed parameter plans to achieve the stated goals of the DAS vision at the reserved matters stage.

The Urban Designer has recommended that the applicant should make a commitment to fulfil the stated vision and goals set out in pp 38-39 of the DAS in order to give the confidence that the requirements of policies D1, D2, D3 and D4 will be satisfied as the scheme progresses. It is considered that this commitment can be secured by a condition requiring a statement to accompany any reserved matters application setting out how it meets the vision and goals of the DAS.

## 5. LANDSCAPE

The topography across the site rises from north to south. The northern boundary lies at approximately 24.5m AOD, rising to approximately 37m AOD at the southern boundary. The site does not lie within a nationally designated landscape, although the Cotswolds Area of Outstanding Natural Beauty (AONB) is located approximately 2.15km to the east of the site, beyond Saltford.

The site has been safeguarded for potential development and is proposed to be allocated for around 70 dwellings. Therefore, there is no in principle landscape or visual objection to the application.

A Landscape and Visual Impact Assessment (LVIA) has been submitted with the application. This concludes that the proposals would result in a moderate adverse landscape effects during construction and at Year 1 at the site-specific scale, potentially reducing to minor adverse at Year 15 subject to effective mitigation. It is acknowledged that there would be some detrimental effect on Viewpoint 14 (public footpath south of the site) arising from the greater proximity of built development to the southern boundary, which was a trade-off to allow the width of the Public Open Space corridor along the eastern edge to be increased in width, which is considered beneficial and is supported.

The Council's Landscape Consultant broadly agrees with the conclusions of the LVIA but draws attention to where the LVIA states that "mitigation is required to enhance assimilation by enhanced boundary planting, introducing an appropriate mass, pattern and grain of development and use of appropriate materials". Landscaping is currently a reserved matter so there are no detailed mitigation proposals to review. Whilst the submitted parameters plan provides a reasonable starting point, effective mitigation will need to be carefully addressed and secured at the reserved matters stage.

Subject to effective mitigation being secured at the reserved matters stage, there is no landscape objection to the proposals.

## 6. EDUCATION

An indicative dwelling mix has been provided for the proposed development. Based upon this mix, a development of 70 dwellings is calculated to generate the following children:

Early Years age 0-1 = 2.1 children  
Early Years age 2 = 1.4 children  
Early Years age 3-4 = 5.6 children

Primary - 21.7 children  
Secondary - 13.3 children  
Sixth Form - 2.8 children  
Young people age 13-19 - 7.0 children

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

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

Year Reception projection:

2022 = 288  
2023 = 286  
2024 = 313  
2025 = 316

Plus 14.93 pupils per year group still to come from previously approved developments currently under construction, which if applied to the 2025 academic year gives  $316 + 14.93 = 330.93$ . This does not include the pupils generated from the Parcel 0005 Bath Road (Withies Green) proposed development on the Keynsham East Safeguarded land. They would be in addition to this number.

This proposed development at Parcel 5159 Minsmere Road is calculated to generate 3.1 pupils per year group, which if applied to the 2025 academic year gives  $330.93 + 3.1 = 334.03$  pupils = 4.03 places short per year group.

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

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

A contribution towards the school places is therefore required and has been calculated as £651,816.33. This has been agreed with the applicant and can be secured via a s106 agreement.

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

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

## 7. PARKS AND OPEN SPACE

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

The Green Space Strategy (2015) has assessed the existing supply of Allotments in the Keynsham area to be in deficit of -2.95ha, Amenity Green Space -0.95ha, Park & Recreation Ground -8.01ha and Play Space (Youth) -0.33ha. There is a surplus of Accessible Natural Green Space + 258.69ha and Play Space (Children) +0.25ha.

The proposal is for 70 dwellings. This quantum of development is expected to increase the local population by approximately 161 persons (70 x 2.3). These new residents will generate demand for a total of 5,280 sqm of green space (of various typologies).

The submitted Land Use and Access Parameter Plan suggest that provision is being made for 10,600 sqm (1.06 ha) of Public Open Space (POS). The residential development area will cover approximately 2.12 ha. The POS will cover approximately 1.06 ha.

The GI Parameter Plan (BL-M-02 - REV B) also includes a LAP and 'Play on the Way Trim Trail' which the applicant states will be detailed at the reserved matters stage. Correspondence in the case file dated 26th July 2022 states that the GI parameter plan governs the future reserved matters application to either provide LAP on the western yellow star or on the eastern yellow star. The dotted line denotes the idea for 'play on the way'. The LVIA Addendum Letter also dated 26th July 2022 suggests that the Applicant intends to provide LAP or promote 'play on the way' trim trail along the linear route between two 'stations' for play.

The applicant will need to provide a detailed account of the individual quantities of the green space typologies at reserved matters stage. It will also be necessary for there to be conditions securing detailed landscape management plans and to ensure that the on-site green spaces remain for use by the wider public.

## 8. AFFORDABLE HOUSING

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

The applicant has confirmed that the proposals will provide 30% affordable housing at the Council's preferred tenure of 75% Social Rent and 25% Intermediate (shared ownership). This represents a total of approximately new 21 affordable homes to be delivered by the development.

This will be secured through a s106 agreement alongside other relevant matters at this stage. Given the nature of this outline application, limited further details are available including the precise affordable housing mix and how they will be located throughout the scheme. An affordable housing statement will be required at reserved matters stage which will be required to robustly address all the affordable housing requirements contained within the Planning Obligations SPD.

## 9. ARCHAEOLOGY

A geophysical Survey on this site has shown that there is potential for archaeological features of local significance. These features will require investigation and recording as required by the NPPF paragraph 205. Therefore, it is considered that conditions should be attached to any permission to ensure archaeological mitigation is carried out prior to development of this site.

## 10. DRAINAGE AND FLOOD RISK

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

## 11. TREES AND WOODLAND

An Arboricultural Assessment has been submitted with this application and reviewed by the Council's Arboriculturalist

The proposed access from Minsmere Road implicates an offsite maple tree growing on land belonging to Curo as identified within the Arboricultural Impact Assessment (AIA) as T3. This is an attractive tree with a wide spreading canopy which overhangs the current access, the canopy spread is accurately depicted within the AIA.

It is noted that the new access road will come no nearer the existing tree than the current curb. However, the Council's Arboriculturalist is concerned that the increase in the numbers and diversity of vehicles using the access will result in pruning to ensure adequate clearance. Crown lifting to accommodate the access into the site will result in an unbalanced appearance so further works are likely to reduce the circumference of the canopy. The extent of the road and footpath width limits any scope to undertake tree planting to the north of the maple.

The potential impacts upon this tree are disappointing but given the limited options for suitable access points to this site it is considered to be unavoidable. In response to these concerns and the potential harm to this tree the applicant has committed to incorporating new tree planting either side of the access road at the site entrance as mitigation. Details of this will be secured through the reserved matters of landscaping.

## 12. RESIDENTIAL AMENITY

The nearest adjoining residential properties back onto the western boundary of the site along Minsmere Road, Witham Road and Teviot Road. Whilst layout is a reserved matter, the illustrative masterplan demonstrates how sufficient separation distances from the backs of these existing properties can be maintained to ensure that there is adequate privacy for existing and potential occupiers. The scale parameter plan ensures that no buildings will be greater than 2.5 storeys in height and it should therefore be possible to design a scheme which does not result in any loss of light or outlook from adjoining occupiers.

It is therefore considered that it will be possible for the detailed proposals to be designed in a way to avoid any significant impacts upon the amenities of adjoining occupiers.

## 13. SUSTAINABLE CONSTRUCTION

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

Emerging policies SCR6 and SCR8 in the LPPU represent an evolution of the Council's approach to sustainable construction and require developments to achieve net zero through the application of an energy hierarchy consisting of reductions to energy demand, on-site renewables and financial contributions towards offset.

As an outline application with all matters (except access) reserved the design of the proposals is insufficiently advanced to request full details of sustainable construction measures. The proposal is therefore considered to demonstrate compliance with policies CP2 and SCR1 at this stage. Further information will need to be secured by condition and as part of any reserved matters applications.

## 14. CONTAMINATED LAND

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

## 15. AIR QUALITY

The proposals are for a major development and there are existing Air Quality Management Areas in both Keynsham and Saltford that may be impacted by some of the traffic generated by this development. It is considered that full details of an air quality assessment including any proposed mitigation measures are secured by condition prior to the commencement of development.

## 16. COMPLIANCE WITH EMERGING POLICY

The application essentially seeks permission for the development of this site prior to the adoption of the LPPU. Policy KE3d of the LPPU is considered to have significant weight and is a relevant material consideration in the determination of this application. It is therefore necessary to consider how the proposals perform against the development requirements set out in the emerging allocation policies.

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

### *Policy KE3d East of Keynsham - Former Safeguarded Land*

1. Deliver residential development (Class C3) of around 70 dwellings in the plan period, in the areas as shown on the concept diagram.

The application proposes development of 70 dwellings and is therefore consistent with this requirement.

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

This is an outline application so these requirements will not be assessed until reserved matters stage. The submitted LVIA indicates that it is unlikely that the proposals will impact upon the skyline views from the Cotswolds AONB.

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

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

4. Ensure that there is no possible through-route for general traffic between existing residential areas south of Wellsway School and the A4 yet maintain permeability for non-car modes. Access can either be via Hygge Park or via the residential area to the west

There is a single vehicular access to the site from Minsmere Road. There is no through connection to Hygge Park or other route which would allow for general traffic from the A4

to the Chandag Estates. However, the proposals do include multiple pedestrian accesses to the surrounding areas and a new cycle link towards Hygge Park.

5. Prioritise pedestrians and cyclists over private vehicles, and provide an attractive, low-speed environment throughout. The development should integrate well with the surrounding residential areas and extend the network of pedestrian and cycle routes. These should utilise existing and enhanced green corridors where practicable to provide LTN1/20 standard pedestrian and cycle routes. Public space and footpaths should incorporate species-rich verges and grassland habitat.

This is an outline application so these requirements will not be fully assessed until reserved matters stage. However, the parameter plans do show pedestrian connections with the surrounding residential areas and indicate opportunities for green corridors. A cycle route towards Hygge Park is shown and will link in with the existing shared use path to the north.

6. Be accompanied by a Travel Plan and Transport Assessment, which assesses in detail the mitigation requirements of an individual site in order that sufficient headroom capacity is created on the highway network through mode shift such that development does not result in a severe impact. Mitigation proposals for the site must investigate, and provide as necessary, the following:

- a. Improved frequency of public transport services along the A4;
- b. Enhanced local town centre bus services connecting the development site with the town more widely and providing an opportunity to interchange with metrobus and Mass Transit Services;
- c. LCWIP route improvements to LTN1/20 standards within Keynsham, specifically between the development location, Wellsway School, and Keynsham Town Centre. This could must include segregated pedestrian and cycle provision on the south side of the A4 between Grange Road and Broadmead Roundabout, and onward comparable provision along Bath Road to the Town Centre;
- d. New active travel connection between the A4 and the Bristol Bath Railway Path via Clay Bridge, World's End Lane;
- e. The creation of a public footpath between KE3C and KE3D, connecting at Manor Road Community Woodland; and
- f. A contribution to improve the existing footpath connection to Windrush Road, including to enable cycle access.

The application has been accompanied by a Travel Plan and a Transport Assessment. The proposals will also make a proportionate and fair contribution towards the provision of the above sustainable transport measures which are necessary to achieve the headroom capacity on the network to accommodate the development. See Highways and Transport section for further detail.

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



demonstrated by the applicant that a reduced buffer would adequately protect the woodland.

The BNG calculation provided with the application demonstrates that the proposals will provide a net gain of 12.57%. There are buffers proposed around the north, east and south boundaries of the site to ensure boundary habitats are protected. The buffer to the Local Nature Reserve woodland is approximately 12m and this is considered acceptable to protect the woodland (subject to the detailed consideration of any reserved matters applications).

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

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

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

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

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

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

The proposals include space for public open space including a possible LAP or 'play on the way' trim trail. These can be secured as part of the s106 agreement. The parameter plans also indicate areas of the site which are reserved for public open space to ensure that there are sufficient spaces for these elements. Further detail can be agreed at the reserved matters stage.

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

This will need to be assessed at reserved matters stage and there is no reason to believe that this requirement cannot be met.

### *Emerging policy KE3d conclusions*

Whilst much of the detail is still to be determined at reserved matters stage, the proposals broadly comply with the emerging requirements of policy KE3d in the LPPU. The only slight deviation is in relation to the provision of sustainable transport mitigation measures whereby a significant package of mitigation works has been agreed with the applicant in line with the evidence taken from the Sustainable Transport Strategy for Keynsham and agreed with Highways.

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

## 17. AGRICULTURAL LAND

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

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

## 18. OTHER MATTERS

### *S106 agreement*

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

1. Fire Hydrant contribution
  - a. 3 x £1,500 (£4,500)
2. Targeted recruitment and training obligations
  - a. 10 Work Placements
  - b. 2 Apprenticeship Starts
  - c. 2 New jobs advertised through DWP
  - d. £6,380 contribution
3. 30% affordable Housing
  - a. 75% social rent, 25% Intermediate (Shared ownership)
4. Public Open Space provision
  - a. LAP or 'Play on the Way' Trim Trail

- b. Recreational Woodland Edge Walk
- c. Other POS to be delivered in accordance with reserved matters
- d. Management Company to be formed
- e. All on-site green space to be available for the wider public use
- 5. Manor Road Local Nature Reserve Improvement contribution
  - a. £132,514.85
- 6. Education contribution primary school places
  - a. £651,816.33 (linked to formula in case housing mix is altered)
- 7. Highways access works
  - a. Delivery of access proposals
  - b. Delivery of pedestrian/cycle path to Hygge Park
- 8. Sustainable Transport Measures
  - a. £1,512,000 contribution towards enhanced local town centre bus service and liveable neighbourhood interventions within the Chandag Estates
  - b. £12,000 contribution for improving PROW connection to Windrush Road
  - c. Bus stop improvements
- 9. Preparation and implementation of Travel Plan
  - a. £4,775 contribution towards monitoring of Travel Plan
- 10. Biodiversity net gain requirement to include 30 year Landscape and Ecological Management Plan covering:
  - a. On-site measures
  - b. Off-site measures on Taylor Wimpey land at Somerdale
- 11. S106 monitoring fee
  - a. £400 per obligation

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

Following concerns raised at the 19th October 2022 Planning Committee, further discussions with the applicant have taken place to agree the triggers for several of the above financial contributions. Officers have sought to balance the desire to see relevant pieces of infrastructure delivered at the earliest possible opportunity with what can reasonably be requested and justified without an undue impact upon the developer's cashflow and threatening delivery of the scheme. An agreed list of triggers will be provided as part of the update report.

### *Community Infrastructure Levy*

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

### *Public Sector Equality Duty*

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

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

Some comments were received which were concerned that the proposals would reduce access to the countryside and that this is particularly important for those with physical/mental health issues. The loss of this opportunity for informal recreation close to Keynsham is a disadvantage to be weighed in the balance, but local residents would still have easy access to the Manor Road Community Woodland which provides an attractive mix of woods and open meadow for informal recreation.

## 19. PLANNING BALANCE AND CONCLUSION

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

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

1. Contribution that the proposals would make towards replenishing current housing supply
2. The site's highly sustainable location which is broadly consistent with the district wide spatial strategy
3. The absence of Green Belt protection compared to nearly all other undeveloped land in this locality
4. The provision of sustainable transport measures which are broadly in line with the Sustainable Transport Strategy for Keynsham and which would create the headroom to avoid a severe impact upon the highway network
5. The proposed allocation of the site within the LPPU and the broad consistency of the proposals with the emerging development requirements
6. The provision of 30% affordable housing (21 homes) with the Council's preferred tenure mix
7. A significant package of s106 obligations and contributions which, although directly related to the addressing the impacts of the development, will have knock on benefits to the wider community
8. Biodiversity net gain of up to 12.57%
9. Broad compliance with all other relevant policies within the current development plan

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

The improved on-site BNG and additional ecological enhancements addresses member's previous concerns about the ecological impacts of the development and demonstrates compliance with both the existing and emerging policy context.

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

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

## **RECOMMENDATION**

Delegate to PERMIT

## **CONDITIONS**

0 A.) Subject to no comments raising new material considerations from the advertisement of the application as a departure

B.) Authorise the Head of Legal and Democratic Services to enter into a Section 106 Agreement to cover the following:

1. Fire Hydrant contribution
  - a. 3 x £1,500 (£4,500)
2. Targeted recruitment and training obligations
  - a. 10 Work Placements
  - b. 2 Apprenticeship Starts
  - c. 2 New jobs advertised through DWP
  - d. £6,380 contribution
3. 30% affordable Housing
  - a. 75% social rent, 25% Intermediate (Shared ownership)
4. Public Open Space provision
  - a. LAP or 'Play on the Way' Trim Trail
  - b. Recreational Woodland Edge Walk
  - c. Other POS to be delivered in accordance with reserved matters
  - d. Management Company to be formed
  - e. All on-site green space to be available for the wider public use
5. Manor Road Local Nature Reserve Improvement contribution
  - a. £132,514.85
6. Education contribution primary school places
  - a. £651,816.33 (linked to formula in case housing mix is altered)
7. Highways access works
  - a. Delivery of access proposals
  - b. Delivery of pedestrian/cycle path to Hygge Park
8. Sustainable Transport Measures
  - a. £1,512,000 contribution towards enhanced local town centre bus service and liveable neighbourhood interventions within the Chandag Estates
  - b. £12,000 contribution for improving PROW connection to Windrush Road
  - c. Bus stop improvements
9. Preparation and implementation of Travel Plan
  - a. £4,775 contribution towards monitoring of Travel Plan
10. Biodiversity net gain requirement to include 30 year Landscape and Ecological Management Plan covering:

- a. On-site measures
  - b. Off-site measures on Taylor Wimpey land at Somerdale
11. S106 monitoring fee
- a. £400 per obligation

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

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

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

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

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

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

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

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

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

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

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

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

- o Land Use and Access Parameter Plan - BL-M-01 Revision D
- o Green Infrastructure Parameter Plan - BL-M-02 Revision B
- o Scale Parameter Plan - BL-M-03 Revision B

For the avoidance of doubt, the Land Use and Access Parameter Plan and Green Infrastructure Parameter Plan do not preclude the incorporation of public space or green and blue infrastructure within the residential development/built development area.

Reason: To ensure that there is sufficient space for green/blue infrastructure and public open space to ensure a high-quality development with sufficient landscaping and good

access to green space in accordance with policies NE1, NE2, NE2A, NE3, NE6, D4, CP6 and CP8 of the Core Strategy and Placemaking Plan.

#### **5 Reserved matters - Design Quality (Compliance)**

All reserved matters applications shall be accompanied by a Design Statement identifying how they meet the vision and objectives for the site, as set out on pages 38 to 39 the submitted Design and Access Statement prepared by Taylor Wimpey dated July 2022.

