

Bath & North East Somerset Council

MEETING: **Planning Committee**

MEETING DATE: **31st July 2024**

AGENDA
ITEM
NUMBER

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

TITLE: **APPLICATIONS FOR PLANNING PERMISSION**

WARDS: ALL

BACKGROUND PAPERS:

AN OPEN PUBLIC ITEM

BACKGROUND PAPERS

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

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

The following notes are for information only:-

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

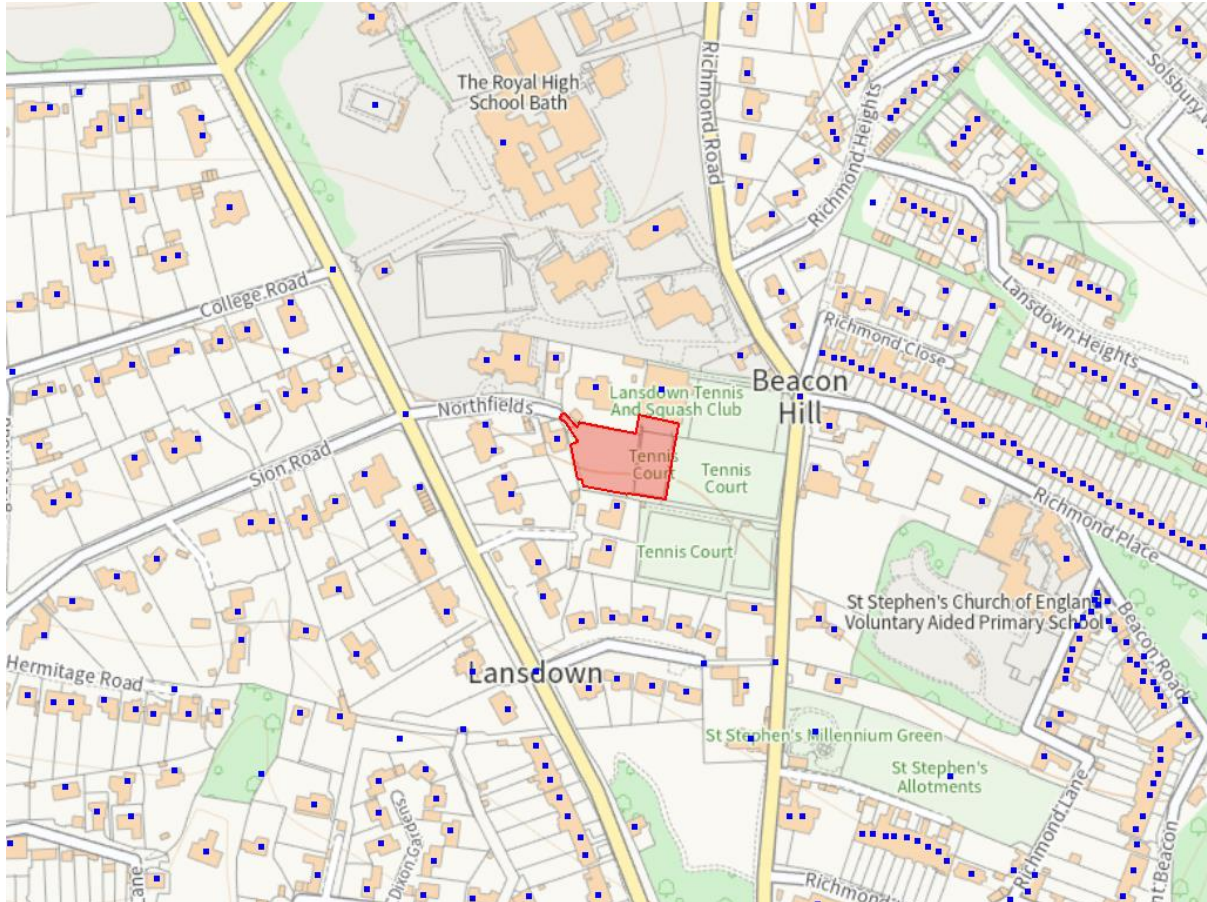
- [2] The papers identified or referred to in this List of Background Papers will only include letters, plans and other documents relating to applications/proposals referred to in the report if they have been relied on to a material extent in producing the report.
- [3] Although not necessary for meeting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

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ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
01	24/00607/FUL 5 August 2024	Ms Natalie Curtis Lansdown Lawn Tennis & Squash Racquets Club , Northfields, Lansdown, Bath, Bath And North East Somerset Replacement of existing Tennis court with two Padel Tennis courts and Mini (juniors) Tennis court, including extended terrace, replacement lighting and associated works.	Lansdown	Isabel Daone	PERMIT
02	21/05576/FUL 2 August 2024	Lacey and Morris Westward, 2 The Orchard, Pensford, Bristol, Bath And North East Somerset Erection of two semi-detached dwellings with access.	Publow And Whitchurch	Christopher Masters	PERMIT
03	23/04613/LBA 8 February 2024	Steve George 10 Berkeley Place, Walcot, Bath, Bath And North East Somerset, BA1 5JH Internal and external alterations for the installation of windows with slim double glazing to replace existing sash windows at rear of property, retrofit existing windows with vacuum insulated glass at the front of the property, installation of solar PV panels on south facing inner roof slope of main building and removal of paint to vault wall and facade of lower ground floor.	Walcot	Emily Smithers	CONSENT

REPORT OF THE HEAD OF PLANNING ON APPLICATIONS FOR DEVELOPMENT

Item No: 01
Application No: 24/00607/FUL
Site Location: Lansdown Lawn Tennis & Squash Racquets Club Northfields
Lansdown Bath Bath And North East Somerset



Ward: Lansdown **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor Mark Elliott Councillor Lucy Hodge
Application Type: Full Application
Proposal: Replacement of existing Tennis court with two Padel Tennis courts and Mini (juniors) Tennis court, including extended terrace, replacement lighting and associated works.
Constraints: Article 4 Bath Demolition Wall, Article 4 Reg 7: Estate Agent, Article 4 HMO, Colerne Airfield Buffer, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Conservation Area, Policy CP9 Affordable Housing, Policy LCR5 Safeguarded existg sport & R, MOD Safeguarded Areas, Policy NE2A Landscapes and the green set, Other Please specify, SSSI - Impact Risk Zones,
Applicant: Ms Natalie Curtis
Expiry Date: 5th August 2024
Case Officer: Isabel Daone
To view the case click on the link [here](#).

REPORT

REASON FOR COMMITTEE:

In accordance with the Council's Scheme of Delegation, the application has been referred to the Chair and Vice Chair of the Planning Committee as a result of the Committee call in requests. Both the Chair and Vice Chair have considered the application and determined that the application should be debated and decided by Planning Committee.

The application refers to an existing sports facility known as Lansdown Lawn Tennis & Squash Club, located in Lansdown and accessed from a road known as Northfields. The existing club has a number of tennis courts, croquet lawns, a pavilion building and associated car parking. The site is located within two World Heritage Sites (the City of Bath WHS and the Great Spa Towns of Europe WHS), as well as the Bath Conservation Area.

The application seeks planning permission for the replacement of existing courts with two no. padel tennis courts and a mini, junior court, with extended terracing and associated works. Replacement lighting is also proposed.

Relevant Planning History:

97/00829/FUL

PERMIT - 14 November 1997

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

02/02736/FUL

PERMIT - 27 March 2003

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

09/02173/FUL

PERMIT - 25 June 2010

Construction of new hard tennis court with surrounding fencing and floodlights

16/01700/FUL

PERMIT - 15 June 2016

Installation of new floodlights for tennis court no 4

19/01857/VAR

PERMIT - 24 June 2019

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

19/01858/VAR

PERMIT - 24 June 2019

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

20/02964/FUL

PERMIT - 26 August 2022

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

22/01940/FUL

PERMIT - 25 October 2022

Replacement floodlighting for Courts 1-7 and Centre Court.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation Responses :

COUNCILLOR LUCY HODGE:

If you are minded to permit the above application (24/00607/FUL), I request that this application for Padel courts is referred for determination in public by the Planning Committee to fully consider any impact on the residential amenity of neighbouring properties, in terms of noise, light and intensification of site usage. I understand that the siting of Padel courts within residential areas is controversial.

The Lansdown Tennis Club is located in a residential area of Lansdown within the Conservation area. This application seeks to replace an existing tennis court located near to residential properties with two padel courts. The Lawn Tennis Association which governs Padel Tennis recommends that, in terms of planning consent, "careful consideration of the location of proposed padel courts should be given in relation to the impact of noise and light on adjacent residential properties. If a property is within 30m of the padel court then it is likely that sound attenuation mitigation will be required as well as noise and light surveys." I understand that one neighbouring property is around 5m from a proposed court.

COUNCILLOR MARK ELLIOTT:

If you're minded to permit the above application I would like it to be referred to the planning committee.

Padel Tennis looks like an interesting and exciting development in racket sports. I have no objection to it in principle, and I can see why the club wants to provide this facility, but I have two primary concerns about the specifics of the application from Lansdown Tennis Club as submitted:

1. Padel Tennis is a noisier game than regular tennis, with a higher cadence of shots, and rebound noise from the walls. The club seems to acknowledge this with the inclusion of an "Acoustic Report" submitted as part of the application. however, the report seems not to adequately consider all the surrounding properties. In particular The Cottage, which is the property closest to the tennis club, seems to have been ignored. It also seems not to consider the cumulative noise effects of Padel on top of the existing noise from the courts. I believe that the noise mitigation proposed is going to be inadequate and will result in a serious reduction in the residential amenity of the surrounding properties.

2. I don't believe the extra increase demand in car journeys, and car parking, has been adequately addressed. The existing 45 space car park is quite often full. This new facility is presumably expected to attract new players to the club in addition to those already attending. Padel is played in doubles, so two courts means 8 extra players. There is no serious provision on site to encourage active travel, and most players arrive by car. It seems likely that this will push car parking onto the surrounding residential streets during busy periods.

The tennis club is closely surrounded by residential property and any new developments need to take into consideration this setting.

ECOLOGY:

3rd May 2024 - Scope for revision; further information required in relation to lighting.

ENVIRONMENTAL PROTECTION:

30th April - Additional information required.

14th May - Additional information required.

21st June - No objection subject to a condition securing compliance with the submitted Noise Impact Assessment (10th June 2024).

HIGHWAYS:

No objection.

THIRD PARTY REPRESENTATIONS:

32 third parties have objected to the scheme and 49 comments of support have been received. There are 2 general comments. The comments can be viewed in full on the Council's website and rather than being repeated verbatim, a summary of the main issues raised are included below:

OBJECTIONS:

- No consultation card received
- Unsuitable location for padel tennis courts
- In close proximity to existing dwellings
- Increased noise pollution
- Sound produced by padel tennis is different to tennis
- Padel tennis game play is more dynamic
- Walls of the court reflect noise
- Padel tennis bat produces a lower frequency
- Cumulative noise increases produced by the club
- Noise in anti-social hours
- Noise from players is more aggressive
- Impact to wildlife as a result of noise
- Insufficient noise mitigation measures

- Baseline noise levels not representative
- Concerns about Noise Impact Assessment Methodology
- Peak noise levels should be used, not average noise levels
- Noise during construction
- Increased traffic
- Insufficient parking to accommodate new membership
- Existing parking issues
- Increased air pollution
- Increased light pollution
- Club members object to the proposals
- Dutch guidance suggests padel courts should not be built within 100m of dwellings
- A different court further from dwellings should be converted
- Noise Impact Assessment does not include The Cottage
- Club has not consulted with local residents

GENERAL COMMENTS:

- Concern about noise and excess traffic
- Not well served by public transport
- Can it be confirmed that any approval be subject to ongoing review, especially monitoring noise and traffic levels?
- Sufficient parking required

SUPPORT:

- Demand for padel tennis facilities
- Strengthen the club's position in the community
- Contribute to success of the club
- Encourage new members
- Padel is an accessible sport
- Positive addition to Bath
- Access to additional sporting facilities
- Currently players have to travel to Bristol, which causes pollution
- Footprint similar to existing courts
- Enhance the existing facilities
- Noise Assessment has been undertaken
- Social padel is no different to tennis in terms of noise

POLICIES/LEGISLATION

The Development Plan for Bath and North East Somerset comprises:

- o Bath & North East Somerset Core Strategy (July 2014)
- o Bath & North East Somerset Placemaking Plan (July 2017)
- o Bath & North East Somerset Local Plan Partial Update (2023)
- o West of England Joint Waste Core Strategy (2011)
- o Made Neighbourhood Plans

CORE STRATEGY:

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

B4: The World Heritage Site and its Setting
CP5: Flood Risk Management
CP6: Environmental Quality
SD1: Presumption in favour of sustainable development

PLACEMAKING PLAN:

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

B1: Bath Spatial Strategy
D1: General urban design principles
D2: Local character and distinctiveness
D3: Urban fabric
D4: Streets and spaces
D6: Amenity
HE1: Historic environment
LCR5: Safeguarding existing sport and recreational facilities
PCS2: Noise and vibration

LOCAL PLAN PARTIAL UPDATE:

The Local Plan Partial Update for Bath and North East Somerset Council was adopted on 19th January 2023. The Local Plan Partial Update has introduced a number of new policies and updated some of the policies contained with the Core Strategy and Placemaking Plan. The following policies of the Local Plan Partial Update are relevant to this proposal:

DW1: District Wide Spatial Strategy
D8: Lighting
LCR6: New and replacement sports and recreational facilities
NE2: Conserving and enhancing the landscape and landscape character
NE3: Sites, species, and habitats
NE3a: Biodiversity Net Gain
NE5: Ecological networks
ST7: Transport requirements for managing development

SUPPLEMENTARY PLANNING DOCUMENTS:

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

Transport and Development Supplementary Planning Document (January 2023)

The City of Bath World Heritage Site Setting Supplementary Planning Document (August 2021)

NATIONAL POLICY:

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

CONSERVATION AREAS:

In addition, there is a duty placed on the Council under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act to pay special attention to the preservation or enhancement of the character of the surrounding Conservation Area.

