

DELEGATED REPORT

Application No: 15/05367/FUL

Details of location and proposal and Relevant History:

Hinton Garage Bath Ltd Hinton Garage, Albion Place, Kingsmead, Bath, Bath And North East Somerset

This application seeks full planning permission for the demolition of the former Hinton garage showroom and workshop (Vauxhall dealership) on Upper Bristol Road in Bath and its replacement with an 'assisted living' residential development.

The application site and its surroundings

The use of the site as a garage ceased in 2015 and it has remained vacant since that time. The site is now enclosed by substantial 2.4m high hoardings, along the road frontage, for security purposes. It is understood that the existing showroom and workshop buildings were predominantly erected in the 1980s and 1990's and replaced an earlier petrol filling station which occupied the site.

The site is positioned between Upper Bristol Road and the River Avon with a notable change in levels from north to south. Upper Bristol Road which bounds the north of the site is elevated approximately 4 metres above the level of the riverside walkway which adjoins the southern boundary of the site.

Existing residential uses surround the site. Terraced residential properties are situated either side of the site on its Upper Bristol Road frontage. To the west of the site is Victoria Court, a mid-1990s development of 24 flats. Immediately to the east of the site facing south towards Norfolk Crescent gardens is Nelson Villas a terrace of Victorian houses. To the south of the site is the riverside walkway and beyond the river is the eastern extremity of the Western Riverside development.

Nos. 8 and 9 Albion Place adjoin the application site on the Upper Bristol Road frontage; these are Grade II listed buildings dating from the 1790s. The Grade II* listed Victoria Bridge is situated approximately 35 metres to the west of the site. Also of note are the fine Grade II and Grade II* properties located further to the east in Norfolk Crescent and Nelson Place West.

The site is located within the Bath Conservation Area and the World Heritage Site. The site is also within the Hot Springs Protection Area. Parts of the site are designated as Flood Zone 3 (high risk) and parts of the site are Flood Zone 2 (medium risk). The site falls within the area covered by the Bath Western Riverside Supplementary Planning Document (BWR SPD).

The proposal has been screened in order to ascertain whether it constitutes EIA (Environmental Impact Assessment) development (Ref: 15/01763/SCREEN). It has been concluded that the development is unlikely to have a significant environmental effect, in EIA terms, and therefore the proposal does not constitute EIA development and an Environmental Statement is not required.

The Proposed Development

The development will provide 68 'assisted living' retirement apartments together with the associated communal and support facilities; these facilities include a restaurant with an external

riverside seating area; communal lounge, work/play area; gym; hydro-therapy pool; treatment rooms and guest accommodation. The development also includes staff facilities such as offices. Two communal landscaped gardens are also proposed.

The proposal takes the form of two distinct blocks; a curved 'terrace' on the site's Upper Bristol Road frontage and to the rear an 'L' shaped block the principal elevation of which is to face south to the river. The proposed Upper Bristol Road building is 3.5 storeys (i.e. 3 storeys with a fourth in the mansard) and the proposed riverside building is 4.5 storeys (i.e. 4 storeys with a fifth in the mansard).

Basement car parking is to be provided beneath the majority of the site providing some 61 car parking spaces, 25 bicycle spaces and 23 mobility scooter spaces. The basement car park will be accessed via a ramped access from Upper Bristol Road in a similar position to the existing access.

Planning History

DC - 15/01806/AR - CON - 24 June 2015 - Display of 3no. non illuminated hoarding signs

DC - 07/01136/AR - SPLIT - 17 July 2007 - Display of one illuminated fascia sign, one double sided projecting sign and one non illuminated panel (SPLIT DECISION)

DC - 04/01894/AR - CON - 5 October 2004 - 10 no. sets of internally-illuminated letters, 1 x fascia sign, 1 x s/sided wall sign, 5 x Griffin roundels, 1 x "Welcome" sign, 1 x totem sign and 1 x s/sided directional sign

DC - 02/03018/AR - CON - 27 March 2003 - Four mobile flag poles and flags

DC - 99/00225/FUL - APPRET - 19 January 2001 - Erection of 2 purpose built buildings to house control equipment, reconstruction of wall including moving gate piers, after demolition of existing wall at riverside boundary of Hinton Garage

DC - 99/00224/CA - APPRET - 7 December 2000 - Demolition of random rubble wall, and rebuild of wall moving Bath stone gate piers.

DC - 99/00953/AR - CON - 4 January 2000 - Display of 3 no internally illuminated fascia signs

DC - 99/00048/FUL - APPRET - 9 March 2006 - Erection of a vehicle workshop

Summary of Consultation/Representations:

Environment Agency: No objection subject to conditions prescribing a minimum lower ground floor finished floor level of 18.61m AOD, and ground floor finished floor levels of 22.15m AOD; requiring compliance with the submitted Flood Risk Assessment; no piling (unless otherwise agreed) and; investigation, and if necessary remediation and monitoring, of contamination.

Historic England: Comments [further comments]

Pleased that the recent changes appear to have reduced the dominance of the roofscape to this now simplified elevation. However HE is still uncomfortable with the stark end gable to the roof and how this impacts on the views from the east down the Upper Bristol Road - this detail has a jarring visual impact on the street scene presently

The curvature of the terrace [Upper Bristol Road block] does not correspond to the context in which this development is being proposed.

HE are pleased to see the revisions [riverside block] to roof articulation and actual height (reduced by 1.85m), assisted by the use of a recessive lower roof and changes to the dormers themselves to become lighter elements on this façade. The gable ends on this elevation are more successful than the previous iterations as they are less dominant and bulky than before.