Reason: In the interests of the appearance of the development and the character and appearance of the area and to ensure a high quality development in accordance with policies NE1, NE2, NE2A, NE3, NE6, D4, CP6 and CP8 of the Core Strategy and Placemaking Plan.

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

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

1. Proposed finished levels or contours
2. Means of enclosure
3. Car parking layouts
4. Other vehicle and pedestrian access and circulation areas
5. Hard surfacing materials
6. Minor artefacts and structures (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

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.

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

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

1. Electronic copy of the proposed surface water drainage network (in a .mdx format)
2. Written approval given demonstrating that the surface water drainage network will be adopted and maintained by the water company or an acceptable alternative.

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

Reason: To ensure that an appropriate method of surface water drainage is installed and in the interests of flood risk management in accordance with Policy CP5 of the Bath and North East Somerset Core Strategy and Policy SU1 of the Bath and North East Somerset Placemaking Plan.

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

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

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

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

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

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

Any application for reserved matters shall be accompanied by an Ecological Mitigation, Compensation and Enhancement Plan (EMCEP). The Plan shall detail all habitats and features required to deliver biodiversity net gain, which shall be achieved broadly in accordance with the approved Biodiversity Net Gain Assessment Report (Rev D Tyler Grange dated 8th September 2022), Green Infrastructure Parameter Plan (Dwg no. BL-M-02 - Rev B Stantec dated 11th July 2022) and Landscape Strategy Plan (Dwg no. 10505/P18e Tyler Grange dated July 2022). The EMCEP shall include the following:

1. Full details of proposed ecological mitigation compensation and enhancement measures including habitat retention, creation and enhancement; methods, materials, species compositions and seed mixes, soil requirements; ecological objectives for habitats, species and features
2. Retention of pond 1
3. Proposed additional features including bat and bird boxes, 50% of dwellings shall incorporate an integrated bat and/or bird box.
4. Proposed wildlife routes and hedgehog gaps in fencing to ensure permeability for wildlife through and around the site including with in residential areas
5. Provision of the specified habitats and minimum habitat extents committed to in the approved Ecological Assessment (Tyler Grange, November 2021) and Biodiversity Net Gain Assessment Report (Rev D). This shall include SUDs features that hold water year-round and are planted with aquatic & marginal vegetation.
6. Proposed specifications, numbers, positions / boundaries of all habitats and features must be shown on a plan

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



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

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

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

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

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

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

#### **11 Archaeology Controlled Excavation (Compliance)**

No development shall commence, except archaeological investigation work, until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological trenching work in accordance with the approved written scheme of investigation (Cotswold Archaeology, Written Scheme of Investigation for an Archaeological Evaluation, CA Project CR0991, February 2022) and geophysical survey (Cotswold Archaeology, Magnetometer Survey, ref. no. J889, December 2021). Thereafter the building works shall incorporate any building techniques and measures necessary to mitigate the loss or destruction of any further archaeological remains.

Reason: The site is within an area of major archaeological interest and the Council will wish to examine and record items of interest discovered in accordance with Policy HE1 of the Bath and North East Somerset Placemaking Plan. This is a condition precedent because archaeological remains and features may be damaged by the initial development works.

#### **12 Archaeology Post Excavation and Publication (Pre-occupation)**

No occupation of the development shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of post-excavation analysis in accordance with a publication plan which has been submitted to and approved in writing by the Local Planning Authority. The programme of post-excavation analysis shall be carried out by a competent person(s) and completed in accordance with the approved publication plan, or as otherwise agreed in writing with the Local Planning Authority.

Reason: The site has produced significant archaeological findings and the Council will wish to publish or otherwise disseminate the results in accordance with Policy HE1 of the Bath & North East Somerset Placemaking Plan.

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

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

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

(ii) an assessment of the potential risks to:

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

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

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

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

No development shall commence, except for ground investigations and demolition required to undertake such investigations, until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment, has been submitted to and approved in writing by the Local Planning Authority, unless the findings

of the approved investigation and risk assessment has confirmed that a remediation scheme is not required. The scheme shall include:

- (i) all works to be undertaken;
- (ii) proposed remediation objectives and remediation criteria;
- (iii) timetable of works and site management procedures; and,
- (iv) where required, a monitoring and maintenance scheme to monitor the long-term effectiveness of the proposed remediation and a timetable for the submission of reports that demonstrate the effectiveness of the monitoring and maintenance carried out.

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

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

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

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

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

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

#### **16 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.

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

No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. These details shall be in accordance with but not limited to the recommendations and proposed mitigation measures described in Section 4 of the approved Ecological Assessment produced by Tyler Grange dated November 2021 including:

- a) findings of update ecological and protected species surveys and assessments as applicable, and proposals for further pre-commencement checks where required.
- b) Practical measures (both physical measures and sensitive working practices) to include the location/boundaries (to be shown on a plan), timing and methodologies of specified works to avoid ecological harm and minimise ecological impacts during construction (may be provided as a set of method statements) for habitats (including Manor Road Community Woodland LNR, the northern treeline, Pond 1 and sensitive removal of Pond 2) and wildlife (including badger, dormouse [if present], hedgehog, nesting birds and amphibians [including toads]).
- c) a plan showing boundaries of fenced exclusion zones for the protection of retained habitats and features (including Manor Road Community Woodland LNR and northern treeline) and ecologically sensitive zones and species, within which zones there shall be no excavations; clearance of vegetation; storage of materials; waste disposal; or vehicle or machine access; with details and specifications to also be provided for proposed fencing, barriers and warning signs, as applicable
- d) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person
- e) The times and frequency of visits during construction when a professional ecologist needs to be present on site to oversee works
- f) Responsible persons and lines of communication

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

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

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

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

1. A list of long-term wildlife conservation and landscape design aims and objectives, which, where applicable, shall be specific to named habitats, species and ecological issues of importance. They shall include (but not be limited to): delivery and long-term maintenance of habitats to achieve Biodiversity Net Gain in accordance with the approved Biodiversity Net Gain Assessment Report (Rev D, Tyler Grange, 8th September 2022).
2. Creation of habitats to a specified condition and / or that achieve specified levels of structural, botanical, and/or invertebrate diversity; provision of habitats suitable for specified species (for example linnet and other bird species); habitats with suitable conditions, connectivity and quality for use by bats as part of connected flight routes;
3. Proposed management prescriptions and operations; locations, timing, frequency, durations; methods; equipment and personnel as required to meet the stated aims and objectives
4. A plan showing the boundary or boundaries of land to which the LEMP applies. All details, locations, boundaries of habitats and management areas shall also be shown on a plan.
5. A list of activities and operations that shall not take place and shall not be permitted within the LEMP Plan area (for example use of herbicides; waste disposal and disposal of arisings; inappropriate maintenance methods; storage of materials; machine or vehicle access)
6. Proposed habitats shall correspond to and meet the minimum standards set out in the Biodiversity Net Gain Assessment Report (Rev D, Tyler Grange, 8th September 2022).
7. Proposed monitoring and reporting scheme, to include a 5 year rolling programme for ongoing review and future remediation strategies for a minimum 30-year period
8. Proposed resourcing; funding sources and legal responsibility.

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

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

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

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

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

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

No new external lighting shall be installed until full details of the proposed lighting design have been submitted to and approved in writing by the Local Planning Authority. These details shall be in accordance with but not limited to the approved Lighting Strategy Rev PO8 dated 14th July 2022 and Horizontal Illuminance Lux Plan (Dwg No. 2315-DFL-ELG-XX-CA-EO-13001 P06) dated 6th July 2022 both produced by DFL and shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **25 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.

### **26 Dwelling Access (Compliance)**

Each dwelling shall not be occupied until it is served by a properly bound and compacted footpath and carriageway to at least base course level between the dwelling and the existing adopted highway.

Reason: To ensure that the development is served by an adequate means of access in accordance with policy ST7 of the Bath and North East Somerset Placemaking Plan.

### **27 Water Efficiency (Compliance)**

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

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

### **28 Provision for detailed design for SUDS (Pre-commencement)**

Development shall not begin until a surface water drainage scheme for the site, in accordance with the agreed Flood Risk Assessment (FRA) and based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include, but not limited to:

1. Detailed drainage plan showing the location of the proposed SUDs and drainage network;
2. Details of how the scheme shall be maintained and managed after completion;
3. Details of how the hierarchy approach has been provided through a range of SUDs techniques in accordance with best practice and NPPF including above ground storage utilising open space where technically possible;
4. Demonstration of how the development has accommodated surface water drainage techniques as part of the layout;
5. Detailed drainage calculations for all rainfall events up to and including the 1 in 100-year event plus 30% climate change to demonstrate that all SUDs features, and the drainage network can cater for the critical storm event for its lifetime; and
6. The submission of evidence relating to accepted outfalls from the site, particularly from any third-party network owners.
7. A programme of implementation

The scheme shall subsequently be implemented in accordance with the approved details and programme of implementation before the development is completed.



Reason: To ensure that the development is served by an appropriate system sustainable urban drainage in accordance with policy SU1 of the Placemaking Plan and policy CP5 of the Core Strategy.

### **29 Garages (Compliance)**

Any garages approved as part of the development shall be retained for the garaging of private motor vehicles associated with the dwelling and ancillary domestic storage and for no other purpose.

Reason: To ensure adequate off-street parking provision is retained in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

### **30 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 BL-M-01 Revision D	Land Use and Access Parameter Plan -
BL-M-02 Revision B	Green Infrastructure Parameter Plan
BL-M-03 Revision B	Scale Parameter Plan
BL-M-07	Site Boundary Plan

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

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

## **3 Condition Categories**

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

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

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

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

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

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

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

#### **4 INFORMATIVES**

Prior to any works taking place, please contact PROW Inspector Cheryl Hannan on 01225 477623 to arrange a site visit to discuss the line of the path, proposed surfacing and the crossing of the footpath by the estate road.

There must be no decrease in the width of the footpath and no change to the gradient of the footpath as a result of the proposal. The footpath must join up in a suitable and acceptable manner with the adjoining sections of footpath off site, with no change of surface level when exiting the site.

3. The Design and Access Statement mentions the footpath in several places and comments on Page 40: "The existing Public Right of Way across the site is set within a generous green corridor through the residential development." The Illustrative Masterplan (247129103\_\_REV D) shows the main road bisecting public footpath BA27/30. Where a proposed road crosses a public footpath, there must be a demarcation of the footpath on the ground.

4. A temporary path closure may be required to facilitate development. Full details of the process involved can be found on the Council's website at: <https://www.bathnes.gov.uk/services/streets-and-highway-maintenance/publicrights-way/public-path-orders/temporary-path>

#### **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 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)

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

**Item No:** 02  
**Application No:** 21/05521/FUL  
**Site Location:** Rising Sun 58 Lymore Avenue Twerton Bath Bath And North East Somerset



**Ward:** Southdown      **Parish:** N/A      **LB Grade:** N/A  
**Ward Members:** Councillor Paul Crossley      Councillor Dine Romero  
**Application Type:** Full Application  
**Proposal:** Erection of 5 terraced houses and associated off street car parking.  
**Constraints:** Article 4 HMO, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Policy CP9 Affordable Housing Zones, HMO Stage 1 Test Area (Stage 2 Test Req), MOD Safeguarded Areas, SSSI - Impact Risk Zones,  
**Applicant:** Bramley Developments  
**Expiry Date:** 18th November 2022  
**Case Officer:** Chris Griggs-Trevarthen  
To view the case click on the link [here](#).

**REPORT**  
**REASONS FOR REPORTING TO COMMITTEE**

Councillors Tim Ball, Sarah Moore and Dine Romero have all objected to the application proposals and requested that the application be determined by committee if officers are minded to approve it. In line with the scheme of delegation, the application has been referred to the chair/vice chair who have determined that it should be decided by planning committee.

Councillor Sue Craig gave the following reasons:

*"I have reviewed this application and note the comments from local ward councillors and other consultees. The officer has worked with the applicant to address the issues raised*

*but the amount of built form contained within the plot and the consequent restriction of outdoor space remain controversial and would therefore benefit from debate by the planning committee."*

Councillor Sally Davis gave the following reasons:

*"This application has tried to address points raised by consultees and reasons given by the Planning Inspector when dismissing the Appeal in 2018 regarding the 2016 application.*

*Some issues are solved and others, e.g. parking, are difficult to object to as the report explains, I also note Ward Cllrs reasons for requesting this application be determined by the planning committee.*

*The application has been assessed against relevant planning policies as the report explains however overdevelopment of the site remains controversial. Therefore, I recommend the application be determined by the planning committee as it would benefit from debate in the public arena."*

## DESCRIPTION

The application site comprises the former garden/car park of the Rising Sun Pub on Lymore Avenue. It is a rectangular piece of land which is situated on the west side of Lymore Avenue.

The site lies within the Bath World Heritage Site but is not within the Bath Conservation Area.

The pub has been closed for a very long time and had permission to be converted into flats back in 2013 (13/01485/FUL). It has since been converted into a large HMO and retrospective planning permission was granted in 2018 (ref: 18/01156/FUL). Planning permission for the erection of three dwellings on the former pub garden and car park was granted in 2015. However, this permission has not been implemented and has now lapsed.

Proposals for wholesale redevelopment of the site were refused in 2017 (16/05950/FUL) for three reasons: design, living conditions and lack of parking. In dismissing the appeal in 2018, the Inspector upheld the Council's objections in respect of design and living conditions but did not agree that the proposals lack of parking would result in harm to highways safety or residential amenity.

The application proposes the erection of 5 dwellings with associated off-street parking.

Originally, it also included the reconfiguration of the HMO and the erection of a 2 bedroom, two-storey dwelling which would have been formed via an extension to the existing building. However, the application has now been amended to remove these elements of the proposal and reduce the site area (red line) so that it covers just the former pub garden and car park area where the 5 new dwellings are proposed.

## PLANNING HISTORY

13/01485/FUL

Conversion of Public House into 5 Flats  
Application status: PERMITTED 29th October 2013

14/05259/FUL  
Erection of 3 no. dwellings with associated works.  
Application status: PERMITTED 29th June 2015  
Note: This permission has not been implemented and has lapsed.

16/05950/FUL  
Erection of 7no. apartments following demolition of existing converted public house.  
Application status: REFUSED 27th July 2017  
Appeal status: DISMISSED 14th August 2018

18/01156/FUL  
Change of use from former Public House to a HMO (sui generis) (Retrospective)  
Application status: PERMITTED 14th May 2018

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

A summary of consultation responses to the application have been provided below.

HIGHWAYS: No objection, subject to conditions

ECOLOGY: No objection, subject to conditions

DRAINAGE AND FLOOD RISK: No objection, subject to conditions

ARBORICULTURE: No objection, subject to conditions

COUNCILLOR TIM BALL: Objection

This proposed development is excessively trying to fit so much onto such a small site will only lead to parking issues on surrounding roads as vehicles using this site will not fit into the parking provided. I would describe the development of this site as overdevelopment and is probably two properties too many.

The retention of the HMO will only exasperate a problem with parking in this area. The overbearing of 3 Storey properties overlooking two storey ones opposite is over the top and out of context with the other properties in the area.

This application will be detrimental to the local area and bring a feeling of being hemmed in for neighbouring households.

If you are minded to approve this application I would ask that it is referred to Planning committee for determination.

COUNCILLOR SARAH MOORE: Objection

I feel this is over development of the site. With extremely limited on street parking already the application states there would be 10 parking spaces where the drawing in the planning document only shows 5. These homes could have over 40 people occupying them with

very limited outside space. I also feel the materials and design is not in keeping with other properties in this area. Overstretched parking issues would spill out into neighbouring streets which are already at capacity. If you are minded to approve, I would ask this to be decided at committee.

**COUNCILLOR DINE ROMERO: Objection**

I have a number of concerns around this proposal and would like it to come to committee if you are minded to recommend this for approval.

The application appears to be looking to create 2 houses from an HMO with 9 bedrooms. The first, a house with 6 bedrooms, and the second a two bedroom property. Neither house appears to have any dedicated parking, and neither has any private amenity space. The 2 bed house will have ownership of a new courtyard formed from demolishing a section of the current building but will be overlooked by the neighbouring property from 2 of the 3 remaining sides.

With so many people expected to be residents in these 2 houses it would be expected that this will increase the parking pressures on Lymore Avenue. Parking at the part of this road nearest to these proposed houses restricts the road to a single lane of traffic, and there is less than one car space per house for the existing terrace opposite the proposed development.

Will the main house entrance still open directly onto the road?

Are the plans for proposed new terrace within the grounds of the former PH accurate? My examination of these leads to me to believe that 3 out of the 5 will not have kitchen, dining or living rooms, and will be entirely bedrooms. Perhaps I am wrong?

It might be that the plan shows on the one terrace the layout of both the ground and 1st floor, and the second plan the top 2 floors. If so none of the houses have a reasonable amount of outside space for 4 bed roomed homes.

My main concern is that the exit from the proposed car park. The access is already set back, in order to get proper visibility a car will need to be in the road, and in the traffic, as I pointed out earlier parking for the existing houses restricts the flow of traffic to a single lane. There is no obvious way of increasing visibility from the car park particularly uphill.

Therefore, I would like to ask that this application be refused on the grounds of highway safety, lack of amenity for each property, and over development of the site.

**BATH PRESERVATION TRUST: Objection (Comments received before revised plans)**

The Rising Sun is an unlisted former public house, situated within the World Heritage Site and the indicative townscape setting of the Bath conservation area. The building appears to date to the late 19th century and has retained its historic L-shaped form in Bath stone ashlar, albeit with substantial later (likely 20th century) additions to the southern elevation. Due to the pub's 2 and a half storey form and prominent position along the north-west - south-east slope of Lymore Avenue, it positively contributes to the streetscape as a distinctive built feature. The pub has since been converted to residential use and currently

operates as a 10-bed HMO but retains notable features such as a hanging sign at first floor level that allude to its historic use.

The proposed development incorporates both the former pub building and the undeveloped site running down the slope adjacent to the roadside, previously in use by the pub to provide outdoor seating and limited parking. As existing, the streetscape is defined by the presence of modest two-storey turn-of-the-20th century terraced housing in a mix of Bath stone ashlar and red brick, with a stepped roofline that follows the slope of the roadside. Later additions to the north include 1930s terraced housing with elevated front gardens that therefore read as taller, although these are focused opposite the more significant gabled elevation of the former pub.

There is existing planning permission to develop the site to provide three detached four-bed dwellings (see 14/05259/FUL). Therefore, the principle of the residential redevelopment of this site has already been established as acceptable.

BPT is supportive of a proposed terraced layout, which would be more in keeping with the site's immediate residential context.