LISTED BUILDINGS:

In addition, 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.

LOW CARBON AND SUSTAINABLE CREDENTIALS

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OFFICER ASSESSMENT

The main issues to consider are:

1. Principle of development
2. Design, character and appearance
3. Heritage
4. Residential amenity
5. Highway safety and parking
6. Ecology
7. Other matters
8. Public sector equality duty

9. Planning balance and conclusion

PRINCIPLE OF DEVELOPMENT:

The Bath and North East Somerset (B&NES) Council Corporate Strategy (2023-2027) sets out nine priorities in improving people's lives. One such priority is to promote healthy places and support people to live healthier lives. The B&NES Council Health and Wellbeing Strategy sets out the overall vision for the district:

"Together we will address inequalities in Bath and North East Somerset, so people have the best start in life, live well and age well in caring, compassionate communities, and in places that make it easier to live physically and emotionally healthy lives".

The provision of new sporting facilities is considered to complement the Corporate Strategy and Health and Wellbeing Strategy in that they provide increased opportunity for residents to play and interact with sport.

The NPPF highlights the importance of having access to high quality open spaces and providing opportunities for sport and recreation. Policy LCR6 of the Local Plan Partial Update states that new or replacement sport and recreational facilities, or improvements/extensions to existing facilities will be supported within or adjoining a town or settlement provided that:

- a) It complements the existing pattern of recreational facilities
- b) It is accessible by sustainable modes of transport.

The policy also makes clear that any new or replacement facilities will only be permitted where:

- a) the proposal, either by itself or together with other existing and/or proposed recreational facilities, does not have an unacceptable impact on landscape character or areas of ecological interest; and
- b) the re-use or adaptation of existing buildings is not practical or viable, and they are of a scale appropriate to the location and recreational use; and
- c) if an ancillary facility is proposed, it is well-related to the attraction it serves.

Finally, in all cases, the proposal should not give rise to significant adverse environmental conditions, should provide appropriate vehicular access, and must provide adequate access to and between facilities for people with disabilities.

The proposed padel tennis courts will be located within an existing settlement and are considered to complement the existing pattern of recreational facilities in that they are located within the boundary of an existing Tennis, Squash and Croquet Club.

The site is accessible by sustainable modes of transport and there is a bus stop in close proximity to the site.

Whilst assessed in more detail below, the scheme is not considered to result in an unacceptable impact upon landscape character or areas of ecological interest and the padel tennis courts/mini courts are well related to the attraction they serve. The site is

served by an existing vehicular access and a ramp is proposed which will result in an accessible facility.

Policy LCR5 is also relevant, and this relates to the safeguarding of existing sport and recreation facilities. It allows for the loss of outdoor sports space if the proposed development is for an indoor or outdoor sports facility with at least equal benefit to the development of sport and community access to sport to outweigh the loss. It is considered that the proposal would be of at least equal benefit and arguably more benefit in that it diversifies the sport provision at the site.

As such, in so far as they relate to the principle of development, the scheme complies with policies LCR5 and LCR6 and is acceptable in principle.

DESIGN, CHARACTER AND APPEARANCE:

Core Strategy policy CP6 is the overarching policy which deals with environmental quality; this seeks to secure, amongst other things, high quality inclusive design. Policies D1-D4 of the Placemaking Plan and D5 of the Local Plan Partial Update set out the detailed design policies which collectively seek to secure high quality design appropriate to the context. Particularly, policy D2 supports development which contributes positively to and does not harm local character and distinctiveness; development is expected to positively respond to site context.

The application has a number of elements, each of which will be discussed in turn with regard to their impact upon the character and appearance of the locality. The site lies at approximately 150m AOD on the south east facing slope of Lansdown, at the heart of a sub-urban area surrounded by roads, housing and educational establishments. It is bounded by The Royal High School to the north, Richmond Road to the east and residential properties to the south and west. Given the site's elevated position it is likely that distant views of the site are possible from elevated positions on the southern slopes of the Avon River Valley, such as Bathwick Meadows. The site is unlikely to be readily discernible from the surrounding residential and educational developments, however the existing floodlighting may make it a more prominent feature in night-time views.

Alterations to clubhouse terrace

As existing, the clubhouse has a terrace which faces onto centre court; this houses chairs and tables and provides a seating area for members. The terrace is accessed via a ramp or wide steps along the frontage. It is proposed to extend the terrace slightly over the steps and re-configure the access ramp. Within the context of the existing arrangement this is considered to be visually acceptable.

Padel Tennis Courts and mini court

Centre Court is located on the western edge of the site, adjoining the car park which is accessed from Northfields. To the north is the Clubhouse, to the east Court 7 and to its south is Court 8 and a residential property known as Innisfree. Centre Court has a green surface and is surrounded by a mesh chain link fence.

The proposed padel tennis courts will be located in the southern portion of the existing court. They will be orientated east-west which necessitates the removal of two existing car parking spaces as the boundary of the court is pushed slightly to the west. The two courts are 20m by 10m, with a small walkway in between them for access.

The Design and Access Statement sets out that the court will be a "Panoramic Court" which has frameless glass facades. The glass facades are approximately 3m in height, with a c.1.1m high metal mesh fence positioned on top of this. The walkway in between the two courts will be served by 1.9m high mesh access gates.

A number of third parties have raised concern with regard to the visual appearance of the courts, stating that they will appear as a "metal cage". Whilst the proposed courts will have a greater height than the existing metal mesh fencing, much of this will be clear glass. The proposed metal mesh fencing is minimal. Mesh fencing is expected paraphernalia within a sporting facility, and it is not considered that the padel tennis courts are contrary to the character and appearance of the existing club.

The proposed mini court will be bound by a hedge on the western edge and be bound by mesh fencing similar to the existing arrangement on centre court.

Floodlighting

Centre Court is currently illuminated by 6m high columns, three on the western side of the court, and three on the eastern side which are attached to higher columns which front Court 7 but at a height of 6m.

The proposed padel tennis courts are to be floodlit. Each court will have 4no. columns, which will be slightly taller at 6.8m. This totals 8no. columns, positioned north-south as opposed to the existing east-west arrangement. 2no. of the existing columns will be retained to serve the mini-tennis court.

Whilst additional lighting is proposed which is slightly taller than the existing on Centre Court, it is lesser in height than the columns on Courts 4-7 adjacent which are 8m in height. In 2022, permission was granted for replacement floodlighting on Centre Court (22/01940/FUL) and some of these columns were proposed to be 6.7m in height.

Given the existing site context, and the existing floodlighting, the increase in columns and height is not considered to cause visual harm to the locality; they will be viewed in the context of the existing sporting facility and floodlighting. They are positioned further within the site than the existing by way of their orientation. As such, they are considered to respect the character of the locality.

Character and appearance conclusion:

Overall, the proposed development is considered to be visually appropriate to the character of the existing sporting facility. Whilst the site is surrounded by residential properties, it has its own distinct character to which the development responds. The proposal is considered to comply with the relevant design policies set out within the development plan (policies CP6, D1, D2 and D5).

HERITAGE:

The application site is located within two World Heritage Sites (City of Bath and The Great Spa Towns of Europe) and the Bath Conservation Area. There are a number of Grade II Listed Buildings within proximity of the site including The Royal High School (and Chapel) to the north and York Place and Richmond Place to the east. Therefore, consideration must be given to the effect the proposal might have on the Outstanding Universal Values of the World Heritage Sites and their setting. There are duties placed on the Council under; Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, when considering whether to grant planning permission for development which affects a listed building or its setting, that the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses; and, Section 72 (1) of the same Act to pay special attention to the preservation or enhancement of the character of the surrounding Conservation Area.

The setting of a heritage asset (as set out in the NPPF Annexe 2: Glossary) is 'the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.' PPG advises that 'when assessing any application for development which may affect the setting of a heritage asset, local planning authorities may need to consider the implications of cumulative change.'

The Bath World Heritage Sites

The application site is within two UNESCO World Heritage Sites: City of Bath (1987) and The Great Spa Towns of Europe (2021). Bath is the only entire city in Britain to be designated, and one only a small number globally. Furthermore, The Great Spa Towns of Europe is a serial inscription; part of 11 historic spa towns across Europe, and Bath is one of only 33 World Heritage Sites out of 1199 globally to be double inscribed. The City of Bath designation describes the City as "a masterpiece of human creative genius whose protection must be the concern of all". Both World Heritage Site inscriptions are underpinned Outstanding Universal Values (OUV's) that need to be taken into consideration with any development of this size and scale. These OUV's are conveyed by the following identified Attributes:

City of Bath:

1. Roman Archaeology
2. The Hot Springs
3. Georgian Town Planning
4. Georgian architecture
5. Green Setting of the City in a hollow in the hills
6. Georgian architecture reflecting social ambitions (e.g. spa culture).

The Great Spa Towns of Europe:

1. Mineral Springs
2. Spa Spatial ensemble
3. Spa architecture
4. Therapeutic Spa Landscape
5. Spa Infrastructure

6. Continuing spa function

7. Internationalism

The proposed development is located within an existing sports facility. Whilst new lighting is proposed this, as set out in the section above, will be viewed within the context of the existing lighting at the site some of which is taller than the proposed. It is therefore not considered that the development would cause harm to the Outstanding Universal Values of either of the Bath World Heritage Sites.

Conservation Area

The site is within the Bath Conservation Area. There is a duty placed on the Council under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act to pay special attention to the preservation or enhancement of the character of the surrounding conservation area. Officers consider that the proposal will preserve the character of this part of the Conservation Area.

The padel tennis courts will be located within the boundary of the existing tennis club. Whilst they will introduce additional floodlighting and mesh/glazed fencing and acoustic screening, given the existing visual appearance of the club and its associated infrastructure it is not considered that it would harm the Conservation Area and would therefore preserve the character of this part of it.

Listed Buildings

The proposed development is considered to be within the setting of the following listed buildings:

The Royal High School - Grade II
Chapel of Royal High School - Grade II
Richmond Place - Grade II
York Place - Grade II
Northfield House - Grade II

There are a number of other listed buildings in the locality, however due to their proximity to the site and the topography it is not considered that the development is within their settings.

The existing sporting facility is visible from a number of these listed buildings and views of these buildings include the tennis club. The proposed development will be located on the western side of the existing facility. The proposed floodlighting is lower in height than the tallest floodlighting and the proposed fencing is considered to be of an appropriate height which would not obscure important views of the Listed Buildings. It is therefore considered that the development would not harm the settings of the nearby listed buildings.

Heritage conclusion

The application is not considered to harm the OUVs of either of the Bath World Heritage Sites, and will preserve the character of this part of the Conservation Area. The character

of the setting of the nearby listed buildings will also be preserved. As such, the development complies with policy HE1 of the Placemaking Plan and Part 16 of the NPPF.

RESIDENTIAL AMENITY:

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

A large proportion of the third-party comments received relate to concerns with regard to residential amenity, most notably noise and light pollution. Loss of outlook is also raised as a concern. Other aspects of residential amenity, such as overlooking, overshadowing and overbearing are not considered to be a concern in relation to the development. The report will therefore focus on the three key issues.

Loss of outlook

A number of third parties have raised that the proposed padel tennis courts will appear 'cage like' and be unsightly. Whilst it is considered that the outlook of some of the nearest residents (namely those closest to the courts) will change as a result of the scheme, the development will not result in a significant loss of outlook which would warrant a refusal on this basis. In the context of the existing facility, and the height and design of the proposed courts, officers do not consider that significant harm will be caused in this regard.

Light pollution

Policy D8 of the Local Plan Partial Update sets out the Council's policy for artificial lighting. It makes clear that it will only be permitted where it can be satisfactorily demonstrated that the additional lighting will have no detrimental impact on residential amenity.

A Lighting Design report has been submitted with the application (Luminance Pro, February 2024). The proposal will remove 4no. of the existing columns on Centre Court, with 2no. being retained for the proposed mini court. 8no additional columns will be provided to light the padel courts.

The Guidance Note for Obtrusive Light, which is appended within the Lighting Design report referred to above, splits areas into Environmental Zones. It is considered that this site would have a lighting environment of low to medium district brightness. The guidance notes states that for these areas, maximum values of vertical illuminance on nearby premises should be 5-10 lux. Where it is considered that the site falls within two zones, the lower threshold should be applied. The Local Planning Authority has consistently considered the site to be within the E2 zone and therefore this threshold has been applied.