However, we feel that this scheme as proposed would constitute overdevelopment of the site due to the excessive scale and height of the terrace, and floor area ratio which deprives the development of any meaningful amenity space or nature positive space. The immediate context of the site reads as modest and low-profile in scale, generally 2 storeys in height (Bath City-Wide Character Appraisal, 2005), with buildings of 2 1/2 - 3 storeys functioning as distinctive townscape landmarks. The proposed terrace reads as 3 storeys with the bays on the principal elevation running up to gabled dormers at roof level, resulting in a perceived increase in streetscape height by a storey. The rear elevation is visibly even taller at 3 1/2 storeys due to the land gradient. The development would therefore be an over-dominant addition to the street scene out of keeping with the modest grain of its townscape setting. It would overshadow the adjacent terrace rather than complementing and contributing to the area's established terraced form and distinctiveness.

The proposed footprint of development would push up against the southern elevation of the former pub building and result in a cramped, awkward intersection between the terrace and a detached, standalone feature of local interest, as well as significantly restricting the outdoor amenity space available for use by the future residents of the 6-bed HMO. The cumulative massing of the terrace would near-completely obscure the historic gable end of the former pub as viewed from the south up Lymore Avenue.

Furthermore, we have strong concerns regarding the future residential amenity of these dwellings. Considering each house is four-bed and would likely be occupied as a family home, the tiny, constricted rear courtyards overshadowed by three storey extension offshoots to the north and south would be completely inadequate. Policy D6 of the Core Strategy and Placemaking Plan specifies that "development must provide for appropriate levels of amenity", including "provision of adequate and usable private or communal amenity space and defensible space." Whilst the existing streetscape is of a tight terraced grain, terraces at Lymore Avenue, Lymore Gardens are provided with generous rear garden plots. Even streets such as Dartmouth Avenue with more restricted gardens have



a greater volume of outdoor space than proposed in this scheme and good access to natural light.

We therefore maintain that the proposed scale and volume of development is immoderate in relation to the size of the site and would sit poorly in its streetscape setting at detriment to local townscape character. It would fail to deliver acceptable amenity space and facilities for future residents. This application in its current form is inappropriate, and we strongly recommend the scale of the scheme is reduced to allow for a reduction in roof height and a more relaxed layout with increased amenity space. A reduced number of dwellings and/or a reduced number of bedrooms per dwelling could be considered.

The provided proposed General Arrangement Plans 1 and 2 appear to indicate that Bedroom 3 in a number of the dwellings would have no windows and therefore no access to natural ventilation or light, contrary to Policy D6 of the Core Strategy and Placemaking Plan. This would also likely fail to meet fire safety requirements in Section 2, Approved Document B of the Building Regulations 2010, and we therefore recommend that this is suitably amended.

We question the practicality of the proposed provision of 10 parking spaces using an underground docking system, and how these spaces will be maintained and secured to ensure their functionality. This type of parking system is better suited to staffed parking areas where malfunctions can be easily and quickly addressed. We consider that this proposed parking provision is an over-intensive use of the site and is indicative of the overdeveloped, cramped nature of the proposed development without adequate space for supporting facilities.

It is unclear as to whether the principal elevations would be clad in natural Bath stone ashlar, or reconstituted Bath stone; we express a strong preference for a natural Bath stone to materially echo the adjacent terrace. There are no further details regarding what is meant by 'rangework' proposed for the principal bays and the two storey extension to the former pub building, and how this would sit against the proposed Bath stone in construction, colour, and material finish. We have some concerns that this material type would be out of keeping with the material character of the area, and would sit oddly against the palette of Bath stone ashlar. We strongly recommend that further details regarding the proposed materials are supplied as part of this application, rather than being left to condition. A stone-coloured render rather than the proposed white render across the rear elevations may be more visually congruous with the defined appearance and character of the area.

In light of the declared Climate Emergency, we emphasise the need for high quality, sustainable housing that uses appropriate measures to minimise emissions, lower energy usage, and make use of sustainable materials where appropriate. We feel that this scheme could do more to 'build in' green energy production and microrenewables. We additionally note that in the Sustainable Construction Checklist, it is specified that "The SAP calculations for the proposal show how solar PV can be utilised to meet the policy requirements. The total PV systems would comprise of 26 no 250W panels, or other panels options available to meet site wide capacity shown below." No panels are indicated on any of the proposed roof plans, and it is unclear as to whether this measure would be implemented as part of the scheme.

Considering the green, undeveloped character of the site as existing, appropriate ecological assessment may be required to assess any potential adverse loss of biodiversity as part of the proposed scheme.

This application would have an adverse impact on local distinctiveness and townscape character and would fail to positively respond to its context, contrary to Policies B1, BD1, CP6, D1, D2, D3, D4, D5, D6, and D7 of the Core Strategy and Placemaking Plan, and should be refused or withdrawn.

**THIRD PARTIES/NEIGHBOURS:** 48 OBJECTION comments have been received. The main points raised were:

The pavement outside this site is too narrow, dangerous and not suitable for wheelchair users. Proposals to widen the footpath will impact upon the width of the road.

Concerns about highways safety and air pollution associated with traffic from the proposal. There have been accidents and near misses in the area.

It is noted that Lymore Avenue is narrow and only allows one vehicle to drive up or down safely at a time.

The road outside the site is prone to flash floods and there are concerns about the proposed surface water drainage system.

The proposals will impact upon mature trees planted in the surrounding area.

The parking area is too small and there is insufficient parking for the proposed occupiers. This will result in additional on-street parking which is currently limited. The underground double decked parking is considered impractical, particularly for communal use, and is liable to break down and have issues with drainage.

The proposed houses lack sufficient outdoor space.

The proposed houses are too high and too big for the area and are considered out of keeping and impact upon the natural light and privacy of adjoining properties. The footprint of the buildings is far too close to the road and houses opposite. The proposals appear cramped and represent overdevelopment of the site. Loss of the open aspect of the neighbourhood and the character of the area.

The proposals will result in overcrowding.

Overlooking of properties on the other side of Lymore Avenue. Other amenity impacts including noise, disturbance, loss of light, loss of privacy, odours, rubbish and refuse and anti-social behaviour.

Concerns about the environmental impact of the vehicles and building waste associated with such a development.

Concerns these dwellings will be converted to HMOs.

Proposals will adversely affect the quiet residential area and the mix of housing does not address the need identified in the Housing Market Assessment for need.

Lack of infrastructure to cope with the proposed development

Insufficient thought given to EV charging. Concerns about the energy consumption of the hydraulic parking lift.

Concerns about the consultation process and difficulty understanding the plans.

Land should be used for small businesses

2 SUPPORT comments have been received. The main points raised were:

There is a massive shortage of houses in the area, and this will help first time buyers.

As there is already planning permission for 3 houses on this site, this application will enhance the site even further.

The existing building is quite unattractive, and its redevelopment is welcomed.

The design gives architectural nods to the houses opposite, although there is already quite a mix of contrasting styles in the immediate area.

The proposed parking area was formerly the pub car park, so it shouldn't be considered unsafe given the comparable traffic flows from the past.

2 GENERAL COMMENTS have been received. The main points raised were:

The screen to the north west side of the patio is not high enough to shield the adjacent properties from noise.

There is a profound lack of parking in this area, so much so that roads become impassable. This proposal does not appear to provide adequate off-street parking for the proposed population. New homes in this area will require off-street parking for two vehicles and a van. The proposal needs to be redesigned to provide sufficient off-street parking.

## **POLICIES/LEGISLATION**

The Development Plan for Bath and North East Somerset comprises:

- o Bath & North East Somerset Core Strategy (July 2014)
- o Bath & North East Somerset Placemaking Plan (July 2017)
- o West of England Joint Waste Core Strategy (2011)
- o Bath & North East Somerset saved Local Plan policies (2007) not replaced by the Core Strategy or the Placemaking Plan:
  - o Policy GDS.1 Site allocations and development requirements (policy framework)
  - o Policy GDS.1/K2: South West Keynsham (site)
  - o Policy GDS.1/NR2: Radstock Railway Land (site)

- o Policy GDS.1/V3: Paulton Printing Factory (site)
- o Policy GDS.1/V8: Former Radford Retail System's Site, Chew Stoke (site)

#### 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:

- DW1 District Wide Spatial Strategy
- SD1 Presumption in favour of Sustainable Development
- CP2 Sustainable Construction
- CP5 Flood Risk Management
- CP6 Environmental Quality
- KE1 Keynsham Spatial Strategy

#### RELEVANT PLACEMAKING PLAN POLICIES

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

- SU1 Sustainable Drainage
- D1 Urban Design Principles
- D2 Local Character & Distinctiveness
- D3 Urban Fabric
- D4 Streets and spaces
- D5 Building Design
- D6 Amenity
- D8 Lighting
- D10 Public Realm
- SCR2 Roof mounted/Building-integrated scale solar PV
- SCR5 Water Efficiency
- HE1 Historic Environment
- NE1 Development and Green Infrastructure
- NE3 Sites, species and habitats
- NE6 Trees and woodland conservation
- PCS2 Noise and vibration
- PSC5 Contamination
- PCS6 Unstable land
- PCS7A Foul sewage infrastructure
- ST1 Promoting sustainable travel
- ST7 Transport requirements for managing development

#### NATIONAL POLICY AND GUIDANCE

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

#### EMERGING POLICY

The Local Plan Partial Update is current under examination. It does not currently form part of the development plan, but the emerging policies are material and can be attributed

weight in accordance with paragraph 48 of the NPPF. The following emerging policies are relevant to this application:

SCR6 Sustainable Construction Policy for New Build Residential Development  
SCR8 Embodied Carbon  
SCR9 Electric vehicle charging infrastructure  
NE3a Biodiversity Net Gain  
ST1 Promoting Sustainable Transport  
ST7 Transport requirements for managing development

#### CLIMATE EMERGENCY

The Council declared a Climate and Ecological Emergency in 2019 and this is a material consideration in the determination of this application.

#### LOW CARBON AND SUSTAINABLE CREDENTIALS

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

#### OFFICER ASSESSMENT

The main issues to consider are the following:

1. Principle of development
2. Design
3. Residential amenity
4. Highways
5. Trees and woodland
6. Drainage and flooding
7. Sustainable construction
8. Ecology
9. Other matters
10. Public Sector Equality Duty
11. Conclusion

#### 1. PRINCIPLE OF DEVELOPMENT

The application site falls within the built up area of Bath where the principle of new residential development is acceptable in accordance with policy B1 of the Core Strategy.

The site's former use a pub garden and car park ceased over a decade ago after the Rising Sun Public House closed. Furthermore, planning permission was granted for the erection of 3 dwellings on this site in 2015, although this was never implemented.

The principle of residential development of this site is therefore acceptable.

## 2. DESIGN

The site is situated within a residential suburb of Bath and despite some variety in building ages and styles, the area is characterised by modest and well-proportioned stone-built properties. The stretch of Lymore Avenue opposite the application site comprises a run of modest two storey terrace dwellings finished with a mixture of bath stone and brick with bath stone detailing. The former Rising Sun Public House sits comfortably in terms of its age, material treatment, overall form, and pattern of fenestration, within the built-backcloth that defines the area, thereby making a positive contribution to its character and appearance.

The application proposes the erection of a terrace of five dwellings, each two storey in height with a front facing bay window and dual pitched roof. Due to the sloping nature of the site, each dwelling would step down to the south-east following the line of the existing terrace opposite. The proposed terrace would be finished with natural bath stone on the front and end elevations with render on the rear elevation and natural slate for the roofs.

As originally submitted, the proposed dwellings were taller, included chimneys and the bay windows extended into the roof level. As a result of these features the terrace had the appearance of being three storeys high and was considered to be out of keeping with the more modest two storey terrace opposite.

However, following negotiations with the applicant, revised plans were submitted which reduced the height of the proposed dwellings, removed the chimneys and lowered the bay windows so that it does not extend above the first floor. These changes reduce the actual and perceived height of the proposed terrace such that it now appears two storey and in keeping with the scale of the existing terrace opposite.

The proposed dwellings are clearly contemporary in design, but they are considered to be respectful of the surrounding area in terms of scale, massing and materials. The use of ashlar stone on the front and end elevations and the introduction of contemporary bays are considered acceptable.

The site is reasonably narrow and the footprint of the proposed development fills most of it, with the primary open space remaining being the car parking area to the south. However, each dwelling has a good amount of defensible space fronting onto Lymore Avenue and each is provided with a small yard to the rear with access onto a footpath which runs adjacent to the site.

The amount of outdoor amenity space provided for each dwelling is very limited (17sqm) and this is clearly a constraint on the design of the proposed homes. However, each space is functional and usable and will provide each dwelling with a private outdoor space.

The density of the proposed development is greater than that of the surrounding area, largely because of the small plot sizes. However, the combination of the defensible space at the front of the terrace, the amenity space to the rear and the appropriate scale of the development means that it does not appear cramped or overdeveloped.

Overall, it is considered that the proposed development makes effective use of a relatively tight urban site with a design which, whilst contemporary, respects the character and appearance of the surrounding area.

### 3. RESIDENTIAL AMENITY

In terms of residential amenity, the proposed dwellings will face towards the fronts of existing dwellings on Lymore Avenue. This style of front to front relationship across a street is not unusual within the city and will not result in any harmful levels of overlooking.

To the rear, the proposed dwellings have been designed to contain only a single first floor rear window. These rear windows are approximately 16m from the rear of adjoining dwellings on Blackmore Drive. The proposed dwellings are cut into the site as the land rises to the north meaning that these windows are not positioned at full first floor height. Furthermore, there is a public footpath which runs along the rear of the path and, due to the sloping nature of the land, already affords some views into these neighbouring gardens. Any impacts will be further mitigated by the provision of appropriate boundary fencing.

The proposed dwelling will provide potential occupiers with a good level of residential accommodation. The proposed garden sizes are squeezed but are considered both functional and usable, and therefore acceptable, given the built up location.

### 4. HIGHWAYS

#### *Access*

The site is located on Lymore Avenue, a residential distributor road with a 20mph speed limit. There is currently only a footpath on the north side of the street with the land directly adjacent to the site comprising highways verge.

Vehicular access to the proposed parking area will be via Lymore Avenue at the southern end of the site. The access proposals have been reviewed by the Highways Officer who is satisfied that adequate visibility can be achieved and that the proposed access is acceptable in highways safety terms.

The application also proposes the installation of a 1500mm wide footway adjacent to the proposed houses on Lymore Avenue. This width of footpath meets guidance for minimum acceptable width under most circumstances, as this should enable a wheelchair user and a walker to pass each other and will provide a wider benefit to all pedestrians using Lymore Avenue.

The footway is proposed to be widened adjacent to the former Rising Sun building, but it is still restricted to between 0.8 and 1m due to the width of the highway. This part of widened footway will offer a betterment compared to the existing situation although the narrow section will be below the 'absolute minimum' width of 1m recommended in Inclusive Mobility (Department for Transport 2021).

The proposals also include the provision of a tactile paving crossing point across Lymore Avenue involving a build out to provide adequate visibility and avoid small children being obscured by parked cars while waiting to cross.

The proposed new footway/footway widening and crossing point will be secured via a Grampian planning condition.

### *Parking*

The proposed parking plans show that 5 'double stacked spaces' (total 10) are proposed using a car lift system.

The site is located in the 'Bath Outer Zone' for the B&NES Placemaking Plan (Policy ST7) which contains the residential parking standards set out in schedule 2 which require a minimum of 2 car parking spaces per 2 or 3 bedroom dwelling and 3 car parking spaces for a 4 bedroom dwelling and above. In addition, visitor car parking is required at 0.2 spaces per home.

The prescribed standard for car parking for five dwellings (3 bedrooms) would be 10 spaces plus 1 additional visitor space.

The Transport Technical Note includes an Accessibility Assessment to allow for a discount to the parking standard which only allows for a discount of 0-10% or up to 1 space. The proposed 5 double stacked spaces would therefore fall significantly below the adopted parking standards in the Placemaking Plan.

The Council have consulted on a new parking standard contained in the Transport and Developments SPD. This is expected to be adopted alongside the Local Plan Partial Update in late 2022 or early 2023. As it has now been through Public Examination it can be given

'significant weight' in accordance with paragraph 48 of the NPPF. The new standards for 'Zone B' Outer Bath allow a maximum of 1.5 vehicle spaces per three bed dwelling and greater. In addition, the applicant has submitted an Accessibility Assessment using the proposed format for the draft SPD. This suggests that the new parking standards would allow for a discount of up to 2 spaces.

The proposed 5 double stacked spaces would fall somewhere slightly above or below the parking standards in the draft Transport and Developments SPD, dependant on whether the underground spaces are counted.

Highways have previously objected to this type of mechanically assisted parking counting towards the parking standard due to the potential for the facility to be out of service. The submitted cover letter does say that the systems are 'reliable and simplistic' in their operation and that the proposed supplier does have a call out service for maintenance/repair. Nonetheless, highways are of the view that the proposed lifts are not equivalent to two standard car parking spaces and should not be counted as such against the parking standard.

Highways have therefore advised that they consider the current proposals to only provide 5 standard surface level spaces and that this does not comply with the current adopted



parking standards which would require 10 spaces for the development. However, the proposal is only 1 space short of the emerging parking standards in the draft Transport and Developments SPD.

Given the comments from the Inspector in respect of the 2018 appeal on this site (ref: 16/05950/FUL) that *"the local parking situation does not indicate to me that there is a particularly high degree of parking stress or overload"* and their failure to uphold the Council's reason for refusal on parking grounds, it is considered that an objection on the basis of a deficit of one space against the emerging parking standards would be difficult to sustain and does not justify refusal of this application.

#### *Other highways matters*

The proposed dwellings would each have a 'Cycle and Garden Store' to provide 2 cycle parking spaces each. After initial concerns about the internal dimensions of these stores, the cycle parking for the houses was adjusted to improve their accessibility and the Highways Officer is now satisfied that these are acceptable.

Highways are satisfied with the waste management plans for the development which includes covered bin stores for each dwelling along the frontage with Lymore Avenue.

Lymore Avenue is a busy road in a built-up residential area and a construction management plan detailing traffic management, contractor parking, delivery details, storage of materials and provision for large equipment such as cranes will be required prior to works commencing. This can be secured by condition.

## 5. TREES AND WOODLAND

The proposed building footprint for the current application does not extend any nearer to the two offsite trees than the previous lapsed permission for three dwellings (ref: 14/05259/FUL). However, significant excavations appear to be required to provide stacked car parking for 10 cars as indicated on drawing Proposed General Arrangement Plans 1 of 2 ( number RS-CC-00- PL-A-010 rev A ) and Proposed General Arrangements Elevations (RS-CC-XX-EL-A-012 ).

There is an off-site Maple (T1) which is located close to the southern end of the site and the Council's Arboriculturalist originally raised concerns about the potential impacts of the on-site excavation. Following the receipt of additional information, the Council's Arboriculturalist has removed their objection and recommended conditions to ensure compliance with the submitted arboricultural method statement.

## 6. FLOOD RISK AND DRAINAGE

The site falls within flood zone 1 where there is a low risk of flooding, although third parties have pointed to localised instances of surface water flooding on Lymore Avenue.

A drainage strategy has been submitted with the application and reviewed by the Drainage and Flood Risk Team. Wessex Water have confirmed that the existing infrastructure has sufficient capacity to accommodate the proposed flows and attenuation will be provided underneath the car parking area to the south. The Drainage and Flood Risk Team have no objection to the drainage strategy which is considered acceptable.

## 7. SUSTAINABLE CONSTRUCTION

Policy CP2 of the Core Strategy requires sustainable design and construction to be integral to all new developments. The Council's Sustainable Construction Checklist has been completed and submitted with the application. All proposed dwellings would be provided with air source heat pumps and SAP calculations provided within the checklist indicate that the proposals would result in a 57.59% reduction in carbon emissions compared to the baseline emissions.

## 8. ECOLOGY

An ecology report and species surveys have been submitted with the application which demonstrate that the site has been subject to an extended Phase I Habitat Survey. The report identifies that the site comprises hardstanding and amenity grassland and the habitats on site may support nesting birds, these results are accepted. The measures to protect nesting birds as per Section 6.3 and for sensitive external lighting as per Section 6.4 are supported by the Council's Ecologist and can be secured via condition.

The bat survey demonstrated that existing building of the former Rising Sun Public House has negligible potential to support roosting bats. However, this element of the scheme has since been removed from the proposals and is therefore no longer relevant.

The Council's Ecologist is satisfied that, subject to securing the ecological measures in the ecology report, the proposals are acceptable and will not have any unacceptable impact upon ecology.

## 9. OTHER MATTERS

Several of the third party comments received have raised concerns about the potential impacts upon air pollution arising as a result of traffic generated by the proposed development. The proposed development of five dwellings is considered to be a minor development which is unlikely to generate enough vehicle trips to have any significant impact upon air quality.

A few concerns have been raised about the possible increase in anti-social behaviour, litter and odours arising from the development. The supposed causation of these issues is not entirely clear, but it is noted that the current site is derelict and surrounded by hoarding. Such sites are more likely to be a target of anti-social behaviour than a residential development which brings with it an increased level of natural surveillance and security. The frontage of each proposed dwelling also contains a covered bin store so that

there is somewhere appropriate for refuse and recycling to be stored without causing litter or odour issues.

Others have raised concerns that the proposals will allow for the conversion of the development into HMOs rather than family housing. Many of these comments were received in response to the original proposals which included a new dwelling within an extension to the former Rising Sun public house, but these elements of the plan have since been removed. The current proposals are for five C3 dwellinghouses and any change of use to a HMO (C4) would require a further planning application because of the article 4 direction covering the City of Bath which removes permitted development rights for changes of use from C3 to C4. This would enable the Council to consider the merits of any such proposals, including the application of its HMO specific policies.

## 10. PUBLIC SECTOR EQUALITY DUTY

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

The introduction of a footpath on the west side of Lymore Avenue, the widening of the footpath adjacent to the former Rising Sun Public House and the creation of a crossing point with tactile paving will improve accessibility to and from the site and along Lymore Avenue for all including the elderly, disabled, parents with buggies and those with mobility issues. The proposals provide a potential benefit to these groups and are a positive outcome of the proposed development.

## 11. CONCLUSION

The proposed development would make effective use of a small, derelict urban site to provide five well designed family homes. The constraints of the site mean that there are compromises in terms of the size of outdoor space and compliance with the currently adopted parking standard. However, the outdoor spaces are functional and useable and the overall residential environment created for each dwelling is good quality such that the amenity of potential occupiers will be preserved. Furthermore, the level of on-site parking is only 1 space short of the emerging parking standards and, considering the previous appeal Inspector's comments, a refusal could not be justified on these grounds.

Alongside providing new homes which will contribute towards meeting housing needs in the city, the proposals will also provide pedestrian improvements in the form of a new footway, existing footway widening and a crossing point with tactile paving.

Subject to the suitable conditions set out below, it is considered that the proposals are acceptable and should be granted planning permission.

Due to the conflict with the currently adopted parking standards, the proposals will be advertised as a departure in accordance with the Town and Country Planning (Development Management Procedure Order) 2015.

## **RECOMMENDATION**

Delegate to PERMIT

## **CONDITIONS**

0 A.) Subject to no comments raising new material considerations from the advertisement of the application as a departure, authorise the Head of Planning to PERMIT subject to the following conditions (or such conditions as may be appropriate):

### **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 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;

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

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

### **3 Bound/Compacted Vehicle Access (Compliance)**

No occupation of the development or use hereby permitted shall commence until an absolute minimum of the first 6 metres of the vehicular access beyond the back edge of the adopted public highway has been constructed with a bound and compacted surfacing material (not loose stone or gravel).

Reason: To prevent loose material spilling onto the highway in the interests of highways safety in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

#### **4 Parking (Compliance)**

The areas allocated for parking and turning, as indicated on submitted plan(s) reference 107 Rev A shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.

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

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

No occupation of the development shall commence until bicycle storage for at least two bicycles have been provided for each dwelling in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. The bicycle storage shall be retained permanently thereafter.

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

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

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

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

#### **7 Highway Works (Pre-occupation)**

No occupation of the development shall commence until the highway works, including a new pavement and dropped kerb crossing, as shown on drawing number 803.0012.002 Rev A and 803.00012.001 Rev F have been completed. There shall be no on-site obstruction exceeding 600mm above ground level within the visibility splay. The visibility splay shall be retained permanently thereafter.

Reason: To ensure that the development is served by an adequate means of access in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

#### **8 Arboricultural Compliance Certificate (Bespoke trigger)**

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

Reason: To ensure that the approved method statement is complied with for the duration of the development to protect the trees to be retained in accordance with policy NE.6 of the Placemaking Plan.

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

No development shall commence until a detailed drainage strategy has been submitted to and approved in writing by the Local Planning Authority. The drainage strategy shall thereafter be installed in accordance with the approved details prior to the occupation of any of the dwellings hereby approved. The site drainage shall thereafter be operated and maintained in accordance with the approved details for the lifetime of the development.

Reason: To ensure that the development is served by an acceptable drainage strategy and to avoid any increase in flood risk in accordance with policy CP5 and SU1 of the Bath and North East Somerset Council Placemaking Plan.

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

No development shall take place until full details of a Wildlife Protection and Enhancement Scheme 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 nesting birds and other wildlife, and proposed reporting of findings to the Local Planning Authority prior to commencement of works;

(ii) Detailed proposals for implementation of the wildlife mitigation measures and recommendations of the approved Preliminary Ecological Appraisal report produced by CSM Ecology dated February 2022 including wildlife-friendly planting / landscape details; green roofs; provision of 2 x bat access slates and 2 x bird boxes, with proposed specifications and proposed numbers and positions to be shown on plans 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.

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

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

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

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

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

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

### **12 Sample Panel - Walling (Bespoke Trigger)**

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

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

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

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; 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 (particularly the trees located to the south and south-west); and to avoid harm to bat activity and other wildlife. The lighting shall be installed maintained and operated thereafter in accordance with the approved details.

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

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

No occupation of the development hereby approved shall commence until a report produced by a suitably experienced professional ecologist (based on post-construction on-site inspection by the ecologist) confirming and demonstrating, using photographs, adherence to and completion of the 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 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 Council Placemaking Plan.

### **15 Sustainable Construction (Pre-occupation)**

The development hereby approved shall be completed in accordance with all measures within the Sustainable Construction Checklist approved with the application, or with measures agreed in writing by the Local Planning Authority. At all times the development shall achieve at least a 19% reduction in regulated emissions compared to that required by the Building Regulations.

No occupation of the development shall commence until a Sustainable Construction Checklist (as set out in the Council's Sustainable Construction Supplementary Planning Document, Adopted November 2018) for the completed development has been submitted and approved in writing by the Local Planning Authority. This shall include:

1. The completion of all relevant tables (see indicated tracks/thresholds in the checklist);
2. All relevant supporting documents/evidence (see indicated tracks/thresholds in the checklist).

Reason: To ensure that the approved development complies with Policy CP2 of the Bath and North East Somerset Core Strategy (sustainable construction).

### **16 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:**

1 101 SITE LOCATION & SITE PLAN  
105 PROPOSED SITE BLOCK PLAN  
106 REV A PROPOSED GA PLAN 1 OF 2  
107 REV A PROPOSED GA PLAN 2 OF 2  
108 REV A PROPOSED GA ELEVATIONS 1 OF 2  
109 REV A PROPOSED GA ELEVATIONS 2 OF 2  
111 TYPICAL DWELLING FLOOR PLANS  
112 CAR PARKING UPPER LEVEL  
114 CAR PARK SECTION  
115 ROOT PROTECTION AREAS  
803.0012.002A VISIBILITY SPLAY ASSESSMENT  
803.0012.001 F PROPOSED FOOTWAY ARRANGEMENT & TACTILE PAVING CROSSING POINT  
RIS-PAS-XX-XX-DR-C-3000 P05 PROPOSED DRAINAGE STRATEGY

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

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

### **3 Condition Categories**

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

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

Pre-commencement - The condition requires the submission and approval of further information, drawings or details before any work begins on the approved development.



The condition will list any specific works which are exempted from this restriction, e.g. ground investigations, remediation works, etc.

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

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

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

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

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

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

**Do not commence development** until you 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)

## **5 INFORMATIVES**

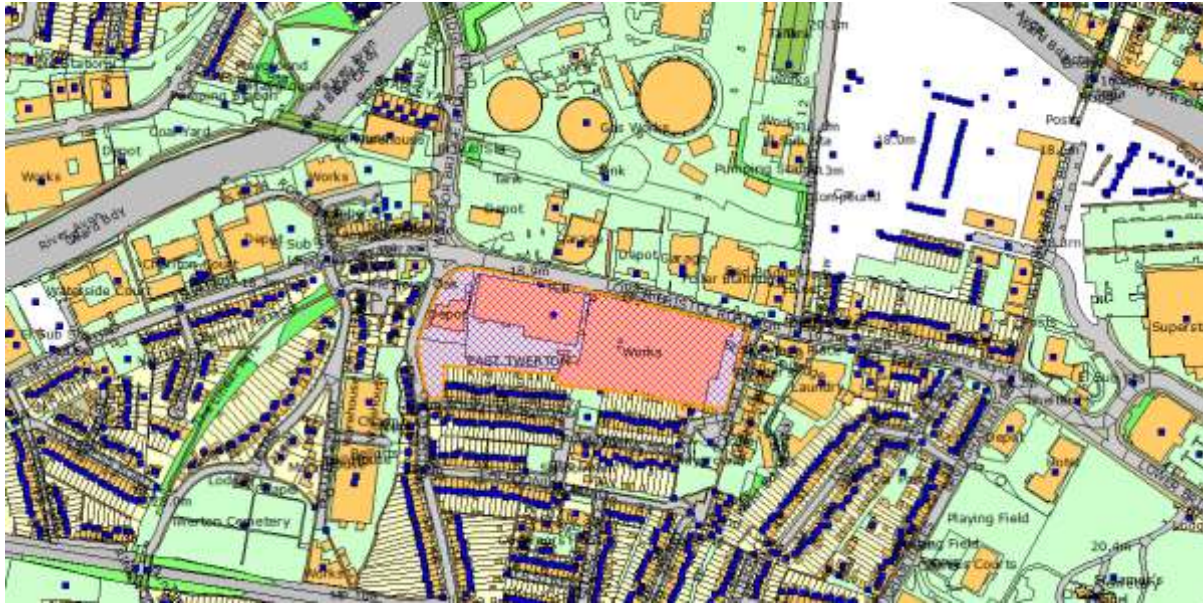
1. Local Highway Authority require an agreement (Section 38/ 278 Highways Act). The Local Highway Authority (LHA) requires the developer to enter into legally binding agreements to secure new pavement and dropped kerb crossing. Further information in this respect may be obtained by contacting the LHA

2. Access and use of the adjacent land would be subject to separate agreement and licence arrangements with the Bath and North East Council Property Services team. Planning consent does not negate the need for a separate agreement with Parks and Green Spaces since the proposed works to the Maple identified as T1 extends beyond common law rights

## **6 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:** 21/05672/EFUL  
**Site Location:** Former Bath Press Premises Lower Bristol Road Westmoreland Bath  
Bath And North East Somerset



**Ward:** Westmoreland                      **Parish:** N/A                      **LB Grade:** N/A

**Ward Members:** Councillor Colin Blackburn Councillor June Player

**Application Type:** Full Application with an EIA attached

**Proposal:** Redevelopment of the site to provide a residential-led mixed-use development, comprising residential units (Class C3 Use) and provision of office floor space at ground floor level (Class E(g)(i) Use), provision of three substations, together with associated infrastructure, landscaping, plant equipment, car and cycle parking and access (Resubmission).

**Constraints:** Article 4 HMO, Agric Land Class 3b,4,5, Air Quality Management Area, Policy B1 Bath Enterprise Zone, Policy B3 Twerton and Newbridge Riversid, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Policy CP9 Affordable Housing Zones, District Heating Priority Area, Flood Zone 2, HMO Stage 1 Test Area (Stage 2 Test Req), LLFA - Flood Risk Management, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, Policy NE5 Ecological Networks, Placemaking Plan Allocated Sites, SSSI - Impact Risk Zones,

**Applicant:** Abrdn PLC (formerly Aberdeen Standard

**Expiry Date:** 2nd June 2022

**Case Officer:** Chris Griggs-Trevarthen

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

**REPORT**  
**REASONS FOR REPORTING TO COMMITTEE**

The application is subject to a viability assessment in respect of affordable housing and in accordance with the scheme of delegation is being reported to the Planning Committee.

## DESCRIPTION

The application site is situated on the corner of Lower Bristol Road and Brook Road in Bath. It is roughly rectangular in shape and is approximately 2.21 hectares in size. The former industrial buildings which occupied the site have now been demolished and it currently comprises mounds of rubble alongside the retained Bath Press façade along the Lower Bristol Road frontage.

The site is allocated for residential development under policy SB9 (The Bath Press). It falls within the City of Bath World Heritage Site but is not within a conservation area and does not contain any statutory listed buildings, structures or scheduled monuments. The Bath Press façade is a Locally Important Building and the site is within the setting of grade II listed buildings at 30,31 and 32 Lower Bristol Road to the north east. It is identified as a site of potential concern in respect of contaminated land and falls within the Bath Air Quality Management Area ("AQMA"). The site is predominantly within Flood Zone 1 but a small part of the north of the site is within Flood Zone 2. It is also identified as a priority area for district heating.

The site benefits from an extant planning permission for the 'Demolition of existing buildings and redevelopment of the site to provide a residential-led mixed-use development comprising 244 dwellings (Use Class C3) and 1,485.2 square metres (GIA) flexible employment space (Use Class B1), basement car park, substation, associated landscaping and access' (ref. 15/02162/EFUL). This permission has been implemented as demolition work has begun on site and a CIL payment was made upon commencement.

A subsequent application for a development of 256 BTR flats, 30 townhouses and 950sqm of commercial floorspace (ref: 20/04760/EFUL) was refused by the Planning Committee in September 2021 for the following four reasons:

1. Under provision of office space when compared to the quantum required by the allocation (1,500sqm)
2. Loss of the historically important chimney of the 1920 factory resulting in harm to the non-designated heritage asset for which no clear and convincing justification exists
3. Failure to provide an adequate level of off-street parking
4. Failure to provide sufficient north-south connections through the site for neighbouring residential communities and fails to adequately connect with existing routes in and through adjoining areas.

The current proposals represent a resubmission of the previously refused application incorporating amendments designed to overcome the previous reasons for refusal. These main amendments to the scheme are:

1. Increase in proposed office floorspace from 950sqm to 1,608sqm (GIA)
2. Retention of the historic chimney

3. Introduction of a pedestrian/cycle/wheelchair access point on the southern boundary
4. Additional off-site improvements to pedestrian/cyclist accessibility have been proposed including an informal crossing on Lower Bristol Road.

Consequential amendments as a result of these changes have meant a reduction in the number of proposed homes from 286 to 277.

## **PLANNING HISTORY**

12/01999/EFUL - Refused - 17 January 2013 - Mixed-use redevelopment comprising 6,300sqm of retail (Class A1), 4,580sqm of creative work space (Class B1), 2,610sqm of offices (Class B1), 220sqm of community space (class D1/D2), 10 residential houses, basement car park, landscape and access (including realignment of Brook Road)

15/02162/EFUL - PERMIT - 13 September 2016 - Demolition of existing buildings and redevelopment of the site to provide a residential-led mixed-use development comprising 244 dwellings (Use Class C3) and 1,485.2 square metres (GIA) flexible employment space (Use Class B1), basement car park, substation, associated landscaping and access.

20/04760/EFUL - REFUSE - 24th September 2021 - Development of the site to provide a residential-led mixed-use development, comprising 286 residential units (Use Class C3) and provision of commercial floor space at ground floor level (Use Class E), demolition of existing chimney, provision of three substations, together with associated infrastructure, landscaping, plant equipment, car and cycle parking, and access.

## **ENVIRONMENTAL IMPACT ASSESSMENT**

This application has been determined in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

Given the scale and nature of the proposed development and having regard to its location within a World Heritage Site, the application has been submitted with an Environmental Impact Assessment.

An Environmental Statement describing and assessing the direct and indirect significant effects of the proposed development has been submitted with this application and includes chapters on matters of transport and access, noise and vibration, air quality, daylight, sunlight and overshadowing, biodiversity, cultural heritage, surface water drainage and flood risk, ground conditions/contamination, climate change and greenhouse gases.

The assessment of environmental effects and proposed mitigation form an integral part of the consideration of the proposed development set out in this report. To avoid repetition the findings of the ES are reported below as part of the assessment of the planning issues, together with responses to consultations and other representations received.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

**PARKS AND GREEN SPACES:** No objection, subject to obligations

**ENVIRONMENTAL PROTECTION:** No objection, subject to conditions

**ENVIRONMENTAL MONITORING:** No objection, subject to conditions

**ECOLOGY:** No objection, subject to conditions

**HOUSING:** Objection

This application triggers Policy CP9 thus requiring an affordable housing contribution at 30%. However, the applicant had for the previous refused application submitted a viability suggesting a zero (0%) affordable housing contribution. It remains unclear how this earlier submitted viability relates to this particular application

**VIABILITY ASSESSOR:** Comments

Taking into account the updated AUV appraisal, the scheme assessed at present day costs/values indicates that there is limited scope for affordable housing contributions. However, as per our initial report conclusion we consider it prudent for the Council to consider a review mechanism to ensure that, as per paragraph 009 of the PPG, the Council has the 'ability to seek compliance with relevant policies over the lifetime of the project'.

**HIGHWAYS:** No objection, subject to conditions/obligations

Highways previously raised concerns to the level of car parking proposed in relation to the current/emerging car parking standards. The proposal has now been considered against the requirements of the emerging LPPU Policy ST1 (Promoting Sustainable Development and Healthy Streets), and it is recognised that significant weight can be given to the policy due to the status of the examination process.