Page 41 of the submitted light report sets out the maximum values of vertical illuminance on nearby properties. None of the maximum values exceeds the 5lux which is set out in the GN01/21 Guidance Note (The Reduction of Obtrusive Light).

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

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

The lighting on Centre Court is currently permitted to be used between 9am and 9pm Monday to Sunday. It is therefore considered reasonable that the new lighting is subject to the same condition, and this is recommended. A condition can also secure "automated" switch off, to help avoid the lighting being left on through human error.

Overall, it is not considered that in the context of the existing lighting at the site, the existing lighting on Centre Court and the proposed lighting design that the proposed floodlights would cause significant harm to the residential amenity of the neighbouring occupiers.

Noise and disturbance

As aforementioned, a large proportion of the comments received with regard to this application relate to concerns surrounding significant levels of noise and disturbance as a result of the padel tennis courts. The case officer has been sent videos of tennis play at the existing facility to demonstrate existing noise levels.

As well as policy D6, policy PCS2 is considered to be relevant, and this has regard to noise and vibration. It sets out that development will only be permitted where it does not cause unacceptable increases in levels of noise that would have a significant adverse effect on health and quality of life, the natural or built environment or general amenity unless this can be minimised or mitigated to an acceptable level.

Comments have been raised about the cumulative increase in noise levels at the club over the years, as the popularity has increased. Whilst there are controls with regard to the time that the existing floodlighting at the site can operate, there is not a planning condition restriction on the number of people who can play within the club at any one time. Whilst existing club noise may cause some noise and disturbance, this cannot be addressed through this planning application. Given the existing lawful use of the site, some noise from gameplay and general comings, goings and operations are to be expected. This planning application therefore assesses the potential impacts of the padel tennis provision, and the cumulative impacts of the proposed facility with the existing.

The existing site context is relevant to the assessment of the impact of the padel tennis courts. The club sits within a residential context, but it is essential to note that it is an existing sporting facility which, as above, can operate relatively freely in terms of numbers of tennis/squash games which can occur at any one time. It is understood from an interrogation of previous officer reports for developments at the site (09/02173/FUL) that there are legal restrictions on the number of open tournaments that can take place each year. There is already a degree of noise as a result of the existing site, from players hitting balls, talking, shouting etc., as well as noise from vehicles entering and leaving the site. The provision of padel tennis should, therefore, only be acceptable in this location if it is not considered to result in significant levels of noise and disturbance in the context of the existing situation.

A Noise Impact Assessment (NIA) was submitted with the application. Officers were not satisfied with the NIA which was originally submitted. It did not assess the noise impacts on key receptors, namely The Cottage which is located to the north-west of the proposed padel tennis courts and one of the closest dwellings to the proposals. Additionally, the Council's Senior Environmental Health Officer (SEHO) was not satisfied with the baseline survey methodology. Consequently, a revised NIA was submitted in order to try and address these points has been submitted and assessed as part of the application.

The Lawn and Tennis Association have guidance relating to padel tennis. This is not planning policy, but does provide useful information about padel, the style of gameplay and the courts themselves. The guidance states that "careful consideration of the location of proposed padel courts should be given in relation to the impact of noise and light upon adjacent residential properties. If a residential property is within 30m of the padel court then it is likely that sound attenuation mitigation will be required, as well as noise and light surveys being required as part of the planning application."

Sport England do not have specific guidance themselves on conducting noise assessments for padel tennis courts, and therefore the 2015 Sport England Artificial Grass Pitch (AGP) Acoustics - Planning Implications has been used to help to identify the noise implications of the proposal. It is considered that this is a suitable measure, given the lack of padel specific guidelines available from Sport England. The use of this guidance is a common approach within noise assessments for padel courts. Notwithstanding this, officers have given due regard to the differences with the form of gameplay associated with padel tennis (including the ball hitting against the side of the court, the size of the court etc.,).

The World Health Organisation sets out in their guidance relating to community noise that "to protect the majority of people from being seriously annoyed during the daytime, the outdoor sound level from steady, continuous noise should not exceed 55dB on balconies, terraces and in outdoor living areas. To protect the majority of people from being moderately annoyed during the daytime, the outdoor sound level should not exceed 50dB."

The baseline data presented in the most recent iteration of the NIA was obtained on two dates, covering the proposed period of operation for the padel courts (9am and 9pm) as requested by the Council's SEHO in their initial comments. The baseline noise data is presented in Table 3.1 of the NIA. The ambient noise levels range from 44dB to 59dB. The "notes/observations" column sets out the location of tennis games during the noise survey. The higher noise levels were recorded at the receptors when Centre Court was being used, which is to be expected given that this court is within closer proximity to the noise receptors. The average ambient noise level for the baseline was 51dB.

Third parties have challenged the use of an "average" ambient noise level, stating that this skews the data in favour of the applicant. The noise from the existing club fluctuates over the course of the day, as seen from the readings in table 3.1. There are times when the ambient noise level is much lower (44dB) and times when it is much louder than average (59dB). It is standard methodology to take an average to capture this fluctuation. This is also the case for predicted noise levels, which will also fluctuate over the course of the day. However, officers are alive to the nature of noise fluctuations, and this has formed part of the assessment of noise in this case.

In order to ascertain the predicted "source" noise levels (i.e., the noise levels which will occur from the Padel Tennis Courts), sample noise measurements were acquired from a Padel Tennis facility in Bristol - Redland Green Tennis Club. Part 4.1 of the NIA details the noise monitoring positions which were 5m from the north-west (glazed) end of the court, 2m from the south-west (metal mesh) side of the court and 2m from the north-east (metal mesh) side of the court. The monitoring positions were both free field (more than 3.5m from a vertical reflective surface) and façade measurements (at 1m from the club house). This is considered suitable, given the proposed positioning of the padel tennis courts at the Lansdown site.

Table 4.1 of the NIA sets out the noise levels for each position. These are summarised below:

Position 1 (5m from glazed end) - 50-53dB
Position 2 (2m from mesh long side) - 62-65dB
Position 3 - (2m from mesh long side) 62dB

The average noise levels are therefore as follows:

Position 1 - 52dB
Position 2 - 64dB
Position 3 - 62dB

It has been raised by third parties that the proposed source noise data is not representative as it relates to only one court and was taken during a short period of time. However, the SEHO is satisfied with the noise monitoring data, which has been taken from an outdoor game on a comparable type of court. It is considered that this is an accurate way of obtaining noise data from padel tennis.

The proposed padel tennis courts will be glazed, with mesh fencing above the glazing. This is important to note as the NIA observes that during the game at Redland the noise levels were less at the glazed end, as opposed to the mesh fencing sides.

Figure 5.2 of the NIA uses the data collected at Redland Tennis club and creates a noise map showing the propagation from the padel tennis courts, assuming that both courts are to be used simultaneously. The calculated noise levels are given at each receptor, and these range from 51dB to 56dB.

The cumulative noise level has also been assessed, which is considered to be important given the existing noise which exists as a result of the sporting facility. This is presented in Table 5.1 of the NIA. This demonstrates that there would be an increase in ambient noise level as a result of the proposal and existing noise levels together which would be over and above Sport England guidance. Sport England guidance recommends that a proposal should not result in an increase in more than 3dB; the proposal would result in an increase of 6dB.

In accordance with Sport England and the Lawn Tennis Association Guidance (set out above), mitigation measures are proposed. Section 6 of the NIA explains the mitigation measures in detail but, in essence, glazed screens are proposed to be located to the north

of the northern padel and to the south of the southern padel courts. The glazed screens will be 3m in height. These mitigation measures reduce the noise levels to the levels shown in Table 6.1 of the NIA. In summary, the cumulative noise levels range between 52 and 53dBL, which is an increase in the average noise ambient noise level of 1-2dBL. This is within the accepted limits as set out by Sport England. The provision of these mitigation measures is essential in ensuring that the noise levels remain acceptable and, therefore, these need to be secured by way of condition. They are clearly shown on the proposed plans.

It is accepted that the NIA utilises average noise levels, for both the ambient and source (and therefore predicted) noise levels as a result of the development. Officers accept that there will be periods of the day where the noise levels will rise above the average during gameplay. Conversely, there will be times during the day where the padel courts may not be in use and therefore the noise levels will be well below the average predicted. This is the reason that average levels are used; they do not discount variations in the noise levels across the day but are the fairest and most reliable way of accounting for fluctuations.

Padel tennis shares characteristics of both tennis and squash. The ball is struck in a similar way to tennis, however it is noted and accepted that the style of gameplay differs in that the balls is hit against the sides of the court, and the rallies can be longer due to this, and the fact the courts are smaller. This can result in less time between rallies and there are less breaks in gameplay. A number of third parties have raised that those playing padel are generally more animated and noisier than those playing tennis. It is not considered that this is a measurable fact; individual style for both tennis and padel players would need to be accounted for. Indeed, advanced tennis players, as well as padel players, may be more vocal in their style of play. Whilst the style of play is different, the characteristics of ball strike noise which current exists at the facility from the tennis, will be similar within the padel gameplay. Whilst the padel bat is not strung but solid, tennis rackets generally strike the ball harder.

Guidance from Europe has been provided by third parties, in particular the Dutch Padel and Sound Guide (January 2023). The Appendix of this guidance sets out that Dutch research shows padel tennis is louder than regular tennis, in terms of peak noise levels. Again, it is important to note that the peak noise level is not consistent during gameplay or across the day, as is the case in regular tennis. This guidance is noted; however, it is not planning policy, nor is it UK guidance. As such, officers have afforded it limited to moderate weight in the planning assessment of noise.

The submitted NIA utilises a physical padel tennis noise data source, from a physically played game on a similar court to that proposed. It is noted and accepted that there will be points during the day where the noise levels peak above the average, as they do at the moment. However, there will also be times whereby the noise levels are much lower.

The mini tennis court will be pushed further north, however as existing tennis and mini tennis could be played in this location. The cumulative noise levels have been accounted for in the NIA.

A planning condition can secure the installation of the noise mitigation measures, and this is seen as essential as set out above. Additionally, a planning condition can be used to ensure that the padel tennis courts are not used outside of the hours of 9am and 9pm.

There are currently not restrictions as to the hours of use of Centre Court, apart from flood lighting limits, and therefore, this is considered to be an improvement in this regard on the existing scenario, particularly in the summer months when floodlighting is not necessarily required later into the evenings. This will ensure that noise levels are reduced during anti-social hours.

Officers have assessed and acknowledged the comments from third parties with regard to noise. The noise data provided has been objectively assessed by officers, and the peaks and troughs in noise levels have been accounted for. It is clear that there will be some impact from noise as a result of the proposal. In order for a development to be refused on the ground of D6 (residential amenity), the noise impacts would need to be significant to justify such grounds. The SEHO has no objection to the scheme following revised noise report and additional noise mitigation. The baseline context is also a significant material consideration, in that the facility is an existing sporting facility where some noise is to be expected. It is not considered that, in the context of the existing site, the Sport England and LTA guidance and the submitted NIA that the noise produced would be significant to a point which would justify the refusal of the application on these grounds.

Noise during construction has been raised as a concern. A construction management plan can be secured by way of planning condition to ensure that construction is undertaken during appropriate working hours.

Given the design, scale, massing and siting of the proposed development the proposal would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, smell, traffic or other disturbance. The proposal accords with policies D6 and PCS2 of the Placemaking Plan and part 12 of the NPPF.

HIGHWAYS SAFETY AND PARKING:

Policy ST7 of the Local Plan Partial Update has regard to transport requirements for managing development. It sets out the policy framework for considering the requirements and the implications of development for the highway, transport systems and their users. The Transport and Development Supplementary Planning Document expands upon policy ST7 and includes the parking standards for development.

A number of third parties have raised comments with respect of parking and highway safety. Such parties have commented that there are often times where the car park is full and there is insufficient parking for members of the club. The parking on Northfields is controlled by local waiting restrictions. Whilst some third parties have commented that these are often broken and not well controlled, this would be a matter for parking services and breaches of the controls should be reported.

Third parties have referenced the fact that the inclusion of padel tennis courts at the site will increase membership. Whilst the introduction of padel may encourage new members to join the Tennis Club, there is currently no planning restriction on the number of memberships that the club can have at any one time. Comments with regard to Centre Court being under-used are also noted. However, the Local Planning Authority cannot control how often Centre Court is used. It is understood that doubles games could be played on this court (4 players) and that the court can also be used for mini-tennis

coaching, which involves a number of children who may travel to the site in a vehicle. 4no. mini courts can be accommodated on Centre Court as existing. Whilst this may not be occurring at all times of the day, there are clearly instances where the occupancy of Centre Court is high and travel movements to and from the site will be higher.

It is important to note that the site is in a highly sustainable location, with walking and cycling routes to the site and public transport links.

Padel tennis is played in doubles, so assuming all courts are occupied at any one time, 8 people could be playing, and a number of children could be using the mini-tennis court. Even with additional players waiting for their game, it is not considered that the scale of the proposals would result in a significant transport impact. Given the highly sustainable location of the site, it is unlikely that all those using the new courts would travel by vehicle. Some may also be existing members who would be using the site for tennis and thus not creating significantly new movements to and from the site. Even if the number of vehicle movements were to increase, again this would not be significantly due to the scale of the development, the parking in Northfields and other surrounding roads is controlled. Drivers would go into the car park, find it was full, turn and exit the site. The car park is barrier controlled, but there is sufficient turning space.

It is therefore concluded that the proposal would be unlikely to create a substantial parking impact, even with the relocation of 2no. spaces. Given that the level of membership is unrestricted as existing, the scale of the development proposed and the sustainable location of the site, it is not considered that the refusal of this development on highway safety grounds would be justified. The NPPF is clear at paragraph 115 that development should only be refused on highway grounds where there is an unacceptable impact upon highway safety or the cumulative impact upon the road network would be severe. The Highway Authority has assessed the proposals and does not consider that this threshold is met.

The means of access and parking arrangements are acceptable and maintain highway safety standards. The proposal accords with policy ST7 of the Local Plan Partial Update, the Transport and Development Supplementary Planning Document (2023), and part 9 of the NPPF.

ECOLOGY:

Relevant ecological policy and context

Policy NE3 of the Local Plan Partial Update has regard to Sites, Species and Habitats and states that development which results in significant harm to biodiversity will not be permitted. For all developments, any harm to the nature conservation value of the site should be avoided where possible before mitigation and/or compensation is considered.

Policy D8 has regard to lighting and sets out, amongst other things, that proposals for artificial lighting should retain ecological corridors and should be designed to protect wildlife.

In addition, Policy NE3a of the Local Plan Partial Update relates to Biodiversity Net Gain (BNG).

In the case of minor developments, development will only be permitted where no net loss and an appropriate net gain of biodiversity is secured using the latest DEFRA Small Sites Metric or agreed equivalent.

The application was accompanied by an Ecological Appraisal, Biodiversity Net Gain Assessment and Metric (Crossman Associated, January 2024). A Lighting Design Document has also been provided (Luminance Pro, February 2024). In response to comments raised by the Council's Ecologist, a revised Ecological Appraisal was submitted to the Council in May 2024.

Biodiversity Net Gain

Policy NE3a of the Local Plan Partial Update states that for minor development, proposals should demonstrate that an appropriate net gain can be achieved.

The application is accompanied by a BNG metric. Ornamental hedging is proposed to be removed to accommodate the proposal and a new Yew hedge is proposed. Yew hedging is a native species and this is supported. This equates to a 45% net gain in biodiversity and the planting of the hedge can be secured by way of planning condition.

Protected species

The proposed floodlighting necessitates an assessment as to the impact upon protected species, most notably bats in this location.

As originally submitted, the Council's Ecologist was not satisfied that there was sufficient information to conclude that submitted appraisal was correct in asserting that the proposal would not harm commuting corridors for bats. The appraisal stated that "the boundary features of the club adjacent to the survey area provide a limited potential commuting corridor for bats. However, the club is surrounded by adjacent habitats and features that provide alternative commuting corridors for bats". The Local Planning Authority has, in previous schemes for lighting at the site, accepted the position that the features are unlikely to provide a significant commuting/dispersal corridor and are unlikely to provide any resource of note for horseshoe and Bechstein's bats related to the Bath and Bradford-on-Avon SAC and therefore, a Habitat Regulations Assessment is not required. However, they could still impact upon features used by bats not functionally linked to the SAC and as such, the Council's Ecologist requested that the Appraisal identified where the potential bat habitat was located and that the lighting assessment demonstrated that these areas could be retained as dark areas, under lux levels of 0.5 lux.

In response, the appraisal was updated to include lux contour plans of the light spill from the proposed padel produced by the lighting designer. Ideally, the horizontal and vertical planes should be overlaid onto a plan showing the potential bat habitat. This has not been provided. However, the horizontal lux plane at 0m, 3.25m, and 4.0m above ground level has been provided and given the context of the existing site which is floodlit and the extant permissions for new floodlighting on Centre Court, this is considered sufficient in this case. Additionally, Appendix 1 of the report shows where the areas of surrounding habitat for bats is located. These are to the south and north of the site and will not be directly affected by light spill.

The 0m plan shows no significant light spill. The 3.25m and 4m plans show that the areas of most significant light spill will fall onto the adjacent car park to the west, courts to the east and the clubhouse to the north. None of these areas are considered to have significant habitat for bats. The lux plan does show that there will be light spill to the adjacent gardens of The Cottage (to the north-west) and Innisfree (to the south-west). This spill must be considered within the context of the wider site, which is already lit and produces some light spill into these areas. Given the existing situation on site, the minor increase in spill to these areas is not considered to result in a significant impact to bats foraging and commuting in this area. The conclusion that the proposal will cause a negligible impact upon bats given the existing context is therefore accepted by the Case Officer.

The hours of lighting can be strictly controlled, as set out in the residential amenity section of this report, by condition. Compliance with the Ecological Appraisal and therefore lux plans can also be secured by condition, with ongoing monitoring to be provided. If the Lux levels rise above the levels shown in the report, mitigation measures can be secured.

Paragraph 3.28 of the Ecological report sets out a seasonal justification as to the amount of time the lighting may affect bats. Bats are generally active between March and October. The hours of lighting for this court would be restricted to between 9am and 9pm as required. Clearly in the Summer months there would be a lesser reliance on the lighting. The report concludes that the lighting would be required for a small proportion of nighttime hours over the summer months when bats are most active, and this is accepted and has been accepted by the Local Planning Authority within lighting schemes at the site (such as 20/02964/FUL).

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

Ecological conclusion

The application is considered to comply with policy D8 with regard to ecology, NE3, NE3a, NE5 and the relevant legislation.

OTHER MATTERS:

Several third parties have raised that they were not directly consulted on the application. The Council has directly consulted those adjoining the site and a site notice was erected on site. It is considered that the Council has complied with its statutory duties having regard to the Development Management Procedure Order (2015). Whilst the Local Planning Authority strongly encourages applicants to discuss proposals with the community prior to submitting and during the application process, they are unable to require that this is undertaken. Comments with regard to the club's lack of consultation with neighbouring parties are noted, but this would not necessitate the refusal of the application.

A number of comments also raised that some of the club's members object to the scheme and that the scheme has not been voted on by members. The requirement of the membership to vote on proposals for the club is a separate matter to the planning process and it would be for the club to address this matter should permission be granted.

The availability of other courts within the complex for conversion to padel tennis has been raised and it is has been queried why they could not be located elsewhere. Members must assess the planning application which is before them on its own merits. Alternative locations have not been requested nor put forward from/by the applicant.

PUBLIC SECTOR EQUALITY DUTY:

In reaching its decision on a planning application the Council is required to have regard to the duties contained in section 149 of the Equality Act 2010, known collectively as the public sector equality duty.

Section 149 provides that the Council must have due regard to the need to—

- (a) eliminate discrimination, harassment, victimisation
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Officers have had due regard to these matters when assessing this application and have concluded that neither the granting nor the refusal of this application would be likely to have an impact on protected groups and, therefore, that these considerations would not weigh in favour of or against this application.

PLANNING BALANCE AND CONCLUSION:

The comments of third parties have been carefully considered during the assessment of this planning application and it is accepted and acknowledged by officers that the development will result in a visual change to this part of the club complex and may alter the noise profile of the existing facility particularly for the residents who are located on the western/north-western sides of the development.

The report clearly sets out the reasons why officers consider the visual appearance of the proposed courts to be acceptable, particularly given the existing context. The Highway Authority do not consider that the proposals will result in a significant highway impact and do not consider that a refusal on this basis would be justified. With regard to noise, officers have carefully assessed the proposal, submitted noise assessment against the comments of third parties, Sport England and WHO Guidance and in the context of other guidance notes that third parties have raised. The following mitigation measures have, as a result of the noise assessment, been proposed:

- Acoustic screening to the south and north of the courts
- Controls of play times

These mitigation measures are considered to reduce the potential for noise and disturbance to a level which is not considered to be significant and therefore a refusal on

this basis is not considered justified. The context of the existing club is a material consideration and even when considered cumulatively, it is not considered that the padel tennis courts would result in significant levels of harm.

There are a number of benefits to the proposal which are also material considerations, and these are summarised as:

- Diversification of sporting provision
- Increased sporting facilities within Bath
- Provision of additional opportunities for people to engage in health, recreation and wellbeing in accordance with the Council's Health and Wellbeing Strategy and Corporate Strategy
- A biodiversity net gain of 45%, in excess of the 10% net gain which would be required if this application required mandatory net gain

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*".

When considering whether development proposals accord with the development plan it is necessary to make this judgement with regard to the development plan as a whole. The proposed development is considered to comply with the development plan as a whole and is therefore recommended for permission, subject to the planning conditions set out below.

RECOMMENDATION

PERMIT

CONDITIONS

1 Standard Time Limit (Compliance)

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

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

2 Biodiversity Net Gain Plan (Pre-commencement)

No development shall commence until full details of a Biodiversity Gain Plan achieving a minimum of 10% measurable biodiversity net gain, and a Habitat Management Plan for any on-site habitats and biodiversity measures, have been submitted to and approved in writing by the Local Planning Authority. The Plans shall be in accordance with current best practice guidelines and standards and shall be in accordance with the approved Biodiversity Net Gain Assessment and calculation and shall include the following:

In all cases:

1. Pre and post development biodiversity values including a completed metric calculation tool using the DEFRA Biodiversity Metric or any successor, and accompanying evidence for baseline condition assessments;
2. A BNG habitat map for on-site proposed habitats

Where on-site habitat is proposed/retained:

5. Long term aims and objectives and targets for habitats; proposed management prescriptions and operations; timing, frequency, durations and methods of operations; specialist expertise, specialist tools/machinery or equipment and personnel where required to meet the stated aims and objectives;
6. Annual work schedule for at least a 30 year period
7. A list of activities and operations that shall not take place and shall not be permitted within the Habitat Management Plan (HMP) area (for example use of herbicides; on-site disposal of grass cuttings or other vegetation waste; routine cutting of ivy where there is no specific arboricultural justification; inappropriate maintenance methods, storage of materials; inappropriate machine or vehicle access).
8. Detailed monitoring strategy for habitats and species, and methods of measuring progress towards and achievement of stated objectives.
9. Details of proposed reporting to the Local Planning Authority, and proposed review and remediation mechanism.
10. Proposed costs and resourcing, and legal responsibilities.

The Biodiversity Gain and Habitat Management Plans shall be implemented in accordance with the agreed details and timetable, and all habitats and measures shall be retained and maintained thereafter in accordance with the approved details.

Reason: To protect and enhance ecological interests and to ensure delivery of Biodiversity Net Gain in accordance with Bath and North East Somerset Local Plan Partial Update policies NE3, NE3a, NE5 and D5e.

3 Construction Management Plan (Pre-commencement)

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

1. Deliveries (including storage arrangements and timings);
2. Contractor parking;
3. Traffic management;
4. Working hours;
5. Site opening times;
6. Site compound arrangements;

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 policy D6 of the Bath and North East Somerset Placemaking Plan and ST7 of the Bath and North East Somerset Local Plan Partial Update. This is a pre-commencement condition because any initial construction or demolition works could have a detrimental impact upon highways safety and/or residential amenity.

4 Noise Mitigation Measures (Pre-occupation)

Prior to the first use of the padel tennis courts hereby approved, the noise mitigation measures shall be installed in accordance with Section 6 of the Noise Impact Assessment (Parker Acoustics Ltd, PAL-NIA-23079-1-v5, dated 10th June 2024), as shown on plan reference 2321/011B, received 19th April 2024). The noise mitigation measures shall be permanently retained thereafter.

Reason: To ensure that the noise levels are mitigated to an acceptable level which will retain the residential amenity for neighbouring occupiers, in accordance with policies PCS2 and D6 of the Bath and North East Somerset Placemaking Plan.

5 Light switch off (Bespoke Trigger)

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

The switch off measures shall be installed prior to the first use of the floodlights and operated strictly in accordance with the approved details. The switch off measures shall be permanently retained thereafter.

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

6 Hours of Illumination (Compliance)

The floodlighting hereby permitted shall only be switched on during the following hours:

Mini Court:

Monday to Sunday (inclusive): 09:00 - 21:00

Padel Tennis Courts:

Monday to Sunday (inclusive): 09:00 - 21:00

Reason: In order to protected the residential amenity of the neighbouring occupiers in accordance with policy D6 of the Bath and North East Somerset Placemaking Plan and policy D8 of the Bath and North East Somerset Local Plan Partial Update.

7 External Lighting (Compliance)

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

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

8 Flood Lighting Design (Compliance)

The proposed flood lighting shall be installed in accordance with the specification and details within the "Outdoor LED Tennis Lighting Design" document (Luminance Pro Lighting Systems, dated 1st February 2024).

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

9 Ecological Mitigation and Enhancement Scheme (Compliance)

The development hereby approved shall be carried out only in accordance with the mitigation and enhancement measures described in Section 4 of the approved Ecological Appraisal report (Crossman Associates, Issue 2, May 2024).

Reason: to ensure no net loss and to provide net gain for wildlife in accordance with policy NE3 of the Bath and North East Somerset Council Local Plan Partial Update.