Officers are now satisfied that the applicant has identified a comprehensive package of improvement to the existing walking, cycling and public transport infrastructure which will promote significant model shift to more sustainable forms of transport, in accordance with Policy ST1 of the emerging LPPU.

Highways recommend no objection subject to conditions described below.

**ECONOMIC DEVELOPMENT:** No objection

**PLANNING POLICY:** No objection, subject to conditions

**CONSERVATION OFFICER:** No objection

**DRAINAGE AND FLOOD RISK:** No objection, subject to conditions

**ENVIRONMENT AGENCY:** No objection, subject to conditions

AVON AND SOMERSET POLICE: No objection

AVON FIRE SERVICE: No objection, subject to fire hydrant obligation

HISTORIC ENGLAND: No comment

COUNCILLOR JUNE PLAYER: Objection

Councillor Player objects to the application of several grounds including:

Pollution and Noise - due to the proximity, height and density of the Dick Lovett site, which is directly opposite, and the existing massive Roseberry Place/Spring Wharf development on the opposite corner there will be a serious increase in both dangerous fumes from all the traffic that travels along the Lower Bristol Road, and noise. Fumes and noise will be trapped in this section of the road and will be very harmful to the occupants in their vehicles as traffic is often at a standstill, thus idling or is moving very slowly due to so much congestion. This will also mean that occupants living in these developments, especially those facing onto the road, will also be adversely affected.

Cyclists and pedestrians - This is a very dangerous and polluted stretch of road and not at all suitable for promoting it as an ideal location for cycling. Cyclists will be at great risk as there are no dedicated cycle lanes and safety precautions in place along here for them.

The proposal is for 81 on-site parking spaces, this development will undoubtedly attract far more vehicle users than that. This, therefore, will increase traffic movement all around this area in the narrow, heavily residential streets, as drivers drive round and round trying to find on-street parking spaces, as there is already a severe shortage of them.

The combination of not providing adequate parking on-site will create even more health and safety concerns for all road users including pedestrians and will seriously impact negatively on the residential amenities for all.

This situation is exacerbated even more as this side of Westmoreland is on the boundary of the Clean Air Zone and so many more vehicles are vying for the very limited on-street parking spaces with the occupants then going in to the City by some other means to avoid it.

For a development of this size offering so much Build-to-Rent (BtR) residential housing, there is far too little on-site parking provision. Either the number of residents needs to be reduced, or a far more appropriate number of on-site parking spaces needs to be provided. Eighty-one (81) for 246 units is just not enough.

Design/Local Character/Distinctiveness/Amenity - This proposal should be less high and should not exceed the height of the façade. This will then help to reduce the canyon-like effect, as mentioned above, and the associated pollution and noise problems, plus it will not detract from the landmark aspect of both the façade and the chimney.

Whilst it is good news that the chimney is to be retained, I very much fear that it will be 'LOST' from a visual point-of-view because of the heights and proximity of the buildings that will surround it. Both of these important landmark features will be dwarfed and oppressed by the surrounding buildings. People will have their eye-line drawn away from the façade and on to the out-of-character taller buildings behind it.

The look and height of the proposed buildings bear no relationship to the existing rows of terraced, pitched-roof properties to the back and alongside them, all with their own private back gardens and some with front ones, even if they are small. So many occupants of the BtR will have no outside space of their own which after a while they will really want as personal space is very much needed these days with the high density of this area and of course for one's well-being. For the numbers proposed to be living here there is not enough outdoor space for them to properly enjoy. Outdoor spaces that are also, of course, so important for nature and wildlife.

Due to the height of these buildings overlooking is of great concern to some of the neighbouring properties to the rear of the site and needs to be addressed

Overdevelopment - this proposal is trying to cram too much in to it to the detriment of its proposed occupants, its surroundings and Bath in general.

Parking Access - I note that there are concerns from neighbours in South View Rd and Denmark Rd, which back on to this site, about the loss of access to their parking from this development which also needs to be addressed

Parking and Charges - I have not seen mention of whether the on-site parking for BtR occupants will be charged for as it is in the BtR accommodation at Roseberry Place/Spring Wharf and which a family member and his wife found just far too expensive at £150 a month on top of their high rent as did others there. Those BtR occupants were forced to try and find spaces in all the surrounding streets which exacerbated the parking miseries for the Westmoreland residents even more.

Brook Road - The traffic coming out on to Brook Road should not be able to turn left onto as this is a heavily residential and very narrow and busy rat-run. There is also a heavy pedestrian flow along these narrow pavements with many school children, students and others

Policy CP9 - I have not seen an updated Viability Report so am assuming there isn't one and so there is no percentage of Affordable Housing being provided even though there should be 83. For such a large site with so much residential housing being proposed there definitely should be a decent percentage of affordable housing even if 30% cannot be realised. By decent percentage however, I do not mean a last minute 'one-time' offer to provide four units which was presented at the September 2021 Planning Committee Meeting for the previous application.

HMOs - Should this proposal be accepted I am concerned that some of these proposed BtR properties will become HMOs and will end up housing students and thus causing an even greater imbalance between long-term and short-term residents in an area that already has a huge imbalance. What steps are in place to ensure this will not be the case? It is important for all that we try to maintain equilibrium and encourage long-term communities.

#### BATH PRESERVATION TRUST: Comment

The Trust are pleased to see that previous concerns have been considered as part of this resubmitted application, and in particular the retention of the chimney which forms a significant aspect of the surviving early 20th century façade along Lower Bristol Road.



Similarly, they consider that the new southern connection would allow for cyclist and pedestrian access through the site and better facilitate the integration of this new development with its residential context.

They continue to welcome the principle of developing this brownfield site for residential use, especially as family homes are to be included. We commend the creation of residential spaces that meet or exceed the Nationally Described Space Standard to ensure a good level of residential amenity across all housing types across the site.

However, they maintain strong concerns regarding the proposed intersection of the new development with the retained historic façade and chimney. Under the previous permitted application, the chimney was proposed to be incorporated into the building at ground floor level but emerged from the first floor as part of the proposed terrace amenity space behind the original Bath Press façade and therefore maintained some spatial and material distance from its built-up setting.

In comparison, this current proposal greatly imposes upon the 'freestanding' landmark qualities of the chimney by enclosing it within the body of Building G up to the third floor. The proposed treatment of Building G's façade creates an unbroken shoulder height line along the full extent of the new block, visibly encapsulating the chimney within the bulk of the new build and aesthetically and materially pushing it back from the Bath Press façade. Consequently, this more extreme form of enclosure disturbs the legibility of the chimney as part of the original Press building and instead 'locks' it within the new build, whilst its distinctive landmark presence is significantly overshadowed by the mass, scale, and close proximity of the surrounding buildings.

It is unclear as to how this treatment would physically affect the chimney and its historic fabric, and they recommend that further details are provided regarding how development would interact the chimney and whether any fixings are required (from the proposed plans, it appears that the chimney would be boxed in?).

They therefore maintain that the proposed scale and close proximity of the surrounding development would be of harm to the architectural and landmark qualities of the chimney as a non-designated heritage asset

The Trust second the conclusion of Housing Services that the viability statement needs to be retested against this latest application. They also note that the "sunk costs" described in 20/04760/EFUL's financial viability assessment should be excluded from future considerations as unrecovered, past costs and therefore do not constitute current "abnormal costs" considered as part of the scheme's current viability.

Therefore, the Trust are supportive of the proposed amendments to the scheme in response to the concerns raised, and are pleased to see the historic chimney retained. However, they maintain concerns that this scheme proposes unjustified harm to a NDHA and strongly encourage a more harmonious balance between new development and the site's historic façade. They maintain an in-principle objection to the absence of affordable housing provision on site, contrary to Policy CP9 of the Core Strategy and Placemaking Plan.

THIRD PARTIES/NEIGHBOURS: There have been 18 OBJECTION comments from third parties. The main issues raised were:

Some of the comments received recognised that the site needs to be developed and that they welcomed its regeneration but took issue with the scheme as proposed.

Many considered the scheme to be overdeveloped and suggesting that the quantum of development was too much for the site. Others criticised the excessive height, density, scale and massing of the proposals. Several were concerned that it would impact upon the World Heritage Site.

Retention of the historic chimney is welcomed by some, but queries are raised about the amenity space around it and the potential impacts of urban gulls.

Some comments were concerned about the mix of housing proposed. It was suggested that there was no need for BTR dwellings and that the lack of affordable housing was unacceptable and contrary to policy CP9.

Some comments were concerned about the neighbours to the south of the site, particularly along South View Road and Denmark Road, would be overlooked and 'hemmed in' due to the proximity and size of buildings proposed. There was also concern that the proposed roof gardens would lead to further loss of privacy. Some of these comments also raised concerns about the proposals for the southern boundary wall suggesting that the plans were unclear and proposals to reduce its height would undermine their security and also affect their access.

There was a desire for the site to contain 'feature trees' as promoted in the design and access statement.

There was concern about creating large buildings 'trapping' fumes, pollution and noise on this part of Lower Bristol Road to the detriment of residents, pedestrians and cyclists.

Many also commented on the lack of on-site parking provision and highlighted parking issues in the surrounding residential streets where there is currently no Residents Parking Zone. It was considered that the lack of on-site parking would lead to overspill parking in surrounding streets to the detriment of highways safety and residential amenity. Several comments thought that the reliance on modal shift to cycling was unrealistic. Many also thought that the introduction of an RPZ would not solve the issues as the site is included within the proposed zone and occupiers will be eligible for a permit.

Several comments were concerned that the proposals would lead to an increase in traffic in an already busy area and that this, along with the new accesses onto Lower Bristol Road and Brook Road, would cause highways safety issues and congestion. It was suggested that more thought needs to be put into access into and out of the site for cars, bicycles, public transport, and foot traffic.

There was concern about where the proposed commercial units would load and unload goods.

A total of 1 SUPPORT comment has been received. The main points raised were:

The site requires redevelopment and these plans will enable the area to prosper and provide much needed housing.

A total of 3 GENERAL comments have been received. The main points raised were:

Concerns about inadequate levels of parking for the number of proposed homes. It is suggested that parking demand has been underestimated. Parking is described as a 'big issue' on South View, Denmark and Caledonian Roads.

Concerns about increases in traffic in the area as a result of the development. It is suggested that the traffic lights coming over Windsor Bridge need to be addressed before more cars are added to the network.

Suggestion that a development of this size should include a bus stop for the out-of-town direction.

It is suggested that there should be a plan to connect to a future cycle path and to upgrade nearby pedestrian crossings to include cycles.

## **POLICIES/LEGISLATION**

The Development Plan for Bath and North East Somerset comprises:

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

## **CORE STRATEGY**

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

- DW1 District Wide Spatial Strategy
- SD1 Presumption in favour of Sustainable Development
- B1 Bath Spatial Strategy
- B4 Bath World Heritage Site
- B5 Strategic Policy for Bath's Universities
- CP2 Sustainable Construction
- CP5 Flood Risk Management
- CP6 Environmental Quality
- CP9 Affordable Housing
- CP10 Housing Mix
- CP13 Infrastructure Provision

## **PLACEMAKING PLAN**

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

- SB9 Bath Press
- SCR1 On-site Renewable Energy Requirement
- SCR2 Roof-mounted/Building-integrated Scale Solar PV
- SCR5 Water Efficiency
- SU1 Sustainable Drainage
- BD1 Bath Design Policy
- D1 General Urban Design Principles
- D2 Local Character and Distinctiveness
- D3 Urban Fabric
- D4 Streets and Spaces
- D5 Building Design
- D6 Amenity
- D8 Lighting
- D9 Advertisements and Outdoor Street Furniture
- HE1 Historic Environment
- NE1 Development and Green Infrastructure
- NE2 Conserving and Enhancing Landscape and Landscape Character
- NE2A Landscape Setting of Settlements
- NE3 Sites, Species and Habitats
- NE6 Trees and Woodland Conservation
- PCS1 Pollution and Nuisance
- PCS2 Noise and Vibration
- PCS3 Air Quality
- PCS5 Contamination
- PCS7A Foul Sewage Infrastructure
- H7 Housing Accessibility
- LCR7B Broadband
- LCR9 Increasing the Provision of Local Food Growing
- ST1 Promoting Sustainable Travel
- ST2 Sustainable Transport Routes
- ST7 Transport Requirements for Managing Development

## **EMERGING POLICY**

The Council is currently in the process of reviewing the Development Plan as part of the Local Plan Partial Update ("LPPU"). Following the submission of the draft LPPU in December 2021 to the Secretary of State for examination, hearings took place in June/July this year. The Inspector has confirmed through his post-hearings letter that, without prejudice to his final conclusions, the LPPU is likely to be capable of being found legally compliant and sound subject to the incorporation of some Main Modifications. The following policies from the draft LPPU are considered relevant to the current application:

- DW1 District Wide Spatial Strategy
- SCR6 Sustainable Construction Policy for New Build Residential
- SCR8 Embodied Carbon
- SCR9 Electric vehicles charging infrastructure

- NE2 Conserving and Enhancing the Landscape and Landscape Character
- NE3 Sites, Habitats and Species
- NE3a Biodiversity Net Gain
- H7 Housing Accessibility
- ST1 Promoting sustainable travel and health streets
- ST2a Active Travel Routes
- ST3 Transport Infrastructure
- ST7 Transport requirements for managing development

The LPPU has reached an advanced stage of the Examination process, the policies of the LPPU cannot, at this stage, be taken as policies that are adopted as part of the development plan. The weight to be applied to the LPPU policies in determining planning applications will, until the Plan is formally adopted, be a matter for the decision maker according to the provisions of paragraph 48 of the National Planning Policy Framework.

## **SUPPLEMENTARY PLANNING DOCUMENTS**

- Bath Western Riverside SPD (2008)
- City of Bath World Heritage Site Setting SPD (2013)
- Sustainable Construction Checklist SPD (2018)
- Planning Obligations SPD (2019)

## **ADDITIONAL GUIDANCE**

- Bath City Wide Character Appraisal (2005)
- Strategic Flood Risk Assessment (SFRA) of Bath and North East Somerset (2009)
- Bath Building Heights Strategy (2010)
- Green Infrastructure Strategy (2013)
- West of England Sustainable Drainage Developer Guide (2015)
- Draft Conservation Area Appraisal for the Brassmill, Locksbrook & Western Riverside Character Area (November 2015)
- Bath Air Quality Action Plan (2016)
- The City of Bath World Heritage Site Management Plan 2016 - 2022
- Waterspace Design Guidance (2018)
- Parking Strategy for B&NES (2018)

## **NATIONAL POLICY AND GUIDANCE**

The National Planning Policy Framework ("NPPF") and National Planning Practice Guidance ("NPPG") are significant material considerations. The following paragraphs and sections are of particular relevance:

- 8 - 12 Achieving sustainable development and the presumption in favour of sustainable development
- 55 - 58 Planning conditions and obligations
- 81 Supporting economic growth
- 92 Achieving healthy, inclusive and safe places
- 98 Access to networks of high quality open spaces
- 107 Setting parking standards
- 119 - 120 Making effective use of land

124 - 125	Achieving appropriate densities
123 - 132	Creation of high quality buildings and places
134	Refusing poor design
157	Decentralised energy and minimising energy consumption
162 - 168	Planning and flood risk
174	Conservation and enhancing the natural environment
180	Habitats and biodiversity
183 - 187	Ground conditions and pollution
189	Significance of heritage assets
194 - 197	Proposals affecting heritage assets
199 - 208	Heritage assets and public benefits

## **LEGISLATION**

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

## **LOW CARBON AND SUSTAINABLE CREDENTIALS**

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

## **OFFICER ASSESSMENT**

The main issues to consider are:

1. Background
2. Principle of development
3. Housing mix
4. Design
5. Heritage
6. Highways
7. Sustainable construction
8. Residential amenity
9. Flood Risk
10. Affordable Housing
11. Parks and open spaces
12. Ecology
13. Contaminated Land
14. Drainage
15. Archaeology
16. Air Quality
17. Public benefits
18. Other matters

- 19. Planning balance
- 20. Conclusion

## 1. BACKGROUND

This application is a revised resubmission of the previously refused application for 256 flats, 30 townhouses and 950sqm of commercial floorspace (ref: 20/04760/EFUL). This revised scheme has been subject to several amendments which seek to address the previous reasons for refusal which were:

1. Under provision of office space when compared to the quantum required by the allocation (1,500sqm)
2. Loss of the historically important chimney of the 1920 factory resulting in harm to the non-designated heritage asset for which no clear and convincing justification exists
3. Failure to provide an adequate level of off-street parking
4. Failure to provide sufficient north-south connections through the site for neighbouring residential communities and fails to adequately connect with existing routes in and through adjoining areas.

The various amendments to the scheme will be discussed in detail in the relevant sections below. They include the following:

1. Increase in proposed office floorspace from 950sqm to 1,608sqm (GIA)
2. Retention of the historic chimney
3. Introduction of a pedestrian/cycle/wheelchair access point on the southern boundary
4. Additional off-site improvements to pedestrian/cyclist accessibility have been proposed including an informal crossing on Lower Bristol Road.

## 2. PRINCIPLE OF DEVELOPMENT

The site is allocated under policy SB9 of the Placemaking Plan (PMP). The policy contains 11 Development Requirements and Design Principles which will need to be achieved. These will be considered within the overall assessment.

The first requirement of Policy SB9 explains that the development should deliver a mixed-use development comprised of employment (minimum 1,500 sqm (GIA) of office floor space) and residential development (of at least 200 flats), potentially complemented by opportunities within the leisure sectors.

The development includes 247 flats and 30 town houses. Whilst this exceeds the 200 flats figure within the policy, this is not a cap and therefore the residential element of the development can be supported in principle. However, it must be considered as to whether

this number can be accommodated on site whilst ensuring the overall scheme complies with the Development Plan.

The previous proposals on this site contained 950sqm of commercial floor space across the ground floor of blocks B, C and D. The revised scheme proposes 1,608sqm (GIA) of commercial floor space located on the ground floors of blocks B, C, D and G. During the application process the applicant has confirmed their commitment to retain this commercial space to be designated as office space i.e. use class E(g) and this can be secured by condition. The revised proposals therefore provide commercial floorspace in excess of the minimum requirement for office floor space (1,500sqm) of policy SB9.

The Economic Development Officer has welcomed the increase in the employment space, and it is now considered that the proposals comply with this part of the allocation policy.

The proposals also include an element of internal residential amenity space which will provide as communal areas for the use of the BTR occupiers.

The revised proposals are therefore considered to comply development requirement 1 of policy SB9 and are acceptable in principle. The increase in the amount of office floorspace has overcome the previous reason for refusal on the matter.