10 Plans List (Compliance)

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

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

PLANS LIST:

1 This decision relates to the following plans:

07 May 2024 2321/019 MINI TENNIS RELOCATION EXISTING & PROPOSED LAYOUT
19 Apr 2024 2321/010B PROPOSED SITE PLAN
19 Apr 2024 2321/011B PROPOSED PLAN
19 Apr 2024 2321/015B PROPOSED WEST ELEVATION - FROM CAR PARK
19 Apr 2024 2321/017B PROPOSED EAST ELEVATION - FROM COURT 7
19 Apr 2024 2321/018B PROPOSED NORTH ELEVATION - FROM CLUBHOUSE
14 Feb 2024 001 SITE LOCATION PLAN
14 Feb 2024 2321/016A PROPOSED SOUTH ELEVATION - TOWARDS CLUBHOUSE

2 Permit/Consent Decision Making Statement

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

3 Condition Categories

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

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

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

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

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

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

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

4 Community Infrastructure Levy - General Note for all Development

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

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

Community Infrastructure Levy - Exemptions and Reliefs Claims

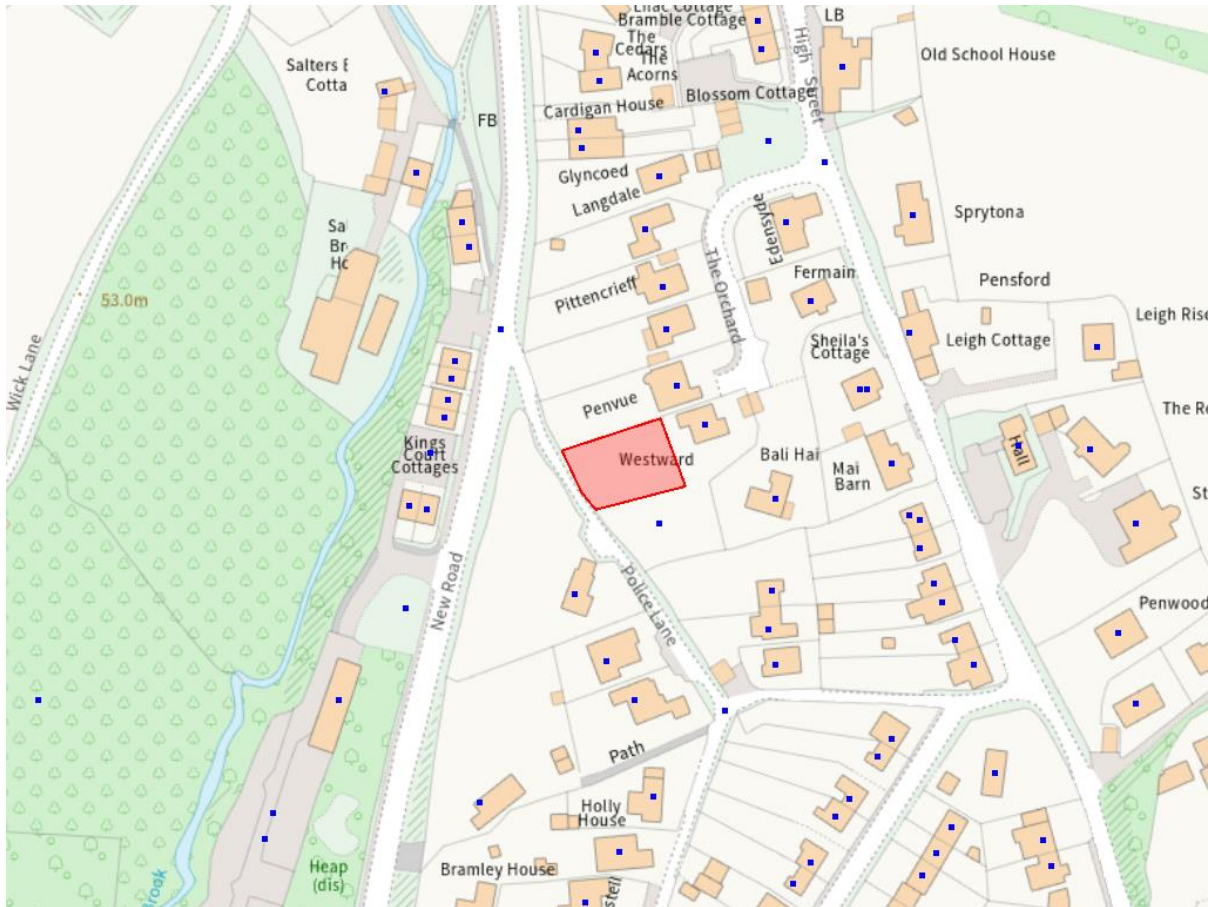
The CIL regulations are non-discretionary in respect of exemption claims. If you are intending to claim a relief or exemption from CIL (such as a "self-build relief") it is important that you understand and follow the correct procedure **before** commencing **any** development on site. You must apply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

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

5 Responding to Climate Change (Informative):

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

Item No: 02
Application No: 21/05576/FUL
Site Location: Westward 2 The Orchard Pensford Bristol Bath And North East Somerset



Ward: Publow And Whitchurch **Parish:** Publow **LB Grade:** N/A

Ward Members: Councillor Paul May

Application Type: Full Application

Proposal: Erection of two semi-detached dwellings with access.

Constraints: Bristol Airport Safeguarding, Norton Malward Unlicensed Airstrip, Agric Land Class 1,2,3a, Coal - Standing Advice Area, Policy CP8 Green Belt, Policy CP9 Affordable Housing, Housing Development Boundary, LLFA - Flood Risk Management, Policy M1 Minerals Safeguarding Area, Policy NE1 Green Infrastructure Network, Neighbourhood Plan, SSSI - Impact Risk Zones, Policy ST8 Safeguarded Airport & Aerodro,

Applicant: Lacey and Morris

Expiry Date: 2nd August 2024

Case Officer: Christopher Masters

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

REPORT

The application refers to a plot of land comprising the rear garden of 2 The Orchard, Pensford. The site is located within the Housing Development Boundary of Pensford which is over washed by the Bristol - Bath Green Belt.

Planning permission is sought for the erection of two semi-detached dwellings with access.

Relevant Planning History:

None.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation Responses :

Arboriculture - No objection.

Contaminated Land - No objection subject to condition.

Drainage and Flooding - No objection subject to condition.

Ecology - The scheme must demonstrate no net loss and 'appropriate' net gain, if net gain cannot be achieved on site, then offsite units will need to be purchased.

Highways - Further evidence is required to prove acceptable visibility splays are within land under the ownership of the applicant/under the control of the Local Highway Authority. HDM request maximum achievable visibility splay within land under the ownership of the applicant/under the control of the Local Highway Authority, overlaid on highways boundary mapping and measured from the back edge of carriageway to the centreline.

Officer Note - Following receipt of the Highway comments the applicant has submitted a plan (GA-06C SITE PLAN WITH PARKING) demonstrating that acceptable visibility splays shall be provided.

Planning Policy - No objection.

Publow With Pensford Parish Council - The Parish Council OBJECT to this application due to overdevelopment of the plot - There is not enough space for 2 dwellings. There is also concern about access onto the A37 creating an increased usage of the junction with Police lane. The Parish Council agree that the development will have a detrimental effect on the neighbouring properties.

Representations Received :

Letters of objection have been received from 7 contributors including the Ward Councillor Paul May. The comments made can be summarised as follows.

The construction works shall cause noise and dust which shall harm the health and amenity of nearby residents.

The proposal shall increase noise and reduce privacy for adjoining residents.

The development will overshadow neighbouring properties.

It is unclear how access for construction vehicles shall be achieved.

It is unclear whether the proposed works shall affect the stability of the land behind the site or the foundations of nearby properties.

The development shall devalue and disrupt the views from neighbouring properties.

The proposal shall adversely impact the ecology of the site.

The proposal shall increase traffic on Police Lane .

The junction of Police Lane and the A37 is dangerous and increased traffic here would cause an unacceptable impact on highway safety.

The proposal does not respond to the character and appearance of the surrounding context.

The proposal shall result in more traffic and hazardous on street parking.

There are already two dwellings being erected next to this proposal.

The site is within the green belt.

The proposal shall result in increased light spill.

POLICIES/LEGISLATION

The Development Plan for Bath and North East Somerset comprises:

- o Bath & North East Somerset Core Strategy (July 2014)
- o Bath & North East Somerset Placemaking Plan (July 2017)
- o Bath & North East Somerset Local Plan Partial Update (2023)
- o West of England Joint Waste Core Strategy (2011)
- o Made Neighbourhood Plans

CORE STRATEGY:

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

CP5: Flood Risk Management

CP6: Environmental Quality

CP8: Green Belt

CP10: Housing Mix

SD1: Presumption in favour of sustainable development

PLACEMAKING PLAN:

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

- D1: General urban design principles
- D2: Local character and distinctiveness
- D3: Urban fabric
- D4: Streets and spaces
- D6: Amenity
- D7: Infill and backland development
- D10: Public realm
- GB1: Visual amenities of the Green Belt
- LCR9: Increasing the provision of local food growing
- SCR5: Water efficiency
- SU1: Sustainable drainage policy

LOCAL PLAN PARTIAL UPDATE:

The Local Plan Partial Update for Bath and North East Somerset Council was adopted on 19th January 2023. The Local Plan Partial Update has introduced a number of new policies and updated some of the policies contained with the Core Strategy and Placemaking Plan. The following policies of the Local Plan Partial Update are relevant to this proposal:

- DW1: District Wide Spatial Strategy
- CP7: Green infrastructure
- D5: Building design
- D8: Lighting
- GB2: Development in Green Belt villages
- NE1: Development and green infrastructure
- NE3: Sites, species, and habitats
- NE3a: Biodiversity Net Gain
- NE5: Ecological networks
- NE6: Trees and woodland conservation
- PCS5: Contamination
- SCR6: Sustainable Construction Policy for New Build Residential Development
- ST1: Promoting Sustainable Travel
- ST7: Transport requirements for managing development

SUPPLEMENTARY PLANNING DOCUMENTS:

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

Sustainable Construction Checklist Supplementary Planning Document (January 2023)

Transport and Development Supplementary Planning Document (January 2023)

NEIGHBOURHOOD PLANS:

The following policies of the Publow and Pensford Neighbourhood Plan are relevant to the determination of this application:

Housing & Development Policy 1
Housing & Development Policy 3

NATIONAL POLICY:

The updated National Planning Policy Framework (NPPF) was published in December 2023 and is a material consideration. Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

LOW CARBON AND SUSTAINABLE CREDENTIALS

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

OFFICER ASSESSMENT

The main issues to consider are:

Principle of development within the Green Belt
Character and Appearance
Residential Amenity
Highway Safety and Parking
Drainage and Flooding
Contaminated Land
Trees and Ecology
Sustainable Construction and Renewable Energy
Other Matters

PRINCIPLE OF DEVELOPMENT IN THE GREEN BELT:

The primary issue to consider is whether the proposal represents inappropriate development in the Green Belt.

The site is located within the Housing Development (Infill) Boundary of Pensford which is over washed by the Bristol - Bath Green Belt. Accordingly, Policy GB2 of the Local Plan Partial Update is of relevance.

Policy GB2 sets out that new buildings in villages in the Green Belt will not be permitted unless it is limited to infilling or it falls under the exceptions to inappropriate development listed within the NPPF.

Proposed limited infill development should be located within the defined Infill boundary shown on the Policies Map and will have to meet the definition of limited infill as set out below to be considered acceptable.

The definition of limited infilling is the filling of small gaps in existing development comprising:

- a) The building of one or two houses on a small vacant plot in an otherwise extensively built-up frontage; and
- b) The plot is generally surrounded on at least three sides by developed sites or roads.

In this instance the plot comprises the rear garden of Westward, a bungalow which fronts onto The Orchard, an unadopted residential cul-de-sac. Westward itself is located adjacent to the east of the site, whilst the northern boundary is bounded by the curtilage of Penvue, 3 The Orchard. To the west lies Police Lane, from which it is proposed access to the proposed dwellings shall be taken.

Land immediately to the south has previously been granted planning permission for the erection of two dwellings under applications 14/04164/FUL and 08/04710/FUL (allowed at appeal), and prior to that for the erection of a single dwelling under applications 09/02534/FUL and 06/01487/FUL.

In this instance given the scale and siting of the proposal, as well as the layout and pattern of surrounding development, it is considered that the development meets the definition of limited infill development and would therefore accord with Policy GB2 of the Local Plan Partial Update, policy CP8 of the Core Strategy and Part 13 of the NPPF, which sets out that limited infilling in villages is an appropriate form of development within the Green Belt.

DESIGN, CHARACTER AND APPEARANCE:

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

Policy D7 of the Placemaking Plan sets out that infill development can be supported where development has regard to the character and quality of the surrounding townscape and reflects the form, pattern and grain of this existing development or otherwise enhances the character.

The proposed development comprises a single pair of semi-detached dwellings. The dwellings are two-storey in height and are formed of stone walling to the front and side elevations beneath a pitched clay pantile roof. The rear elevation shall be rendered. The scale, form, height, design and materials of the dwellings responds positively to the local context and vernacular.

At present this part of the northern side of Police Lane comprises a vegetated bank / hedgerow. It is inevitable that this shall be punctuated by the proposed access and that the proposed dwellings would subsequently form part of the streetscene instead.

The proposed opening would not be dissimilar from the accesses along Police Lane south of the site. Accordingly, it is considered that the impact on the character of Police Lane would be acceptable.

The orientation and siting of the dwellings within the plot is appropriate and does not conflict with the surrounding pattern or grain of development. The dwellings sit comfortably in the centre of the plot and do not constitute overdevelopment of the site.

The proposal by reason of its design, siting, scale, massing, layout and materials is acceptable and contributes and responds to the local context and maintains the character and appearance of the surrounding area. The proposal accords with policy CP6 of the Core Strategy (2014), policies D1, D2, D3, D4 and D7 of the Placemaking Plan (2017), Policy D5 of the Local Plan Partial Update (2023) and part 12 of the NPPF.

RESIDENTIAL AMENITY:

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

The proposed development provides sufficient internal and external space and rooms within the dwelling shall receive acceptable levels of natural light. The development shall therefore provide adequate levels of amenity for future occupiers.

Concerns have been raised during the course of the application that the scheme would cause noise and dust during construction which shall harm the health and amenity of nearby residents. In addition, it is raised that the proposal would increase noise and reduce privacy for adjoining residents and cause overshadowing of neighbouring properties. Amendments have been made during the course of the application which include reorientation, repositioning and reducing the depth of the dwellings as well as the reduction of their overall height.

The proposed dwellings as amended are designed and sited such that the proposal would not harm the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, smell, traffic or other disturbance.

With specific regard to the comments received from third parties, in this instance the proposed dwellings are set down into the hillside such that views towards the neighbouring dwellings to the North and East cannot be achieved. The proposed dwellings do contain first floor side windows towards the western end of the side elevations which serve kitchens. It is acknowledged that due to the sloping topography there may potentially be some limited overlooking of the westernmost portion of adjacent gardens although it is considered unlikely. Given the relationship of the windows with the adjoining properties, if overlooking of the western part of the adjoining gardens did occur it would not be considered to be of such a scale so as to warrant refusal. Accordingly, officers do not consider omission or obscure glazing of these windows to be justified.

A condition shall be attached to remove permitted development rights for the extension, external alteration or enlargement of any part of any roof of the dwellings as introduction of dormer windows or rooflights at roof level would have potential to cause overlooking and loss of privacy for the adjacent dwellings.

A certain degree of dust, noise and disturbance is an inherent part of construction activity and would not justify refusal of the scheme. A construction management plan shall be secured by condition to minimise disturbance to neighbouring occupiers during the course of the works.

The proposal accords with policy D6 of the Placemaking Plan and part 12 of the NPPF.

HIGHWAYS SAFETY AND PARKING:

Policy ST7 of the Local Plan Partial Update has regard to transport requirements for managing development. It sets out the policy framework for considering the requirements and the implications of development for the highway, transport systems and their users. The Transport and Development Supplementary Planning Document expands upon policy ST7 and includes the parking standards for development.

During the course of the application additional information has been provided to address the concerns raised by the Highway Authority.

Officers are satisfied that following the submission of additional information it has been demonstrated that the proposed access and level of parking provision (which accords with the maximum standards set out in the Transport and Development Supplementary Planning Document SPD) is acceptable.

With regards to the concerns raised by the Parish Council and contributors that the uplift in traffic using the Junction from Police Lane onto the A37 would prejudice Highway Safety, it is noted by Officers that this part of the A37 is subject to a 30MPH speed limit and that visibility to the right (north) when entering onto the A37 is good.

Police Lane is currently lightly trafficked and the Highway Authority has confirmed that given its scale, the development would not be considered to result in a material increase in movements along the lane. Given its length, location and usage the lane would remain suitable for use by all highway users. Officers also note that occupiers of the dwellings would be familiar with the Police Lane / A37 junction and could access the properties from the opposite end of Police Lane should they wish to avoid the Police Lane / A37 junction.

It follows that the means of access and parking arrangements are acceptable and maintain highway safety standards. The proposal accords with policy ST7 of the Local Plan Partial Update, the Transport and Development Supplementary Planning Document (2023), and part 9 of the NPPF.

DRAINAGE AND FLOODING:

Policy CP5 (Flood Risk Management) of the Local Plan requires that:

"Development in the District will follow a sequential approach to flood risk management, avoiding inappropriate development in areas at risk of flooding and directing development away from areas at highest risk in line with Government policy NPPF).

Policy SU1 (Sustainable Drainage) of the Local Plan requires that:

"Sustainable Urban Drainage Systems (SuDs) are to be employed for the management of runoff from both major development (as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015) and for minor development in an area at risk of flooding (from any source up to and including the 1 in 100year+ climate change event)."

"SuDS are to comply with the "Non-statutory technical standards for sustainable drainage systems" published by the Department for Environment, Food and Rural Affairs (DEFRA) and the standards/requirements contained in the West of England Sustainable Drainage Developer Guide (2015), or successor guidance."

It is noted that whilst the site itself is within Flood Zone 1 and at low risk of flooding, Police Lane from which access shall be taken is identified as being at risk of surface water flooding. As the application is for minor development, no detailed drainage strategy is required in accordance with Policy SU1.

The application indicates that surface water will be disposed of via soakaways. The Council's Drainage and Flooding team have confirmed this is acceptable and Part H of the Building Regulations will ensure soakaways are constructed to appropriate standards. Condition shall be attached to ensure a drainage strategy is submitted to ensure surface water from the proposed hardstanding does not flow onto the public highway and that an alternative method of surface water drainage is submitted for consideration if the infiltration test results demonstrate that soakaways are not appropriate. Subject to this measure, the development will comply with relevant planning policy relating to flood risk and drainage.

CONTAMINATED LAND:

Local Plan Partial update policy PCS5 has regard to Contamination.

Taking account of the residential nature of the development the Council's Contaminated Land Officer has advised attaching a condition requiring any unexpected contamination to be reported to the Local Planning Authority, investigated and remediated as necessary. It is noted that the land has not previously been subject to any contaminative uses and presently comprises the residential garden of Westward. Accordingly, it is not considered that there is a realistic prospect of the land being contaminated and as such it is not considered necessary to attach conditions requiring the submission of further information to the Local planning Authority in respect of this matter.

TREES AND ECOLOGY:

Policy NE3 of the Local Plan Partial Update has regard to Sites, Species and Habitats and states that development which results in significant harm to biodiversity will not be permitted For all developments, any harm to the nature conservation value of the site

should be avoided where possible before mitigation and/or compensation is considered. Local Plan Partial Update policy NE6 has regard to trees and woodland conservation. Development should seek to avoid adverse impacts on trees and woodlands of wildlife, landscape, historic, amenity and productive or cultural value, as well as appropriately retaining trees and providing new tree planting. Development will only be permitted where it can be demonstrated that adverse impacts on trees are unavoidable to allow for development and that compensatory provision will be made in accordance with guidance within the Planning Obligations Supplementary Planning Document (2023). Development proposals which directly or indirectly affect ancient woodland and ancient or veteran trees will not be permitted.

The submitted Arboricultural report states that all of the existing trees will be retained. However, one C grade hedge on the western boundary will be removed. Whilst it was initially considered that the loss of the cypress identified as T3 is also considered likely, this is no longer considered the case given the degree of separation between the proposed development and the respective tree has been increased. Notwithstanding, it is not considered that T3 possesses any significant visual or amenity value and the Council's Arboriculturalist has confirmed in their comments that there is no objection should its loss occur.

The loss of the hedge and tree shall be compensated by hedge planting and five new trees that will complement the new site layout. A planting specification for the new trees has been provided. An updated tree protection Plan shall be secured by condition to reflect the changes made to the proposal since the original plan was submitted.

With regards to Ecology the development is not within or immediately adjacent to any sites designated for their nature conservation interest.

The site currently comprises of a well-managed mature garden with lawns, borders and boundary trees. It is noted that the hedgerow / vegetated bank which forms the western boundary along Police Lane mainly comprises of hawthorn, elder and hazel. Next to this feature is a strip of land (<1m wide) of greater ecological value, the vegetation comprises primrose, dog's mercury and lesser celandine. These species are all indicative of woodland, which would suggest the hedgerow is historic in nature.

Hedgerows are listed under Section 41 of the NERC Act 2006 as a Habitat of Principal Importance (HPI). The NERC Act sets out that if the removal of the HPI is required, it must be demonstrated that this is unavoidable, that there is justification which outweighs the ecological harm, and that at least like-for-like compensation will be provided.

In this instance the removal of the hedgerow is unavoidable as the proposed dwellings are required to be served by a safe vehicular and pedestrian access. Given the topography and context of the site, access to the dwellings would not be feasible other than from Police Lane which necessitates removal of the hedgerow. The need for a safe access to the site is considered to justify the loss of 23m of hedgerow, which shall be compensated for with 41m of like-for-like hedgerow comprising at least five native woody species as well as five new trees and seeding of the ground beneath and adjacent to the hedge with an appropriate hedgerow wildflower seed mixture which is tolerant of shaded conditions. The replacement hedgerow being of a longer length will account for establishment time.

In addition, Policy NE3a of the Local Plan Partial Update relates to Biodiversity Net Gain (BNG). The policy sets out that in the case of minor developments, development will only be permitted where no net loss and an appropriate net gain of biodiversity is secured using the latest DEFRA Small Sites Metric or agreed equivalent.

A metric has been submitted with the application which demonstrates that there will be an overall net change of -0.0628 habitat units, representing a net loss of biodiversity. Offsite units will therefore need to be purchased to ensure an appropriate level of Biodiversity Net Gain is achieved. This shall be secured by condition alongside the provision of the onsite mitigation including the long-term retention of the replacement hedgerow.

SUSTAINABLE CONSTRUCTION AND RENEWABLE ENERGY:

Policy SCR6 of the Local Plan Partial Update has regard to Sustainable Construction for New Build Residential Development. The policy requires new residential development to achieve zero operational emissions by reducing heat and power demand, then supplying all energy demand through on-site renewables.

In this case the submitted SCC shows that an air source heat pump and solar panels are to be utilised within this development to achieve policy requirements of SCR6. Space heating demand is required by policy SCR6 to be less than 30kWh/m²/annum, the proposal shows a figure of 24.5kWh/m² /annum for dwelling 1 and 23.7kWh/m² /annum for dwelling 2. Total energy use is shown as 32.6kWh/m² /annum for dwelling 1 and 32.4kWh/m² /annum for dwelling 2 which are both beneath the policy requirement. The total energy use is required to be matched by on-site renewable energy. This is shown to be the case with both dwellings generating 33.0kWh/m² /annum respectively from on-site renewables. The provided energy summary tool therefore shows compliance with policy SCR6. Therefore, the proposed development is compliant with Local Plan Partial Update policy SCR6.

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

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

Policy LCR9 states that all residential development will be expected to incorporate opportunities for local food growing (e.g., border planting, window boxes, vertical planting, raised beds etc.). In this instance the dwelling would benefit from a private garden which could be used for the growing of food if desired by future occupiers.

OTHER MATTERS:

Comments have been received stating that it is unclear whether the proposed works shall affect the stability of the land behind the site or the foundations of nearby properties.

It should be noted that when dealing with land that may be unstable, the planning system works alongside a number of other regimes, including Building Regulations, which seek to ensure that any development is structurally sound.

It is the applicant's responsibility to ensure that the development accords with all relevant legislation.

In this instance the land is not categorised as being at 'High Risk' of instability by virtue of any historic uses or underlying geology. The submitted plans illustrate that retaining walls shall be utilised so that the development can safely be set into the slope of the existing garden. As substantiated by Paragraph 190 of the NPPF, and as required by Building Regulations, it is the developers' responsibility to ensure the retaining walls are properly constructed such that they are safe and do not cause damage to occur to nearby properties.

Comments have also been received stating the development shall devalue and disrupt the views from neighbouring properties. These matters are not material planning considerations that can be taken into account during the determination of this application.

CONCLUSION:

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

RECOMMENDATION

PERMIT

CONDITIONS

1 Standard Time Limit (Compliance)

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

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

2 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.

3 Biodiversity Net Gain Plan (Pre-commencement)

No development shall commence until full details of a Biodiversity Gain Plan achieving a minimum of 10% measurable biodiversity net gain, and a Habitat Management Plan for any on-site habitats and biodiversity measures, have been submitted to and approved in writing by the Local Planning Authority. The Plans shall be in accordance with current best practice guidelines and standards and shall be in accordance with the approved Biodiversity Net Gain Assessment and calculation and shall include the following:

In all cases:

1. Pre and post development biodiversity values including a completed metric calculation tool using the DEFRA Biodiversity Metric or any successor, and accompanying evidence for baseline condition assessments;
2. A BNG habitat map for on-site proposed habitats
3. Information about the steps taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat and, in the case of any irreplaceable habitat, information on arrangements for compensation for any impact of the development has on the biodiversity of the irreplaceable habitat (which does not include the use of biodiversity credits).
4. Details and evidence of any registered off-site biodiversity gain units allocated to the development and any biodiversity credits purchased for the development;

Where on-site habitat is proposed/retained:

5. Long term aims and objectives and targets for habitats; proposed management prescriptions and operations; timing, frequency, durations and methods of operations; specialist expertise, specialist tools/machinery or equipment and personnel where required to meet the stated aims and objectives;
6. Annual work schedule for at least a 30 year period
7. A list of activities and operations that shall not take place and shall not be permitted within the Habitat Management Plan (HMP) area (for example use of herbicides; on-site disposal of grass cuttings or other vegetation waste; routine cutting of ivy where there is no specific arboricultural justification; inappropriate maintenance methods, storage of materials; inappropriate machine or vehicle access).
8. Detailed monitoring strategy for habitats and species, and methods of measuring progress towards and achievement of stated objectives.
9. Details of proposed reporting to the Local Planning Authority, and proposed review and remediation mechanism.
10. Proposed costs and resourcing, and legal responsibilities.