### 3. HOUSING MIX

Core Strategy Policy CP10 explains that new housing development should contribute to providing choice in tenure and housing type, having regard to the existing mix of dwellings in the locality and the character and accessibility of the location. The development comprises a mix of 1, 2 and 3 bedroom flats, and 3 and 4 bedroom houses. The development is primarily comprised of Build to Rent flats but also includes a smaller proportion of open market dwellings.

Some concern has been raised about the over concentration of BTR schemes in this area. Whilst there is clearly a cluster of BTR tenure coming forward in this particular location, when viewed in a wider spatial context, the amount of BTR accommodation within the BWR SPD area, or the enterprise area more generally, is a very small proportion of the overall housing stock. When considered in this context the provision of BTR accommodation can be seen to be adding to the mix and variety of housing types in the area.

Overall, the development is considered to put forward an acceptable housing mix and complies with policy CP10.

### 4. DESIGN

The former Bath Press factory was demolished, and the site cleared under the extant consent (15/02162/EFUL). There are currently several large mounds of rubble located on the site. The frontage of the former building remains, and this facade is to be retained and incorporated into the scheme.



The previous application (ref: 20/04760/EFUL) was refused, in part, due to proposals to demolish the existing Bath stone boiler chimney. Design principle 2 of the policy SB9 highlights the need to retain the 1920s facade and the historically important elements of the building in recognition of their value as a local asset. The existing chimney is considered to be a key element of the non-designated heritage asset and The Twentieth Century Society have previously stated that the chimney is one of the most important features of the building providing important vertical interest to contrast with the long front elevation.

The revised scheme seeks to retain the historic chimney. The upper floors of the proposed building are arranged to be recessed around the chimney to frame it as a feature. Some comments received in response to the proposals are concerned that the chimney will be visually 'enclosed' by the new building form and will lose some of its status as a 'freestanding' landmark. However, the retained chimney rises at least one storey above the building form either side of it. Block J which sits behind the retained chimney does rise to 5 storeys and so is more comparable in height, but the peak of the chimney still rises above the highest point of this block. It should also be noted that the original extant scheme (ref: 15/02162/EFUL) arranged the buildings to be recessed around the chimney in a similar fashion to that now proposed but included elements of roof plant which exceeded its height. It is therefore considered that, due to the space provided around it and the height of the surrounding built form, the retained chimney will still be capable of being read as a landmark and is considered to have been appropriately integrated into the proposed scheme.

The retention of the chimney alongside the historic façade of the former Bath Press is therefore considered to comply with design principle 2 of the policy SB9 and the previous reason for refusal on this matter has been overcome.

In respect of the other elements of the proposal, the application submission explains that the design principles of the development remain largely the same as the extant scheme, with the built envelope and building heights fundamentally unchanged. There have been some changes to the design which are discussed below.

There have been minimal changes to the overall scale and massing of the buildings when compared to the extant scheme. The buildings which are set behind the frontage have increased in height by 180mm but this still allows them to sit comfortably behind the retained frontage, and the increase in height will have limited impact when the buildings are viewed from Lower Bristol Road or from wider views. The roofs on block G which sits behind the facade have also been rationalised. Whilst this removes articulation from the roof which aided in breaking up the roofscape, they now align with the roof form of the neighbouring blocks. It is not considered this amendment will have an impact upon how the buildings are perceived from Lower Bristol Road or have an undue impact from wider views.

The Bath Buildings Height Strategy states that building heights of four storeys with an additional set back storey within the roofscape can be acceptable within the Valley Floor, but this should be modified in close proximity to 2-3 storey residential areas or in response to heritage assets, residential amenity and to prevent intrusion in views. The scheme proposes four storey buildings located along the Lower Bristol Road frontage with a further four storey block fronting Brook Road. The three five storey blocks are set back from the

Lower Bristol Road frontage so that they are positioned more centrally on the site with the top floor contained within a mansard roof. The three storey blocks are situated close to the southern boundary of the site and fronting Dorset Close. The positioning and scale of these buildings is considered to comply with Council guidance and relate well to the scale of the surrounding buildings.

With regard to preventing intrusion in views across the site it must be acknowledged that for residents immediately adjoining the site, particularly to the south, the views they currently have will be interrupted. However, as one moves southwards and with the ground gradually rising, the interruption of any view becomes less and from many viewpoints around the City the development will integrate into the townscape and will not be seen as overly dominant. From the north of the City Centre, any views of the site will have the large scale development of Bath Western Riverside within its foreground and it should also be noted that land immediately opposite the site on the north side of Lower Bristol Road is also likely to be developed. From higher ground to the south again there will not be harm to views across the site and from this direction the articulation of the proposed roofscape and the different levels of the proposed development within the application site help integrate the development within these views.

The roof form of Block P which accommodates the town houses facing Dorset Close have also been amended to pitched roofs with a central ridge. This continues a degree of articulation in the roofs and the general roof form is considered to be acceptable.

Block K has been amended from 4 town houses bookended by apartment blocks to solely apartments. The design of this block has been rationalised to facilitate this type of accommodation. The staggered elevation design and pitched roof has been replaced by a flush elevation and flat roof. The redesign of this part of the scheme has also resulted in the elevation which fronts the new street being the back of the buildings as opposed to the frontage/entrances to the townhouses. The front garden areas have also been removed with the buildings now set closer to the pavement edge.

Concern was raised that the changes to block K created a building with limited articulation, which provides limited active frontage to the street and lacking in overall interest and detail. The applicant has submitted revised plans which show amendments to block K to include the provision of front doors with individual access paths to the ground floor apartments, the addition of new rainwater downpipes and new glazed entrance doors highlighted with a concrete portal surround. The result of these changes is to articulate the elevation more successfully and to give an appearance that better addresses the typology of terrace houses which are found nearby in Oldfield Park. The front doors introduce activity to the street and create a better separation of public and private space. The changes also help to visually break up the massing of the block, albeit not as successfully as the previous approved scheme of townhouses.

The facing materials will mainly comprise Bath Stone or buff brick. When compared to the extant scheme, there has been a significant increase in the use of brick primarily within the central and inwardly facing elevations. However, given the historic use of the site which contained brick industrial buildings, this is considered to be acceptable. Elevations which front Dorset Close and Brook Road utilise Bath Stone, which aids in integrating the development with the surrounding built form.

The proposed layout of the development allows for some an improvement to the 'permeability' of the site by creating pedestrian access and potential cycle routes which cross the site in an east-west direction.

The extant scheme included a north-south pedestrian link that would join the area between Denmark Road and South View Road to the south of the site with Lower Bristol Road to the north. This link is also indicated the concept diagram accompanying the allocation policy SB9.

The previous application did not include this link, and this was given as one of the reasons for refusal. The current application has reintroduced this link via a set of steps and a ramp suitable for pedestrians. This introduction of this link ensures that there is north-south connectivity across the site and, alongside the other off-site pedestrian/cycle improvements proposed, ensures that the scheme complies with design principle 7 of policy SB9 which requires the development to provide new streets and spaces through the site that improve pedestrian and cycling connections to Oldfield Park Railway Station, Moorland Road District Centre, and Victoria Park for neighbouring residential communities. The proposal is therefore considered to have overcome the previous reason for refusal on this matter.

The extant scheme includes a basement parking area. The removal of basement parking from the current scheme has resulted in the need for increased surface parking. Previous concerns about the dominance of parking/access roads within the scheme were overcome with the submission of revised plans during the previous application. The opportunities for landscaping within the site are limited, but given the improvements gained during the application process, and the fact that this is an urban context, on balance this is considered to be acceptable.

Overall, it is considered that the design of the proposed scheme is acceptable and it complies with the relevant design principles of policy SB9.

## 5. HERITAGE

### *Listed buildings*

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 are no listed buildings in the immediate vicinity of the application site. The nearest listed buildings are located to the east along Lower Bristol Road, such as Victoria Buildings (Grade II) and Park View (Grade II). Further to the south is 17-29 Denmark Road (Grade II) and to the west is Charlton House (Grade II).

There is only a limited degree of intervisibility with the application site, but some dynamic views of the development and these heritage assets may be experienced. However, given the acceptable building heights and designs, it is considered that the proposals will preserve the setting of these listed buildings.

### *Conservation area*

In this instance, it is considered that, due to the distance from its boundary and the acceptable height and design of the proposed buildings, the proposals will preserve the setting of Bath Conservation Area.

### *World Heritage Site*

Bath, in common with many historic towns and cities, is predominantly low rise in character, punctuated with a limited amount of tall historic buildings, most notably the Abbey. Bath is also characterised by the surrounding, elevated topography and this crucial landscape setting is part of the OUV of the World Heritage Site. Furthermore, the surrounding hills afford important and significant, sweeping views across the city in all directions that have been valued historically, and this remains the case today and are significant in how the city is interpreted, enjoyed and experienced

The proposed development is considered to comply with the Bath Building Heights Strategy and has been submitted with an LVIA which assesses the impact of the proposals upon the surrounding landscape. Whilst there will be some intrusion into views, this is within the context of the site being allocated for development and the acceptable heights and design of the buildings will ensure that the proposals preserve the OUV of the World Heritage Site.

## 6. HIGHWAYS

### *Parking*

The previous application (ref: 20/04760/EFUL) was partly refused due to the lack of on-site parking provision.

The extant consented scheme included a basement car park located under blocks G-M, with an access ramp from the southern boundary road off Brook Road. This secured 30 spaces for the commercial uses, 1 space per house and 0.7 spaces per flat. The basement car park is no longer provided within the proposed scheme, with all car parking provided at ground level. The current scheme proposes the following car parking provision:

30 spaces allocated to the proposed 30 open market houses; and

82 spaces allocated to the proposed 247 build-to-rent flats at a ratio of 0.33 spaces per unit.

8 spaces allocated to the commercial space

2 car club spaces

Against the current parking standards in policy ST7, the proposed development requires the provision of a minimum of 497 off-street, car parking spaces for the residential element of the scheme to accord with the requirements of the authority adopted parking standards in policy ST7. This comprises:

133 x one-bed @ 1 space per unit = 133 spaces;

98 x two-bed @ 2 spaces per unit = 196 spaces;

27 x three-bed @ 2 spaces per unit = 54 spaces;

19 x four-bed @ 3 spaces per unit = 57 spaces; and  
Visitor parking @ 0.2 space per unit = 57 spaces.  
Commercial @ 15 spaces  
Total requirement = 497 spaces

The Transport Statement ("TS") includes a completed 'Accessibility Assessment' for the residential element of the scheme which scores 55 placing it in the high accessibility category, allowing officers to apply a discount of between 25% and 50% to the required number of off-street, car parking spaces. Applying the maximum permitted discount of 50% reduces the minimum number of residential spaces to 257. This remains significantly more than the 122 spaces proposed.

Since the previous refusal of this development in September 2021, the LPPU has been through an examination-in-public and the Council has received an initial post-hearings letter from the Inspector that indicated that, without prejudice to his final conclusions, the LPPU is likely to be capable of being found legally compliant and sound subject to the incorporation of some Main Modifications.

This includes the new approach to parking standards found in policies ST1, ST3 and ST7 of the LPPU. These refer to the new parking standards contained in the Transport and Developments SPD which was consulted upon earlier this year and is expected to be adopted alongside the Local Plan Partial Update in late 2022 or early 2023.

As these emerging policies are now at an advanced stage, are consistent with the NPPF and are not subject to unresolved objections, it is considered that these emerging policies can be given significant weight as material considerations.

The emerging parking standards move to a system of 'maximum' parking standards where deviations significantly below the maximum figure must be rigorously justified through the provision of a range of sustainable transport measures. As set out in emerging policy ST7 '*Parking needs to be provided at a level appropriate to reduce the convenience of unnecessary car usage and make sustainable transport a more attractive choice.*'.

If the emerging parking standards are applied to the current proposals there would be a maximum parking provision of 380 spaces for the 277 dwellings proposed on site. The emerging Transport and Development SPD contains an accessibility assessment which allows sites to be scored for their potential to encourage 'active travel' and alongside a separate score for 'public transport and other considerations'. The site scores highly against these criteria and the emerging standards suggest that the development will fall within the category which supports '100% reduction to car parking or scope for car - free development'.

In addition to the above and following negotiations, the applicant has agreed to provide a range of sustainable transport measures to significantly enhance opportunities for sustainable travel in accordance with policy ST1 of the emerging LPPU. This includes

1. 596 Cycle parking spaces;
2. Safe, secured, sheltered, and conveniently located cycle parking spaces, to accommodate e-bikes, cargo bikes, recumbent bikes and tricycles;

3. 20% of electric vehicle charging car parking spaces - 16 active car charging points and 16 passive car charging points;
4. 2 car club spaces and one car parking space for a concierge (car club spaces will be available to the residents and general public)
5. Upgrading street lighting along Lower Bristol Road (LBR), Dorset Close and Brook Way within the site frontage, as part of detailed design;
6. Relocating westbound bus stop and improvements to include bus shelter, seating, real time information and associated road markings, as shown on Stantec concept drawing 48724/5501/04 C;
7. LTN1/20 compliant new 3m wide shared foot-cycleway along the site frontage on Lower Bristol Road continuing up to the Brook Road site access junction;
8. New ramped pedestrian-cycle access on South View car park from the south of the development to provide north-south sustainable link connecting Oldfield Park station to Lower Bristol Road;
9. Improved and new way finding signage to the Two Tunnels Greenway linking via the footpath to the south of the Royal Oak Pub;
10. LTN1/20 compliant two-way cycleway (quiet sustainable route) connecting Dorset Close and Brook Road through the development;
11. Improvements to the Lower Bristol Road / Windsor Bridge Road crossing as shown on Stantec Drawing 48724/5501/04 C;
12. Financial contributions of £75,000 to the improvements to the Midland Road crossing which connects to the Bristol-to-Bath Railway Path and to the city centre;
13. New refuge-island crossing on Lower Bristol Road, keeping in the desire line to connect to potential Sustainable Transport Route (STR) via Dick Lovett development. Concept design shown on Stantec 48724/5501/04 C;
14. Improvements to the Dorset Close / Lower Bristol Road junction to provide a level crossing point, as shown on Stantec Drawing 48724/5501/04 C;
15. Commitment to implement a Travel Plan;
16. Setting up a Bicycle User Group (BUG) on site, as part of TP measures;
17. Provision of Travel Packs to each dwelling and commercial unit on site, for up to 3 tenures;
18. Contributions to the potential Residents Permit Zone in the site surroundings;

19. Discount vouchers on the purchase of cycling equipment or subsidised use of a bicycle;
20. Bus or rail discount tickets or season tickets to encourage use of public transport;
21. Personalised Travel Planning service for residents and occupiers.
22. Providing improved connections to the Two Tunnels Greenway cycle route via the existing footpath by the provision of dropped kerb and tactile crossing facilities on Brook Road and Bellotts Road, plus additional direction signage and road markings. This will include resurfacing of the existing footpath, south of The Royal Oak pub between Brook Road and Bellotts Road cul-de-sac, to enable convenient and legible access from the site to the Two Tunnels Cycle route, as shown on Stantec concept drawing 48724/5501/07;
23. Additional wayfinding signage from the site to Bristol to Bath Railway Path, likely at the LBR/Midland Road crossing and at the Midland Road bridge access to the riverside path, and intermediate points (if required);
24. Finger post direction signage at the corner of Roseberry Place and LBR adjacent to The Grain Store and at the existing Toucan crossing adjacent to the Bellotts Road junction;
25. Package of Wayfinding signage on both sides of Brook Road, South View Road and Dorset close between the Oldfield Park Station and the site;
26. Monitoring the use of the proposed two car clubs regularly in liaison with the Car Club operator;
27. Provision of e-bike charging points, c. 10% of total cycle parking spaces.

With regard to point 18, proposals for a financial contribution towards the implementation of a Residents Parking Scheme, officers have discussed the timescale for implementing the RPZ with colleagues from the 'Traffic Management' team who have confirmed that presently there is no firm timescale, and there can be no certainty over its delivery. Officers therefore do not consider that a financial contribution to the RPZ is appropriate mitigation to overcome the shortfall in spaces. However, the Highways Officer has advised that that future residents will not be entitled to residents' parking permits in accordance with Single Executive Member Decision E2911, dated 14th November 2016

The list of measures is significant, but the majority of the measures relate to piecemeal improvements in walking and cycling infrastructure. Highways have therefore advised that, in light of the fact that walking and cycling provision along the Lower Bristol Road is not compliant with LTN 1/20, a financial contribution towards continuous sustainable transport connections along the Lower Bristol Road towards Bath City Centre and Railway Station is sought. The applicant has agreed to a contribution of £200,000 which will go towards this future project and will directly serve the occupiers of the proposed development.

These matters would be secured either via a s106 agreement or suitable planning conditions.

In addition to the above, the applicant has pointed to research which explains that BTR accommodation generally has a much lower level of car ownership than other typical forms of residential development.

They have also pointed to a fairly recent decision to permit the planning application at the Dick Lovett site immediately to the north of Bath Press as a relevant consideration. This scheme was permitted in spite of a shortfall in parking against the currently adopted parking standards. However, each case must be considered on its own merits and it is noted that reasons given for resolving to grant permission relied upon the fact that the benefits of the scheme outweighed the identified conflict with the parking policy.

In light of the agreement to provide the package of sustainable transport measures and the advanced stage of the emerging parking policies, the Highways Officer has removed their objection to the scheme and now considers that the proposed 114 (excluding 8 commercial spaces) car parking spaces achieve a balance between the maximum permitted spaces (380) and a 'car free development' based on the accessibility assessment and the proposed mitigation measures to significantly enhance opportunities for sustainable travel in accordance with Policy ST1 of the emerging LPPU.

### *Cycle Parking*

The proposed development requires the provision of 296 secure, covered cycle stands, providing parking for 596 bicycles including 10% e-bike charging points. The revised proposals identify 596 cycle parking spaces which meets the required standard.

### *Trips*

The applicant forecasts that the proposed development would generate between 30 and 36 public transport trips during the am peak hour and between 34 and 40 during the pm peak hour; split between rail trips and bus trips as the proximity of the application site to Oldfield Park railway station is likely to lead to an uptake in rail travel. The applicant has demonstrated that, assuming all forecast public transport trips are by bus, an increase in passengers per bus of between 1.25 and 1.66 would result. This is unlikely to create an issue with regards to the operation of the local bus network. On this basis, the applicant is only required to re-provide the A36 Lower Bristol Road bus stop to the front of the application site.

The scheme included the provision of two car club spaces together with two car club vehicles and the applicant had agreed to an annual contribution to fund this provision. This could be secured in any future s106 agreement.

## 7. SUSTAINABLE CONSTRUCTION

The benchmark for demonstrating that energy efficiency has been "maximised" as required by policy CP2 is a 19% reduction in regulated emissions compared to that required by the Building Regulations. 10% of this reduction must be from renewable energy sources (see below) and the remaining 9% may be from other means (such as energy efficiency/building fabric etc.)