The Biodiversity Gain and Habitat Management Plans shall be implemented in accordance with the agreed details and timetable, and all habitats and measures shall be retained and maintained thereafter in accordance with the approved details.

Reason: To protect and enhance ecological interests and to ensure delivery of Biodiversity Net Gain in accordance with Bath and North East Somerset Local Plan Partial Update policies NE3, NE3a NE5 and D5e and paragraph 13 of Schedule 7A to the Town and Country Planning 1990 Act (Biodiversity Gain Condition).

4 Wildlife Protection and Enhancement Scheme (Pre-commencement)

No development shall commence until full details of a Wildlife Protection and Enhancement Scheme 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 proposed mitigation measures described in Section 7 of the PRELIMINARY ECOLOGICAL ASSESSMENT produced by Greena Ecological Consultancy dated April 2022, the email correspondence labelled EMAIL FROM AGENT dated 6th March 2023, and the mitigation measures shown on drawing 267-GA-03 RD PROPOSED SITE PLAN received 12th October 2023. These details shall include a method statement for pre-construction and construction phases to provide full details of all necessary protection and mitigation measures for bats, badger, nesting birds, hedgehog, reptiles, and reporting of findings to the LPA prior to commencement of works;

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

Reason: to avoid harm to wildlife and protected species (birds and other wildlife) and to avoid a net loss of biodiversity, in accordance with NPPF and Local Plan Policy NE3. NB. The above condition is required to be pre-commencement as it involves the approval of measures to ensure the protection of wildlife that would be otherwise harmed during the site preparation and construction phases.

5 Tree Protection Plan (Compliance)

The protective measures shown on the submitted Tree Protection Plan ref. TP-01a received 11th November 2022 and described in the 'Method Statement' section of the Tree Report submitted 16th December 2021 shall be fully implemented prior to the commencement of development and retained / remain in effect for the duration of the construction.

Reason: To ensure that the trees are protected from potentially damaging activities in accordance with policies CP7 and NE6 of the Bath and North East Somerset Local Plan Partial Update.

6 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 policy D6 of the Bath and North East Somerset Placemaking Plan and ST7 of the Bath and North East Somerset Local Plan Partial Update. 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.

7 Materials - Submission of Schedule and Samples (Bespoke Trigger)

No construction of the external walls of the development shall commence until a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces, including roofs, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the approved details.

Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policies D1, D2, D3 and HE1 of the Bath and North East Somerset Placemaking Plan, Policy CP6 of the Bath and North East Somerset Core Strategy and Policy D5 of the Local Plan Partial Update.

8 Flood Risk and Drainage - Infiltration Testing (Bespoke Trigger)

The development hereby permitted is to manage surface water onsite using soakaways as indicated on the application form and/or approved drawings. Soakaways are to be designed and constructed in accordance with Building Regulations Approved Document Part H section 3, noting the requirement for infiltration testing which should be undertaken at an early stage of the development to confirm viability of infiltration techniques.

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

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

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

9 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 and to ensure appropriate biodiversity net gain is secured in accordance with Policies D1 and D2 of the Bath and North East Somerset Placemaking Plan and Policies NE3 and NE3a of the Bath and North East Somerset Local Plan Partial Update.

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

No new external lighting shall be installed other than that shown on drawing GA-07 PROPOSED EXTERNAL LIGHTING DESIGN received 6th March 2023 without full details of the 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 the use of lights when not required and to prevent upward light spill and light spill onto trees and boundary vegetation and adjacent land; and to avoid harm to bat activity and other wildlife. The lighting shall be installed maintained and operated thereafter in accordance with the approved details.

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

11 Ecological and Biodiversity Net Gain Compliance Report (Pre-Occupation)

Prior to occupation of the dwellings hereby approved a report produced by a suitably experienced professional Ecologist based on post-construction site visit and inspection, and confirming and demonstrating, using photographs, completion and implementation of ecological measures as detailed in the approved ecology report and Biodiversity Net Gain Plan has been submitted to and approved in writing by the Local Planning Authority. These details shall include: 1. Findings of any necessary pre-commencement or update survey for protected species and mitigation measures implemented; and 2. Confirmation that proposed measures to enhance the value of the site for target species and habitats have been implemented. All measures within the scheme shall be retained, adhered to, monitored and maintained thereafter in accordance with the approved details.

Reason: To prevent ecological harm and to ensure that biodiversity net gain is successfully provided in accordance with policy D5e of the Bath and North East Somerset Placemaking Plan and policies NE3, NE3a and NE5 of the Bath and North East Somerset Local Plan Partial Update.

12 Water Efficiency - Rainwater Harvesting (Pre-Occupation)

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

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

13 SCR6 Residential Properties (Pre-Occupation)

Prior to occupation of the development hereby approved, the following tables (as set out in the Council's Sustainable Construction Checklist Supplementary Planning Document) shall be completed in respect of the completed development and submitted to and approved in writing by the Local Planning Authority together with the further documentation listed below. The development must comply with the requirements of SCR6.

PHPP/SAP calculations are to be updated with as-built performance values. The following are to be completed using the updated as-built values for energy performance.

Minor Residential Development:

1. Energy Summary Tool 1 or 2
2. Tables 1.1 or 1.2 (if proposal has more than one dwelling type)

All Residential Development:

3. Table 5 (updated)
4. Building Regulations Part L post-completion documents for renewables;
5. Building Regulations Part L post-completion documents for energy efficiency;
6. Final as-built full data report from Passive House Planning Package or SAP
7. Microgeneration Certification Scheme (MCS) Certificate/s

Reason: To ensure that the approved development complies with Policy SCR6 of the Local Plan Partial Update.

14 Bicycle Storage (Pre-occupation)

No occupation of the development shall commence until secure, covered bicycle storage for at least 6 bicycles (3 per dwelling) has been provided in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. The bicycle storage shall be retained permanently thereafter.

Reason: To secure adequate off-street parking provision for bicycles and to promote sustainable transport use in accordance with policy ST7 of the Bath and North East Somerset Local Plan Partial Update and the Transport and Development Supplementary Planning Document.

15 Parking (Compliance)

The access, parking and turning areas shown on drawing 267-GA-03 RD PROPOSED SITE PLAN received 12th October 2023 shall be formed of a bound and compacted surfacing material (not loose stone or gravel), kept clear of obstruction and 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 D6 of the Bath and North East Somerset Placemaking Plan and policy ST7 of the Bath and North East

Somerset Local Plan Partial Update and the Transport and Development Supplementary Planning Document.

16 Visibility Splays (Compliance)

The visibility splays shown on drawing number GA-06C SITE PLAN WITH PARKING received 11 Nov 2022 shall be kept clear of any obstruction to visibility 600mm above ground level.

Reason: To ensure visibility is maintained in the interests of highways safety in accordance with policy ST7 of the Bath and North East Somerset Local Plan Partial Update.

17 Water Efficiency (Compliance)

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

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

18 Air Source Heat Pump (Compliance)

The proposed air source heat pump shall comply with the MCS Planning Standards or equivalent standards.

Reason: To safeguard the amenities of adjoining occupiers from noise and disturbance in accordance with Policy D6 of the Bath and North East Somerset Placemaking Plan.

19 Removal of Permitted Development Rights - No roof extensions / enlargements / alterations (Compliance)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no extension, external alteration or enlargement of any part of any roof of the dwelling(s) or other buildings hereby approved shall be carried out unless a further planning permission has been granted by the Local Planning Authority.

Reason: To safeguard the amenities of adjoining occupiers from potential loss of privacy or overlooking in accordance with Policy D6 of the Bath and North East Somerset Placemaking Plan.

PLANS LIST:

1 This decision relates to the following plans:

Received 12th October 2023

267-GA-03 RD PROPOSED SITE PLAN
267-GA-04 R B PROPOSED PLANS
267-GA-05 R C PROPOSED ELEVATIONS

Received 6th March 2023

GA-07 PROPOSED EXTERNAL LIGHTING DESIGN

Received 11th November 2022

GA-01A SITE LOCATION AND BLOCK PLAN

GA-06C SITE PLAN WITH PARKING

TP-01A TREE PROTECTION PLAN

Received 16th December 2021

267 GA-02 EXISTING SITE PLAN

2 Condition Categories

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

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

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

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

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

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

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

3 Community Infrastructure Levy - General Note for all Development

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

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

Community Infrastructure Levy - Exemptions and Reliefs Claims

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

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

4 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.

5 Coal Mining - Low Risk Area (but within coalfield)

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

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

6 Biodiversity Net Gain - Standard Informative

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are set out in the Biodiversity

Gain Requirements (Exemptions) Regulations 2024 and The Environment Act 2021 (Commencement No. 8 and Transitional Provisions) Regulations 2024.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements apply. A detailed version of the biodiversity gain condition can be found in the list of conditions attached to this permission.

The effect of section 73D of the Town and Country Planning Act 1990:-

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission ("the earlier Biodiversity Gain Plan") there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
- ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

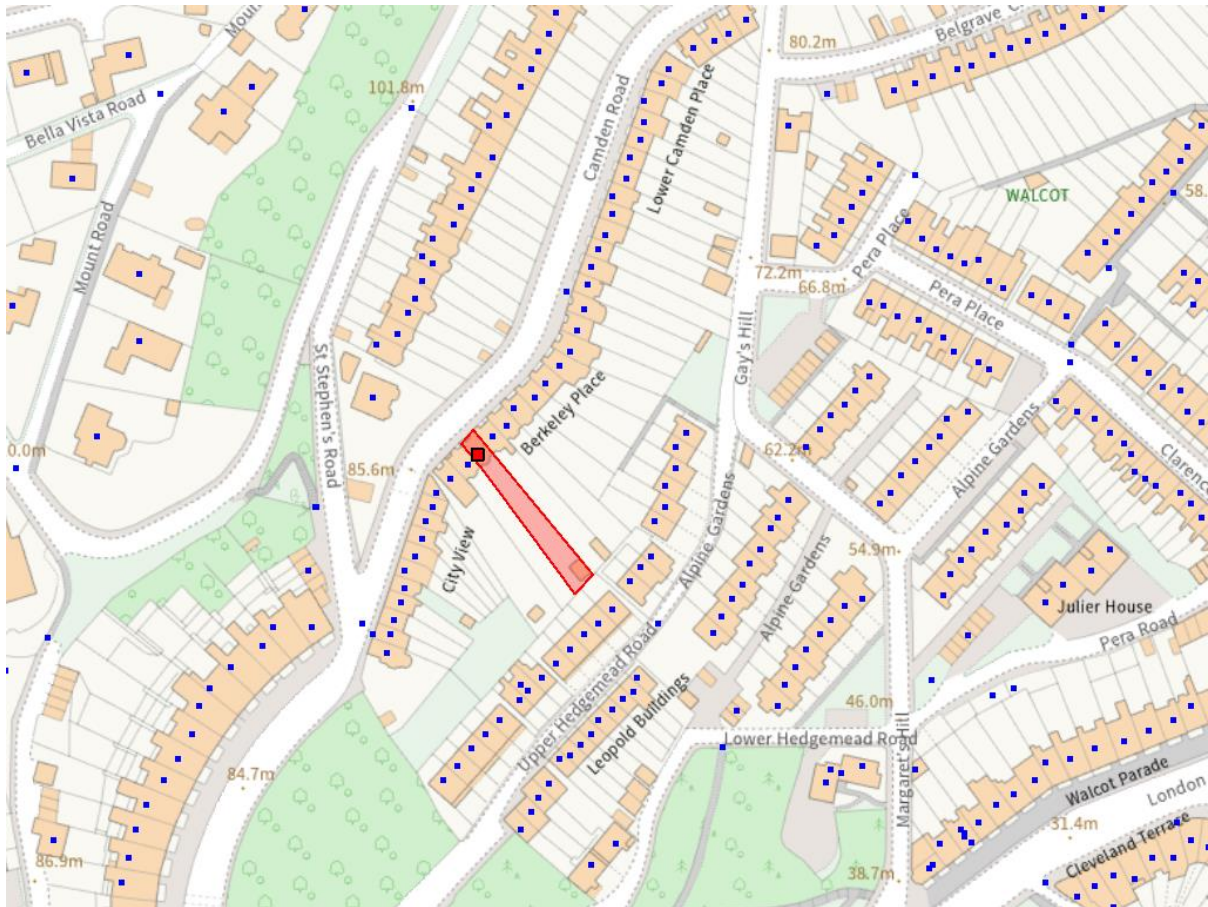
7 Highways Access Advice Note

The applicant should be advised to contact the Highway Maintenance Team at Highways@bathnes.gov.uk with regard to securing a licence under Section 184 of the Highways Act 1980 for the construction of a vehicular crossing. The access shall not be brought into use until the details of the access have been approved and constructed in accordance with the current Specification.

8 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.

Item No: 03
Application No: 23/04613/LBA
Site Location: 10 Berkeley Place Walcot Bath Bath And North East Somerset BA1 5JH



Ward: Walcot

Parish: N/A

LB Grade: II

Ward Members: Councillor Oli Henman Councillor John Leach

Application Type: Listed Building Consent (Alts/exts)

Proposal: Internal and external alterations for the installation of windows with slim double glazing to replace existing sash windows at rear of property, retrofit existing windows with vacuum insulated glass at the front of the property, installation of solar PV panels on south facing inner roof slope of main building and removal of paint to vault wall and facade of lower ground floor.

Constraints: Article 4 Bath Demolition Wall, Article 4 Reg 7: Estate Agent, Article 4 HMO, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Conservation Area, Policy CP9 Affordable Housing, Listed Building, MOD Safeguarded Areas, SSSI - Impact Risk Zones,

Applicant: Steve George

Expiry Date: 8th February 2024

Case Officer: Emily Smithers

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

REPORT

This application is before the Committee for consideration as the applicant is an employee within the Planning Service.

The protected property is a Grade II listed building and lies within a designated conservation area and the wider World Heritage Sites. It dates from the 19th century and is part of a terrace of houses located on Camden Road occupying an elevated position to the north east of the city centre. Berkeley Place is a terrace on the south side of Camden Road, near to the eastern end of Camden Crescent and is typically constructed in local limestone ashlar.

Proposal

Internal and external alterations for the installation of windows with slim double glazing to replace existing sash windows at rear of property, retrofit existing windows with vacuum insulated glass at the front of the property, installation of solar PV panels on south facing inner roof slope of main building, removal of paint to vault wall and facade of lower ground floor.

Amendments:

The application was amended to remove reference to the addition of solar panels to the outbuilding, erection of pergola and damp proofing. Additional detailed joinery drawings were also submitted.

Planning History:

LB 15887/1 Internal and external alterations
Approved 20.11.95.

LB 15887/2 Internal alterations to first floor
Approved 24.7.96.

DC - 98/01003/LBA - CON - 22 December 1998 - External works to remove paint by manual tooling, returning facade to a fine drag finish cleaning unpainted ashlar by nebulous spray

DC - 06/00972/LBA - CON - 13 July 2006 - Internal and external alterations including damp-proofing of vaults and construction of new infill wall and new sash window. Installation of satellite mini dish in roof valley.

DC - 14/05147/LBA - CON - 19 January 2015 - Internal and external alterations to include installation of a new shower room within first floor rear bedroom with associated works, and installation of two secondary glazing units to the two front bedrooms.

DC - 17/02214/FUL - PERMIT - 27 July 2017 - Erection of garden building

DC - 17/04662/NMA - APP - 27 October 2017 - Non-Material Amendment to 17/02214/FUL (Erection of garden building)

DC - 18/00673/COND - DISCHG - 8 March 2018 - Discharge of condition 2 of application 17/02214/FUL (Erection of garden building).

DC - 24/02110/FUL - PCO - - Installation of nine solar pv panels on garden studio roof and the erection of a timber pergola in garden.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Transition Bath: We are strongly supportive of this application to install slimline vacuum glazing, double glazing and solar PV on this listed building to improve its thermal efficiency, reduce running costs and carbon emission in line with B&NES declaration of a Climate Emergency. We would however have preferred to see the installation of vacuum glazing (U value 0.7) throughout rather than partial 14mm double glazing (1.4 U value) because of the 2 times better thermal performance of vacuum glazing over traditional double glazing with marginal extra cost offering short beneficial payback in running costs.

POLICIES/LEGISLATION

There is a duty placed on the Council under Section under Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in considering whether to grant listed building consent for any works to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

With respect to any buildings or other land in a conservation area there is a duty placed on the Council under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of that conservation area.

The Revised National Planning Policy Framework (NPPF) 2023 is national policy in the conservation and enhancement of the historic environment which must be taken into account by the Council together with the related guidance given in the Planning Practice Guidance (PPG).

The Council must have regard to its development plan where material in considering whether to grant listed building consent for any works.

The statutory Development Plan for B&NES comprises:

- Core Strategy (July 2014)
- Placemaking Plan (July 2017)
- B&NES Local Plan Partial Update (2023)
- Joint Waste Core Strategy
- Made Neighbourhood Plans

Core Strategy:

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

- CP6 - Environmental quality

Placemaking Plan:

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

- HE1 Historic Environment

Local Plan Partial Update:

The Local Plan Partial Update for Bath and North East Somerset Council was adopted on 19th January 2023. The Local Plan Partial Update has introduced a number of new policies and updated some of the policies contained within the Core Strategy and Placemaking Plan.

- CP1 Retrofitting Existing Buildings

Guidance:

Energy Efficiency, Retrofitting and Sustainable Construction - Supplementary Planning Document -2022.

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 application relates to the installation of a number of energy efficiency measures across the property, including replacement windows and the installation of solar panels.

Policy HE1 states that alterations to a listed building will be expected to have no adverse impact on those elements which contribute to their special architectural or historic interest, including their settings.

Windows:

The Local Planning Authority supports careful replacement of windows with timber-framed slim-profile double-glazed units where there is no detrimental impact on the special architectural or historic interest of the building, and under certain conditions, such as the existing windows are agreed as being modern or of no historic significance or heritage value.

The proposed development would replace single glazing (modern glass) on the front of the building whilst retaining historic frames and provide for the replacement of frames and glazing with slim line double glazed units on the rear elevation. The frames on the rear have been replaced in the past and are well-detailed to match the historic frames. As the windows are modern their replacement is not objected to. The replacement frames will be

a close match to the existing frames with matching profiles and dimensions which is sufficient to accommodate the slimline double glazed units proposed. The glazing on the front of the property is intended to be a vacuum glazing product 'FINEO'. Its thinness allows it to be integrated into the original frames of the building. It is considered that following the retrofitting there will be very little visual difference to existing. There is a single 6/6 sash window located in the front lightwell, this appears to be of some age and the applicant proposes to fit with secondary glazing. A condition will be recommended for details of secondary glazing to be provided.

As existing historic windows would be retained, it is considered that the proposed works would not harm the character or historic fabric of the building and is therefore considered acceptable.

Solar Panels & roof light:

The applicant proposes a strip of approximately x5 solar panels on south facing inner roof slope of main building. Product information has been provided to demonstrate the panels would be slim profile, frameless with a non-reflective black finish. A section has also been provided to confirm the panels will not exceed the highest part of the roof, the panels will not therefore be overtly

visible in short and medium distance views and any longer distance views would be considered to be limited. The applicant has confirmed the battery and inverter will be located in existing cupboards or loft space, neither of which would require physical alteration. A condition can be recommended for the discreet siting of associated cable runs.

The proposed rooflight is of a modest size and will be discreetly located on the inner roof slope. Due to its modest size it can be installed with minimal loss of historic fabric and will allow for the on going maintenance of not only the panels but also the roof itself. A condition will be recommended for the roof light to be conservation style.

Paint Removal:

There is no objection to the removal of the paint from the external lower ground floor walls. Conditions will however be recommended for methodology of paint removal and sample area to be carried out to ensure the façade is not overcleaned. A condition will also be recommended for details of any stone repair required once all paint has been removed.

There is a duty under Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 In considering whether to grant listed building consent 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. Here it is considered that by virtue of the detailed design, siting and discreet nature of the works shown, the proposal would not cause harm to the significance of the listed building.

There is a duty placed on the Council under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act to pay special attention to the preservation or enhancement of the character of the surrounding conservation area. In this case by virtue of the design and siting of the proposed development it is considered that the development would at

least preserve the character and appearance of this part of the Conservation Area and its setting. The proposal accords with policy CP6 of the adopted Core Strategy (2014) and policy HE1 of the Placemaking Plan for Bath and North East Somerset (2017) and Part 16 of the NPPF.

The roof appears to be in good condition with no evidence of potential access points to the roof voids, there does not therefore appear to be a reasonable likelihood of nesting birds or roosting bats being present and impacted through the proposed works. An informative will however be added to remind the applicants of the process if bird/roosting bats are unexpectedly found.

Low Carbon and Sustainable Credentials:

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

The proposed works would result in a more thermally efficient building envelope and the installation of PV panels would represent a green source of energy for this domestic building. The comments received from Transition Bath are noted, however, as discussed above, the detailed design for the windows is considered acceptable and what the applicant is proposing represents an improvement beyond the existing situation.

CONCLUSION:

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

RECOMMENDATION

CONSENT

CONDITIONS

1 Time Limit - Listed Building Consent (Compliance)

The works hereby approved shall be begun before the expiration of three years from the date of this consent.

Reason: To comply with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

2 Stone Cleaning Methodology and Sample (Bespoke)

No work shall commence on any of the paint removal and stone cleaning until method statement and sample panels and trial areas have been provided in-situ to establish the final parameters of the stone cleaning and approved in writing by the Local Planning Authority. The approved panel shall be kept on site for reference until the development is completed. Thereafter the work shall only be carried out in accordance with the approved sample panel.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy CP6 of the Bath and North East Somerset Core Strategy and Policy HE1 of the Bath and North East Somerset Placemaking Plan. This is a bespoke condition because without details of the parameters of the stone cleaning any stone cleaning which occurs may cause irreparable harm to the heritage asset.

3 Specification for mortar and stone replacement (Bespoke)

Following the stone cleaning and prior to any other work taking place a detailed specification (including mortar specifications and stone replacement) for the repair and/or repointing of the building supported as necessary by annotated elevations and photographs to be submitted to and approved in writing by the Local Planning Authority. Thereafter the work shall only be carried out in accordance with the approved details.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy CP6 of the Bath and North East Somerset Core Strategy and Policy HE1 of the Bath and North East Somerset Placemaking Plan.

4 Solar panel installation (compliance)

The solar panels to be installed shall be 'Eurener's 415W all black half cut solar panels' as confirmed within the submission. All associated cabling shall be discreetly located alongside exiting services/rainwater goods.

Reason: To safeguard the character and appearance of the building in accordance with Policy CP6 of the Bath and North East Somerset Core Strategy and Policy HE1 of the Bath and North East Somerset Placemaking Plan.

5 Fenestration colour (Compliance)

The fenestration hereby approved shall be painted to match existing fenestration on the subject property at time of installation or within 3 months of installation unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the character and appearance of the building in accordance with Policy CP6 of the Bath and North East Somerset Core Strategy and Policy HE1 of the Bath and North East Somerset Placemaking Plan.

6 Secondary Glazing (Bespoke Trigger)

Prior to the installation of secondary glazing details including 1:10 and 1:2 or 1:1 elevations and sections, to be submitted to and approved in writing by the Local Planning Authority. Thereafter the work shall only be carried out in accordance with the approved details.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy CP6 of the Bath

and North East Somerset Core Strategy and Policy HE1 of the Bath and North East Somerset Placemaking Plan.

7 Rooflights (Compliance)

The rooflights hereby approved shall be flush fitting, conservation style openings unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the character and appearance of the building in accordance with Policy HE.1 of the Bath and North East Somerset Placemaking Plan

8 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 Drawing	20 Jun 2024	16	SIX OVER SIX WINDOW IN KITCHEN LEVEL
Drawing	20 Jun 2024	16	TYPICAL SASH WINDOW THROUGHOUT PROPERTY
Revised Drawing	20 Jun 2024		AREA FACING FRONT FACADE
Revised Drawing	20 Jun 2024		AREA FACING WEST (LEFT) AND EAST
Revised Drawing	20 Jun 2024		AREA OPPOSITE FRONT FACADE
Revised Drawing	20 Jun 2024		ROOF SECTION PROPOSED
Revised Drawing	20 Jun 2024	01	SITE LOCATION PLAN
Revised Drawing	20 Jun 2024	09	ROOF PLAN PROPOSED
Revised Drawing	20 Jun 2024	11	14MM SLIM DOUBLE GLAZING
Revised Drawing	20 Jun 2024	12	VACCUM INSULATED GLASS
Revised Drawing	04 Jul 2024	06A	FRONT AND REAR ELEVATIONS PROPOSED

2 Biodiversity Net Gain - Exempt/Not required

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are set out in the Biodiversity Gain Requirements (Exemptions) Regulations 2024 and The Environment Act 2021 (Commencement No. 8 and Transitional Provisions) Regulations 2024.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one

or more of the statutory exemptions or transitional arrangements is/are considered to apply.

3 Condition Categories

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

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

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

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

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

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

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

4 Community Infrastructure Levy - General Note for all Development

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

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

Community Infrastructure Levy - Exemptions and Reliefs Claims

The CIL regulations are non-discretionary in respect of exemption claims. If you are intending to claim a relief or exemption from CIL (such as a "self-build relief") it is

important that you understand and follow the correct procedure **before** commencing **any** development on site. You must apply for any relief and have it approved in writing by the Council then notify the Council of the intended start date **before** you start work on site. Once development has commenced you will be unable to claim any reliefs retrospectively and CIL will become payable in full along with any surcharges and mandatory interest charges. If you commence development after making an exemption or relief claim but before the claim is approved, the claim will be forfeited and cannot be reinstated.

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

5 Civil or legal consents

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

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.

7 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.