Policy SCR1 requires (for developments of 10 or more dwellings or 1000sqm but excluding B2 and B8 uses) a reduction in carbon emissions (from anticipated regulated energy use) of at least 10% by the provision of sufficient renewable energy generation. The 10% reduction must be achieved by means of renewable energy generation not by means of low-carbon technologies or other means of reducing carbon emissions.

The Sustainable Construction Checklist demonstrates compliance with the above policies and indicates that the development will achieve a 57.59% carbon reduction from the baseline.

## 8. RESIDENTIAL AMENITY

The application site is located in close proximity to a number of residential properties. Policy D6 requires that development must allow for appropriate levels of amenity and allow existing and proposed development to achieve appropriate levels of privacy, outlook and natural light. Furthermore, it should not cause significant harm to the amenities of existing or proposed occupiers of, or visitors to, residential or other sensitive premises by reason of loss of light, increased noise, smell, overlooking, traffic or other disturbances.

Careful consideration has been given to the third-party representations. A number of occupiers of the nearest residential properties have significant concerns in relation to how the development will impact upon their amenity, through matters including loss of light, privacy, and increased noise and disturbance.

The five storey blocks are considered to be sited sufficiently distant from the houses in Denmark Road and South View Road with few windows facing south, so as not to have an adverse impact on privacy. The previous scheme included three proposed roof gardens between 11 and 15 metres from the southern boundary. These were designed with raised planters set in from the edges of these roof gardens to restrict access to the edge of the garden and to provide screening. This scheme includes a further flat roof area at block K. Whilst this has the potential to increase overlooking, provided the details of these planters are satisfactory and maintained they will prevent the direct overlooking of houses to the south. It is suggested that a planning condition controls the details and future maintenance of these planters.

The three-storey housing and flats situated on the southernmost part of the site are considered to be sited in a satisfactory position but there is the potential for existing residents to the south to having a feeling of being overlooked. However, this overlooking should not be harmful as there is sufficient distance between the existing and proposed dwellings.

The effect of the proposed development on daylight and sunlight on existing buildings to the east and west of the site have been assessed within the submitted application documents. The impact will be minor and therefore in this regard there will be no significant adverse effect on the amenity of adjoining occupiers.

An assessment of the additional traffic and parking associated with the proposed development, see below, has found these issues to be satisfactory and therefore there should be no adverse effect on nearby residents. However, to safeguard both residential

amenity and highway safety during the construction period of the development conditions will be attached to a planning permission if it is granted. Conditions will also be attached to safeguard the future residents of the proposed development from traffic noise and potential noise from deliveries to the commercial units. Where necessary mechanical ventilation to the residential units facing Lower Bristol Road will also be provided which will draw air from the rear of the proposed buildings above ground level.

## 9. FLOOD RISK

The site is predominantly within Flood Zone 1 (lowest risk) but a small part of the north of the site where it fronts Lower Bristol Road, particularly the area of the retained façade, is within Flood Zone 2 where there is a slightly higher risk of flooding. However, as the site is allocated for the uses proposed, there is no requirement for the applicant to carry out a sequential test.

The Flood Risk Assessment has been reviewed by the Environment Agency, and they have raised no objections to the development subject to the inclusion of conditions on any planning permission.

## 10. AFFORDABLE HOUSING

The site is situated within an area where policy CP9 requires the provision of 30% affordable housing, subject to viability.

A detailed viability assessment of the scheme has submitted with the application. This has been reviewed by the Council's independently appointed viability experts and is considered to be in accordance with current Planning Practice Guidance.

The assessment concludes that the scheme could not viably afford to delivery any affordable housing on-site. However, a viability review mechanism is proposed which will enable the Council to recover any improvements in the viability of the scheme post completion.

As a result of the outcome of the viability appraisal, the scheme proposes no affordable housing, but complies with policy CP9.

## 11. PARKS AND OPEN SPACE

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

The proposal provides two areas of amenity green space (which include Pitman Yard and Brook Gardens). The Design and Access (Landscape) Statement suggests Pitman Yard is

approximately 470.15sqm and Brook Gardens 509.58sqm, making a total of 979.73sqm of amenity green space. The proposal also includes one area of play space (Press Play) which covers an area of 647.32sqm. The on-site amenity green space, including the play area will need to be secured by condition / clause for use by the wider public.

There are also three communal roof gardens on blocks H, J and K. The Design and Access (Landscape) Statement suggests these cover a total area of 943.36sqm. The roof terraces are a welcome addition. However, they are private and will provide no benefit to the wider community.

The development proposal doesn't provide the full range and quantities of public greenspace to meet the demands generated from new residents and is reliant on existing off-site provision for recreational needs of which there is a deficit in the area.

The development site is in the vicinity of two greenspace improvement projects that with funding could meet the remaining demands and make the development acceptable in planning terms and compliant with policy LCR6. The projects are the Waterspace River Park / River Line project and the Brickfields Open Space Improvement Project. The Parks and Open Spaces has calculated the total contribution amount required in line with the Green Space Strategy and based upon the potential occupancy of the proposed development to be £185,339 (capital cost and 10years maintenance). This will be secured as part of a s106 agreement.

## 12. ECOLOGY

The site is not sufficiently close to any designated sites for nature conservation for likely impacts to occur. The site has not become notably improved in terms of suitability for foraging or dispersing horseshoe bats linked to the Bath and Bradford-on-Avon Bats Special Area of Conservation since the previous ecological assessment. Avoidance measures for indirect impacts onto Linear Park SNCI can be secured through a condition for a CEMP.

An ecology report has been submitted with the application and reviewed by the Council's Ecologist who has raised no objection to the proposals and has confirmed that the proposals are likely to achieve biodiversity net gain to meet NPPF and policy NE3 requirements. They have identified the need for a construction ecological management plan (CEMP) and a Landscape and Ecological Management Plan (LEMP), both of which can be secured by condition.

## 13. CONTAMINATED LAND

The previous consent was subject to contaminated land conditions requiring investigation, remediation and verification. Aspects of these conditions have already been discharged in order to enable the demolition of the former factory buildings. However, some aspects remain outstanding, and it would be necessary for further conditions to be applied to any new consent to ensure that the site is properly investigated, remediated and verified prior to any occupation.

## 14. DRAINAGE

A drainage strategy has been submitted with the application. This has been reviewed by the Drainage and Flood Risk team who have no objection to the proposals, subject to confirmation of the acceptance of the discharge rates from Wessex Water and a condition requiring the detailed drainage design and maintenance to be submitted and approved.

## 15. ARCHEAEOLOGY

The previous consent was subject to conditions pertaining to archaeology, the details of which have already been discharged.

## 16. AIR QUALITY

The Air Quality Technical Note submitted with the revised scheme has supplemented the original Environmental Statement section on Air Quality. The Technical Note considers changes to the baseline monitoring, changes in baseline traffic flows and flows from the revised plans. There are no significant changes to the conclusions in the original assessment. The Technical Note states that the development will use Mechanical Ventilation and Heat Recovery which will mitigate the higher levels of pollution which the properties with facades on Lower Bristol Road will be subject to. The note indicates there are a number of mitigation measures within the development which will minimise the impact of the development on air quality including electric vehicle charging points, travel planning and cycle parking. The assessment also recommends mitigation to minimise potential dust arising from the construction phase of the development.

The technical note has been reviewed by the Environmental Monitoring Officer who has no objection to the proposals, subject to the mitigation measures being secured by condition.

## 17. PUBLIC BENEFITS

The application proposals would deliver several public benefits which are primarily set out in the submitted planning statement, but also summarised below.

### *Housing*

The proposed development would create 277 dwellings which would contribute towards meeting housing need within Bath as expressed through policies B1 of the Core Strategy and SB8 of the Placemaking Plan. This would be a significant contribution towards meeting the allocation development requirements and the Council's overall housing target. The proposals are also likely to contribute towards the Council's 5-year land supply.

### *Economic benefits*

The application proposals would bring about various economic benefits including the generation of a significant amount of construction jobs for the duration of the construction project and provide opportunities for targeted recruitment and training. Once complete, it would introduce an additional population of economically active residents which would contribute towards the local economy. The site has also already made a significant CIL contribution (via the implementation of the previous consent) which can be used to fund infrastructure and projects in the wider community.

The provision of the commercial floorspace in line with the allocation policy is also beneficial and will provide an increase in employment floorspace and jobs in line with policy B1 of the Core Strategy.

#### *Regeneration of underutilised site and sustainable location*

The site has been either derelict or vacant for several years, with the previously approved scheme stalling due to challenging viability issues even in a significantly more stable economic climate

Paragraph 120 sets out that planning decisions should: give substantial weight to the value of using suitable brownfield land within settlements for development needs; promote and support the development of under-utilised land and buildings; and support opportunities to use the airspace above existing residential and commercial premises for new homes. It is therefore acknowledged that substantial weight should be given to the value of using this suitable brownfield land for new homes and other identified needs.

The site is also located in a broadly sustainable location with good proximity to the city centre and range of services and transport options.

#### *Sustainable Transport Enhancements*

The scheme proposes to wide variety of sustainable transport improvements both on and off-site ranging from pedestrian and cycle improvements, new crossings, relocated bus shelters and improved street lighting and wayfinding improvements. The provision of improved facilities for walking, cycling and public transport, although primarily required to mitigate the impacts of the development, would have the benefit of providing upgraded infrastructure which can also be utilised by non-residents and the wider public.

These measures are consistent with the aims of policy ST1 which fundamentally supports the approach to significantly enhance opportunities for sustainable travel, and requires, at point 4, that "mitigation for traffic impacts maximises opportunities to achieve mode shift towards sustainable transport modes before proposing traffic capacity enhancements." Furthermore, policy ST7 requires that "users of the development benefit from genuine choice in their mode of travel through opportunities to travel by sustainable modes," and that "provision is made for any improvements to the transport system required to render the development proposal acceptable. Improvement requirements will maximise opportunities to travel by sustainable modes."

## 18. OTHER MATTERS

## *Planning obligations*

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

1. Highways works
  - a. Upgrading street lighting along Lower Bristol Road (LBR), Dorset Close and Brook Way within the site frontage.
  - b. Relocating westbound bus stop and improvements to include bus shelter, seating, real time information and associated road markings
  - c. New 3m wide shared foot-cycleway along the site frontage on Lower Bristol Road continuing up to the Brook Road site access junction;
  - d. New ramped pedestrian-cycle access on South View car park from the south of the development to provide north-south sustainable link connecting Oldfield Park station to Lower Bristol Road;
  - e. Providing improved connections to the Two Tunnels Greenway cycle route via the existing footpath by the provision of dropped kerb and tactile crossing facilities on Brook Road and Bellotts Road, plus additional direction signage and road markings. This will include resurfacing of the existing footpath, south of The Royal Oak pub between Brook Road and Bellotts Road cul-de-sac, to enable convenient and legible access from the site to the Two Tunnels Cycle route, as shown on Stantec concept drawing 48724/5501/07
  - f. Improvements to the Lower Bristol Road / Windsor Bridge Road crossing as shown on Stantec Drawing 48724/5501/04 C;
  - g. Additional wayfinding signage from the site to Bristol to Bath Railway Path, likely at the LBR/Midland Road crossing and at the Midland Road bridge access to the riverside path, and intermediate points (if required)
  - h. New refuge-island crossing on Lower Bristol Road, to connect to potential Sustainable Transport Route (STR) via Dick Lovett development.
  - i. Improvements to the Dorset Close / Lower Bristol Road junction to provide a level crossing point
  - j. Finger post direction signage at the corner of Roseberry Place and LBR adjacent to The Grain Store and at the existing Toucan crossing adjacent to the Bellotts Road junction;
  - k. Package of Wayfinding signage on both sides of Brook Road, South View Road and Dorset close between the Oldfield Park Station and the site
2. Financial contribution to the improvements to the Midland Road crossing which connects to the Bristol-to-Bath Railway Path and to the city centre (£75,000)
3. Financial contributions continuous sustainable transport connections along the Lower Bristol Road towards Bath City Centre and Railway Station (£200,000)
4. Two car club vehicles and commitment to monitoring
5. Commitment to implementing a Travel Plan
  - a. Setting up Bicycle User Group (BUG) on site
  - b. Provision of Travel Packs to each dwelling and commercial unit on site
  - c. Discount vouchers on the purchase of cycling equipment or subsidised use of a bicycle
  - d. Bus or rail discount tickets or season tickets to encourage use of public transport
  - e. Personalised Travel Planning service for residents and occupiers
  - f. Travel Plan monitoring fee £4,775
6. Parks and green space contribution £185,339
7. Provision of on-site public green space including play area

- a. Secure use for wider public
- 8. Fire Hydrant contribution £4,500 (3 x £1,500)
- 9. Targeted recruitment and training obligations and contribution
  - a. 45 Work Placements
  - b. 6 Apprenticeship Starts
  - c. New jobs advertised through DWP 4
  - d. TR&T contribution £21,285
- 10. Connection of district heat network (if available)
- 11. Viability review mechanism
- 12. S106 monitoring fee
  - a. £400 per obligation

### *Public Sector Equality Duty*

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

Elderly, disabled and otherwise vulnerable residents in the local area are likely to be reliant on public transport and there is concern that bus services will be put under pressure with the any additional population being introduced to the area. However, the bus services are operated commercially with frequencies and capacities being adjusted by the operators depending on demand. The proposal is therefore unlikely to have a significant impact.

Improvements to pedestrian infrastructure both on and off-site will improve the accessibility of the site and surrounding area for all including the elderly, disabled, parents with buggies and those with mobility issues. The proposals therefore provide a benefit to these groups.

### 19. PLANNING BALANCE

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that "where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise".

The amendments to the scheme since the previous refused application have addressed several of the previous reasons for refusal and brought the proposals back in line with more of the development plan, in particular allocation policy SB9.

The increase in office floorspace to 1,608sqm meets the minimum requirement of 1,500sqm set out in policy SB9(1).

The retention of the chimney alongside the façade ensures that historically important elements of the building are retained in accordance with policy SB9(2)

The re-introduction of a north-south link through the site ensures that there are improved pedestrian and cycle connections to Oldfield Park Railway Station and neighbouring communities in accordance with policy SB9(7).

Despite these changes, the proposal would still have a significant deficit of on-site parking spaces against the parking standards in policy ST7 in the currently adopted development plan. This is a significant conflict which means that the proposals do not accord with the current development plan.

However, the emerging LPPU policies and draft Transport and Development SPD are material considerations which, given their advanced stage, consistency with the NPPF and lack of unresolved objections, can be afforded significant weight.

When considered against the emerging policy and alongside the extensive sustainable transport measures secured, the proposals are considered to comply with the emerging standards and will achieve a balance between the maximum permitted number of spaces (380 in accordance with the standards) and a 'car free development' based on the accessibility assessment. The comprehensive package of sustainable transport measures is also considered to be acceptable and will promote significant modal shift to more sustainable forms of transport in accordance with policy ST1.

In addition to the above, there are several other material considerations in favour of the application (full list in public benefits section above) including:

1. Provision of 277 dwellings which contribute towards meeting housing targets
2. Provision of 1,608 sqm of commercial floorspace
3. Contribution towards 5-year land supply
4. Economic benefits associated with the construction and operational phases of development
5. Regeneration and redevelopment of a derelict brownfield site
6. The site's sustainable location
7. Provision of extensive sustainable transport measures both on and off-site

Overall, it is considered that in this instance there are sufficient material considerations which weigh in favour of the application to outweigh the identified conflict with the development plan, and which justify the grant of planning permission.

## 20. CONCLUSION

The amendments made to this revised scheme have fundamentally addressed 3 of the previous 4 reasons for refusal. The increase in office floorspace, the retention of the historic chimney and the re-introduction of the north-south pedestrian link are significant improvements over the previous refused scheme.

Whilst a substantial shortfall in vehicle parking compared to the current minimum parking standards remains, the proposals are in line with the emerging policy and parking standards in the LPPU and the draft Transport and Development SPD. This revised scheme has also improved the offer in terms of sustainable transport measures such that



it now presents comprehensive package that will promote significant model shift to more sustainable forms of transport thereby reducing the likely demand for parking.

The proposals do not provide any affordable housing due to the viability of the development but will provide 277 new market homes which will help to address housing needs and contribute towards the Council's housing targets and 5 year land supply. The provision of newly built employment floorspace is another benefit of the scheme which will contribute towards meeting the Council's economic development objectives.

Furthermore, this is a brownfield site which has been derelict for a number of years and substantial weight is attributed towards bring it forward for development.

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

Due to the conflict with the currently adopted parking standards, the proposals will be advertised as a departure in accordance with the Town and Country Planning (Development Management Procedure Order) 2015.

## **RECOMMENDATION**

Delegate to PERMIT

## **CONDITIONS**

0 A.) Subject to no comments raising new material considerations from the advertisement of the application as a departure

B.) Authorise the Head of Legal and Democratic Services to enter into a Section 106 Agreement to cover the following:

1. Highways works

a. Upgrading street lighting along Lower Bristol Road (LBR), Dorset Close and Brook Way within the site frontage.

b. Relocating westbound bus stop and improvements to include bus shelter, seating, real time information and associated road markings

c. New 3m wide shared foot-cycleway along the site frontage on Lower Bristol Road continuing up to the Brook Road site access junction;

d. New ramped pedestrian-cycle access on South View car park from the south of the development to provide north-south sustainable link connecting Oldfield Park station to Lower Bristol Road;

e. Providing improved connections to the Two Tunnels Greenway cycle route via the existing footpath by the provision of dropped kerb and tactile crossing facilities on Brook Road and Bellotts Road, plus additional direction signage and road markings. This will include resurfacing of the existing footpath, south of The Royal Oak pub between Brook Road and Bellotts Road cul-de-sac, to enable convenient and legible access from the site to the Two Tunnels Cycle route, as shown on Stantec concept drawing 48724/5501/07

f. Improvements to the Lower Bristol Road / Windsor Bridge Road crossing as shown on Stantec Drawing 48724/5501/04 C;

- g. Additional wayfinding signage from the site to Bristol to Bath Railway Path, likely at the LBR/Midland Road crossing and at the Midland Road bridge access to the riverside path, and intermediate points (if required)
- h. New refuge-island crossing on Lower Bristol Road, to connect to potential Sustainable Transport Route (STR) via Dick Lovett development.
- i. Improvements to the Dorset Close / Lower Bristol Road junction to provide a level crossing point
- j. Finger post direction signage at the corner of Roseberry Place and LBR adjacent to The Grain Store and at the existing Toucan crossing adjacent to the Bellotts Road junction;
- k. Package of Wayfinding signage on both sides of Brook Road, South View Road and Dorset close between the Oldfield Park Station and the site
- 2. Financial contribution to the improvements to the Midland Road crossing which connects to the Bristol-to-Bath Railway Path and to the city centre (£75,000)
- 3. Financial contributions continuous sustainable transport connections along the Lower Bristol Road towards Bath City Centre and Railway Station (£200,000)
- 4. Two car club vehicles and commitment to monitoring
- 5. Commitment to implementing a Travel Plan
  - a. Setting up Bicycle User Group (BUG) on site
  - b. Provision of Travel Packs to each dwelling and commercial unit on site
  - c. Discount vouchers on the purchase of cycling equipment or subsidised use of a bicycle
  - d. Bus or rail discount tickets or season tickets to encourage use of public transport
  - e. Personalised Travel Planning service for residents and occupiers
  - f. Travel Plan monitoring fee £4,775
- 6. Parks and green space contribution £185,339
- 7. Provision of on-site public green space including play area
  - a. Secure use for wider public
- 8. Fire Hydrant contribution £4,500 (3 x £1,500)
- 9. Targeted recruitment and training obligations and contribution
  - a. 45 Work Placements
  - b. 6 Apprenticeship Starts
  - c. New jobs advertised through DWP 4
  - d. TR&T contribution £21,285
- 10. Connection of district heat network (if available)
- 11. Viability review mechanism
- 12. S106 monitoring fee
  - a. £400 per obligation

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

### **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 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.

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

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

### **3 Surface Water Connection (Pre-commencement)**

No development shall commence, except ground investigations, until written confirmation from the sewerage company (Wessex Water) accepting the surface water discharge into their network including point of connection and rate has been submitted to the Local Planning Authority. If the sewerage company are not able to accept the proposed surface water discharge, an alternative method of surface water drainage, which has first been submitted to and approved in writing by the Local Planning Authority, should be installed prior to the occupation of the development.

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

### **4 Detailed drainage design (Pre-commencement)**

No development shall commence, except ground investigations and remediation, until a detailed drainage design based on the agreed outline design presented in the Flood Risk Assessment Addendum (Dec 21) has been submitted and approved in writing by the Local Planning Authority. The submission should include, plans, detail drawings and calculations demonstrating the performance at the critical storm events (1in1, 1in30 and 1in100+40%) with no flooding unless in an area specifically designed to do so.

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.

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

No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include, as applicable, a plan showing exclusion zones and specification for fencing of exclusion zones, details and specifications of all necessary measures to avoid or reduce ecological impacts during site clearance and construction including on Linear Park Site of Nature Conservation Interest (SNCI), findings of update surveys or pre-commencement checks of the site, including reporting to the LPA, and details of an ecological clerk of works. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: to avoid harm to the SNCI, retained hedgerow and wildlife before and during construction in accordance with the Wildlife and Countryside Act 1981 (as amended) and policy NE3 of the Bath and North East Somerset Placemaking Plan

#### **6 Landscaping and Ecological Management Plan (Pre-commencement)**

No development shall take place until full details of a Landscape and Ecological Management Plan, specific to the site, have been submitted to and approved in writing by the local planning authority. These details shall include:

- (i) long term wildlife conservation aims and objectives;
- (ii) a full and final specification for habitat creation and species-specific measures include provision of 20 x bat, 20 x bird (including 10 x swift boxes) and 20 x invertebrate boxes. Where possible integrated boxes should be used;
- (iii) proposed management and maintenance operations that conform to the stated aims and objectives; to include locations, timing, frequency, methods of operation, and equipment and personnel;
- (iv) proposed management and maintenance responsibility and resourcing; and
- (v) a list of activities and operations that shall not take place and shall not be permitted within created, retained and enhanced habitats for example use of herbicides, waste disposal, inappropriate maintenance methods, storage, etc.

All works within the scheme shall be carried out and the land managed and maintained and utilised thereafter only in accordance with the approved details, unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of securing long term biodiversity benefit in accordance with Policies NE3 and D5e of the Bath and North East Somerset Placemaking Plan.

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

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

originates on the site. The assessment must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and shall include:

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

(ii) an assessment of the potential risks to:

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

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

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

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

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

(i) all works to be undertaken;

(ii) proposed remediation objectives and remediation criteria;

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

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

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

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

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

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

All external lighting shall be installed and operated in accordance with Drawing 1522RBP-MET-ZZ-ZZDR-E-6310 Revision D2-P05. If any amendments to the approved layout and specification are required, the following details would need to be submitted to and approved in writing by the Local Planning Authority before installation:

1. Lamp models and manufacturer's specifications, positions, numbers and heights;
2. Predicted lux levels and light spill; and
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 maintained and operated thereafter in accordance with the approved details.

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

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

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

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

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

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

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

### **11 Sample Panel - Walling (Bespoke Trigger)**

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

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

## **12 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 (eg outdoor furniture, play equipment, refuse or other storage units, signs, lighting)
7. Proposed and existing functional services above and below ground (eg drainage, power, communication cables, pipelines, etc, indicating lines, manholes, supports etc)
8. Retained historic landscape features and proposals for restoration, where relevant

Soft landscape details shall include:

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

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

## **13 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.

## **14 Parking (Pre-occupation)**

No occupation of the development shall commence until a programme of implementation for the 122 parking spaces to be provided on-site has been submitted to and approved in writing by the Local Planning Authority. The 122 parking spaces shall be provided in accordance with the approved programme of implementation and should be retained for the lifetime of the development thereafter.

Reason: To ensure that adequate and safe parking is provided in the interests of amenity and highway safety in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

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

No occupation of the development shall commence details of bicycle storage for at least 596 bicycles, including a programme of implementation, has been submitted to and approved in writing by the Local Planning Authority. The approved bicycle storage shall be provided in accordance with the programme of implementation and retained permanently thereafter.

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

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

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

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

#### **17 Use Restriction - Office (Compliance)**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the ground floor commercial units specified on the approved plans shall only be used as offices [Use Class E(g)(i)] and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 2020 or any provision equivalent to that Class in any Statutory Instrument revoking and/or re-enacting that Order).

Reason: This use only is permitted and other uses, either within the same Use Class, or permitted by the Town and Country Planning (General Permitted Development) Order 2015, are not acceptable to the Local Planning Authority in this location, to ensure that sufficient office floor space is provided in the locality in line with the provisions of policies B1 and SB9.

#### **18 Noise - Road Traffic (Pre-occupation)**



On completion of the development but prior to any occupation of the approved development, the applicant shall submit to and have approved in writing by the Local Planning Authority, an assessment from a competent person to demonstrate that the development has been constructed to provide sound attenuation against external noise. The following levels shall be achieved:

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

Reason: To protect future occupants of the development from exposure to noise from road traffic in accordance with policy PCS2 of the Placemaking Plan

### **19 Flood Risk (Compliance)**

The development hereby approved shall be carried out in accordance with the submitted flood risk assessment (Flood Risk Assessment Addendum at Bath Press, Bath, dated December 2021, Mason Navarro Pledge Ltd. ref 219490-MNP-XX-XX-RP-C-0001) and the following mitigation measures it details:

(i) Finished floor levels for residential dwellings shall be set no lower than 20.07 metres above Ordnance Datum (AOD) as detailed in section 6.3.

(ii) Finished floor levels for commercial units along Lower Bristol Road shall be set no lower than 19.77 metres AOD as detailed in section 6.5.

(iii) Flood resilience measures to be incorporated for commercial units along Lower Bristol Road, as listed in section 6.6.

These mitigation measures shall be fully implemented prior to occupation. They shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with policy CP5 of the Core Strategy and the National Planning Policy Framework.

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

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

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

### **21 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.

## **22 Sustainable Construction (Pre-occupation)**

The development hereby approved shall be completed in accordance with all measures within the Sustainable Construction Checklist approved with the application, or with measures agreed in writing by the Local Planning Authority. At all times the development shall achieve at least a 19% reduction in regulated emissions compared to that required by the Building Regulations.

No occupation of the development shall commence until a Sustainable Construction Checklist (as set out in the Council's Sustainable Construction Supplementary Planning Document, Adopted November 2018) for the completed development has been submitted and approved in writing by the Local Planning Authority. This shall include:

1. The completion of all relevant tables (see indicated tracks/thresholds in the checklist);
2. All relevant supporting documents/evidence (see indicated tracks/thresholds in the checklist).

Reason: To ensure that the approved development complies with Policy CP2 of the Bath and North East Somerset Core Strategy (sustainable construction).

## **23 Rainwater Harvesting (Pre-occupation)**

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

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

## **24 Water Efficiency (Compliance)**

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

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

## **25 Delivery Hours - Employment Uses (Compliance)**

No deliveries to the employment units shall arrive outside the hours of 0700h - 1900h daily or on Sundays or Bank Holidays.

Reason: To protect residential amenity in accordance with policy D6 of the Placemaking Plan.

### **26 Façade and chimney (Bespoke Trigger)**

No development shall commence on the buildings that are attached to the retained front façade and chimney until details of the joining of the new building with the retained façade and chimney have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details thereafter.

Reason: To ensure that the detailing of the joint with the new and existing building is satisfactory in the interest of the appearance of the development in accordance with policy HE1 of the Placemaking Plan.

### **27 Historic clock (Pre-occupation)**

No part of the permitted development shall be occupied until details of the retention and future maintenance of the clock within the front façade that is to be retained has been submitted to and approved in writing by the Local Planning Authority. The clock shall thereafter be maintained in accordance with the approved details.

Reason: To maintain an important feature within the locally important historic asset in accordance with policy HE1 of the Placemaking Plan.

### **28 PD restriction - Public Access (Compliance)**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no gate, wall, fence or other means of enclosure shall be erected across or on any publicly accessible pedestrian or cycle routes within the application site unless a further planning permission has been granted by the Local Planning Authority.

Reason: In the interests of the appearance of the development and to maintain public access through the site in accordance with policies ST1 and ST7 of the Placemaking Plan.

### **29 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 Architectural  
BP-CDA-SW-XX-DR-A-020001\_P1\_LOCATION PLAN  
BP-CDA-SW-ZZ-DR-A-020002\_P1\_EXISTING SITE PLAN  
BP-CDA-SW-ZZ-DR-A-020003\_P1\_EXISTING SITE ELEVATION  
BP-CDA-SW-ZZ-DR-A-020004-P2-DEMOLITION PLAN  
BP-CDA-SW-ZZ-DR-A-020005-P4-PROPOSED SITE PLAN

BP-CDA-SW-GF-DR-A-020006-P5-SITE PLAN - GROUND FLOOR  
BP-CDA-SW-00-DR-A-020110-P7-WEST BLOCK GROUND FLOOR PLAN  
BP-CDA-SW-01-DR-A-020111-P7-WEST BLOCK FIRST FLOOR PLAN  
BP-CDA-SW-02-DR-A-020112-P7-WEST BLOCK SECOND FLOOR PLAN  
BP-CDA-SW-03-DR-A-020113-P7-WEST BLOCK THIRD FLOOR PLAN  
BP-CDA-SW-RF-DR-A-020114-P7-WEST BLOCK ROOF PLAN  
BP-CDA-ZZ-GF-DR-A-020115-P3-EAST BLOCK GROUND FLOOR PLAN  
BP-CDA-ZZ-01-DR-A-020116-P3-EAST BLOCK FIRST FLOOR PLAN  
BP-CDA-ZZ-02-DR-A-020117-P3-EAST BLOCK SECOND FLOOR PLAN  
BP-CDA-ZZ-02-DR-A-020118-P3-EAST BLOCK THIRD FLOOR PLAN  
BP-CDA-ZZ-04-DR-A-020119-P3-EAST BLOCK FOURTH FLOOR PLAN  
BP-CDA-ZZ-RL-DR-A-020120-P3-EAST BLOCK ROOF PLAN  
BP-CDA-SW-ZZ-DR-A-020121-P2-SUBSTATION 1  
BP-CDA-SW-ZZ-DR-A-020122-P3-SUBSTATION 2 3 AND CYCLE STORE  
BP-CDA-SW-ZZ-DR-A-020123-P2-3D VISUALS  
BP-CDA-SW-ZZ-DR-A-020201-P3-WEST BLOCK SITE SECTIONS A B C D  
BP-CDA-SW-ZZ-DR-A-020202-P4-WEST BLOCK SITE SECTIONS E F G  
BP-CDA-SW-ZZ-DR-A-020203-P4-EAST BLOCK SITE SECTIONS H I J  
BP-CDA-SW-ZZ-DR-A-020204-P4-EAST BLOCK SITE SECTIONS K L M  
BP-CDA-SW-ZZ-DR-A-020205-P3-WEST BLOCK SITE SECTIONS N O P  
BP-CDA-SW-ZZ-DR-A-020206-P4-WEST BLOCK SITE SECTIONS Q R S  
BP-CDA-SW-ZZ-DR-A-020207-P4-EAST BLOCK SITE SECTIONS T U  
BP-CDA-SW-ZZ-DR-A-020208-P4-EAST BLOCK SITE SECTIONS V W  
BP-CDA-SW-ZZ-DR-A-020209-P3-EAST BLOCK SITE SECTIONS X Y  
BP-CDA-SW-ZZ-DR-A-020301-P2-WEST BLOCK DETAILED SECTION A BUILDING A  
BP-CDA-SW-ZZ-DR-A-020302\_P1\_WEST BLOCK DETAILED SECTION B BUILDING B  
BP-CDA-SW-ZZ-DR-A-020303\_P1\_WEST BLOCK DETAILED SECTION B-D  
BP-CDA-SW-ZZ-DR-A-020304\_P1\_WEST BLOCK DETAILED SECTION E  
BP-CDA-SW-ZZ-DR-A-020305\_P1\_WEST BLOCK DETAILED SECTION F  
BP-CDA-SW-ZZ-DR-A-020306-P2-EAST BLOCK DETAILED SECTION G  
BP-CDA-SW-ZZ-DR-A-020307-P2-EAST BLOCK DETAILED SECTION G-Z  
BP-CDA-SW-ZZ-DR-A-020308-P2-EAST BLOCK DETAILED SECTION J-M  
BP-CDA-SW-ZZ-DR-A-020309-P2-EAST BLOCK DETAILED SECTION K  
BP-CDA-SW-ZZ-DR-A-020310-P2-EAST BLOCK DETAILED SECTION P  
BP-CDA-SW-ZZ-DR-A-020400\_P1\_TYPICAL 1 2 AND 3 BED FLAT LAYOUTS  
BP-CDA-SW-ZZ-DR-A-020401\_P1\_TYPICAL TOWNHOUSE BLOCK E  
BP-CDA-SW-ZZ-DR-A-020402\_P1\_TYPICAL TOWNHOUSE BLOCK F  
BP-CDA-SW-ZZ-DR-A-020403\_P1\_TYPICAL TOWNHOUSE BLOCK P

#### Drainage Drawings

BP-MNP-XX-XX-DR-C-GA-1802 P06 PROPOSED DRAINAGE GA WEST SECTION  
BP-MNP-XX-XX-DR-C-GA-1803 P06 PROPOSED DRAINAGE GA WEST SECTION

#### Landscape

1275-001 P2 Vegetation Removal & Retention Plan  
1275-002 P3 Landscape Masterplan  
1275-003 P3 Landscape GA 1of4  
1275-004 P3 Landscape GA 2of4  
1275-005 P3 Landscape GA 3of4  
1275-006 P3 Landscape GA 4of4

1275-007-P4 Roof Terrace GA  
1275-008-P3 Section and Detail Location Plan  
1275-100-P3 Proposed Trees and Underground Services  
1275-200-P5 Ground Level Planting Plan 1of4  
1275-201-P5 Ground Level Planting Plan 2of4  
1275-202-P5 Ground Level Planting Plan 3of4  
1275-203-P5 Ground Level Planting Plan 4of4  
1275-204 P4 Roof Level Planting Plan  
1275-400 P2 - Typical Detail - Tree Protective Fence  
1275-401 P2 - Typical Detail - Tree Pit Soft  
1275-402 P2 - Typical Detail - Tree Pit Hard  
1275-403 P2 - Typical Detail - Roof Terrace  
1275-404 P2 - Typical Detail - Block Paving  
1275-405 P2 - Typical Detail - Pennant Paving  
1275-406 P2 - Typical Detail - Rubber Crumb Surface  
1275-407 P2 - Typical Detail - Resin Bound Surface  
1275-408 P2 - Typical Detail - Pennant Steps  
1275-409 P2 - Typical Detail - Balustrade and Handrail  
1275-410 P2 - Typical Detail - Stone Wall  
1275-411 P2 - Typical Detail - Brick Wall Front Garden  
1275-412 P2 - Typical Detail - Brick Wall Back Garden  
1275-413 P2 - Typical Detail - Brick Wall Terrace  
1275-414 P2 - Typical Detail - Retaining Wall  
1275-416 P2 - Typical Detail - Timber Fence  
1275-417 P2 - Typical Detail - Roof Terrace Furniture  
1275-418 P2 - Typical Detail - Ground Level Furniture  
1275-420 P2 - Typical Detail - Litter Bin  
1275-421 P2 - Typical Detail - Cycle Stand  
1275-422 P2 - Typical Detail - Seating Steps  
1275-423 P2 - Typical Detail - Biodiversity Roof  
1275-424 P1 - Typical Detail - Tree Pit Rubber Crumb  
1275-425 P1 - Typical Detail - Car Parking Bays  
1275-426 P1 - Typical Detail - Block A - Southern Wall  
1275-427 P1 - Typical Detail - Bespoke Paving  
1275-428 P1 - Typical Detail - Tree Pit Hard - Lower Bristol Road  
1275-500 P2 Section A-AA  
1275-501 P2 Section B-BB  
1275-502 P2 Section C-CC  
1275-503 P2 Section D-DD

#### Arboricultural

05504 Tree Constraints Plan  
05504 Tree Protection and Removal Plan

#### Highways

BP-MNP-XX-XX-DR-C-GA-1808 P03 S278 Works Access Works  
BP-MNP-XX-XX-DR-C-GA-1807 P03 S278 Works Visibility Splay  
BP-MNP-XX-XX-DR-C-GA-1809 P02 S278 Works Details  
48725-5501-04-C Proposed Frontage Improvements with Refuge Island Option A

48724/5501/07 Brook Road Proposed Two Tunnels Greenway Pedestrian & Cycle Link Improvements

#### Structural Details

219490 SK001 Facade Restraint Detail  
219490 SK002 Facade Restraint Detail  
219490 SK003 Facade Restraint Detail  
219490 SK004 Facade Restraint Detail  
219490 SK005 Rear Boundary Wall Restraint Detail

#### Utilities

BP-MET-SW-ZZ-DR-M-900001 P04 Incoming Services Layout Plan

#### Lighting

1522RBP-MET-ZZ-ZZ-DR-E-6310-D2-P05 External Lighting Assessment

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

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

## **3 Condition Categories**

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

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

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

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

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

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

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

## **4 INFORMATIVES**

Residents' Parking Permits

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

Local Highway Authority require an agreement (Section 106, Section 278, Section 38)  
The Local Highway Authority (LHA) requires the developer to enter into legally binding agreements to secure works set out in drawing BP-MNP-XX-XX-DR-C-GA-1808 - P03 and 48724/5501/04 C. Further information in this respect may be obtained by contacting the LHA

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