The height [riverside block] results in a dominating impact on the riverside and neighboring buildings, including the grade II* listed bridge, as well as being within the context of the conservation area.

Not convinced that the setting of Norfolk Terrace will be enhanced.

Further alterations to this scheme are required, it is the view of HE that the current scheme does not fully respect the setting of the nearby designated heritage assets or preserve or enhancing the character and appearance of the Conservation Area.

Whilst HE can see some overall improvements to the scheme, HE would still seek to secure further revisions to achieve a scheme of outstanding quality that fully respects the significance of the historic urban context in which it will be located.

Historic England: Supportive of the scheme subject to revisions [initial comments]

Historic England is supportive of this scheme subject to revisions addressing our concerns over the scale of the development both cumulatively across the whole site and specifically on the river frontage. With some adjustments to architectural scale and proportion, this development could be a positive addition to Bath's townscape. We continue to raise concerns regarding the scale of the proposals, particularly the block fronting the River Avon, and their impact on the setting to adjacent listed buildings and to the character of the Bath City-wide Conservation Area. Other minor revisions should be considered in respect of the roof to the main street frontage and central block with regards to the visual relationship with Norfolk Place.

B&NES Planning Policy Team: Comments

The principle of the redevelopment of the existing site to a residential use is supported by NPPF, and by local planning policy (adopted Core Strategy, Local Plan, BWR Western Riverside SPD, and Draft Placemaking Plan (December 2015).

The overriding policy issue is the use class of the proposed development. The applicants claim that the proposed development is not a C3 use, and is not therefore liable to pay CIL or to make an affordable housing contribution. The Council refutes this claim, and believes that the proposed development is a C3 use, and that CIL and affordable housing contributions should be made.

Wessex Water: Comments

The site will be served by separate systems of on-site private drainage which will be subject to Building Control. There are existing major apparatus crossing the site, the applicant has been in contact with Wessex Water to discuss protection arrangements; we support the LLFA's suggested planning condition on this matter to ensure these apparatus are protected.

There is adequate available current capacity within the existing public foul water sewer for the predicted foul flows only from the proposals; any basement connections must be pumped. Foul sewer connections will be subject to application; there must be no surface water connections to the foul sewer network.

Surface water will be disposed of in accordance with NPPF and LLFA guidelines and SuDs hierarchy. The applicant has indicated that surface water will be attenuated on site and discharged to the River Avon which will be subject to LLFA / EA approval.

There is limited available capacity within the existing local water supply network to serve the proposals. The applicant will need to contact Wessex Water to discuss required demand; on site boosted storage will be required with agreement of flow rates.

B&NES Urban Design (initial comments): Objection

The application site is within the conservation area and world heritage site. The site is visible from a number of vantage points. The site is within the Bath Western Riverside SPD which states that buildings in this particular area should be between 3-5 storeys, it is also stated in the SPD that the river frontage buildings should be subordinate to those on the principal Upper Bristol Road frontage (also 3-5 storeys). The Bath Building Heights study is also relevant and this places the site within the Georgian city zone on the edge of the valley floor where heights are advised at circa 4 storeys. The overarching objective is to maintain the visual character and distinctiveness of the Georgian city.

Immediate neighbouring buildings are two-storeys to the east (Nelson Villas) and three-storeys modern apartments to the west; these reflect the intimate scale and range along the northern river bank but are at or below the height guidelines for this area. The guidance and Georgian context create the scope to increase height but this must be balanced against the need to create an appropriate relationship with Nelsons Villas and protect residential amenity.

The three storey elements are acceptable. The main central block [riverside frontage] however is unacceptable as it establishes a highly visible anomalous height and mass in the townscape. The height of the riverside frontage is unacceptable and should be amended to bring it in line with published guidance and to have an appropriate relationship with the existing frontage buildings.

The roof of the riverside block is deep and flat with large projecting dormers. The roofline is expressive and dominant which increases the visual height of the building to 5 storeys and creates harmful bold skyline features. The highly visible flank walls on each side are unacceptable.

With respect of the Upper Bristol Road building there is a need to complement the historic form of the existing roofscape. The mansard roof is broadly acceptable however it should have a double pitch angle to reduce visual mass and unit with neighbouring buildings. The roof needs to be articulated to bring it in line with then BWR SPD and building heights guidance. The dormers are overly bulky and prominent. They should be of smaller proportions to other windows on this façade and behind a parapet.

The height of the internal 'garden' block is acceptable. The cumulative impact of the flat roofs however are contrary to design codes and building height advice. The siting of all of the buildings is acceptable.

The contextual cue for the UBRd frontage is the historic character that is consistent along the frontage either side of the road. Recent infill developments to the east have adopted a simple traditional form to repair the townscape.

The scheme adopts a hybrid approach of traditional form and more contemporary detailing. Within this transitional environment, this can be acceptable.

The solid to void ratio conforms with BWR coding guidance. The proportions of the bays appear rather squat (despite the 3.45m floor to ceiling heights). Simplification of the facade may assist. (see below). The eastern bay addition (east of the vehicle entrance) is unsuccessful and harmful to

the integrity of the composition and street scene. It must be reviewed to integrate into the crescent.

As the building is a mini crescent, I am not convinced the party wall pilasters need to be expressed, downpipes may suffice. The bronze coloured detailing around the windows is unnecessary in this context (ref BWR Design coding). More defined cills should be combined with the recessed windows behind the facade line. Potentially a stronger/double string course should be applied above the ground floor. This could be the bronze colour and coordinate with an engraved building name. More could be made of the vehicle entrance arch and the entrances. The void should be gated, or Bath stone materials need to be specified for the internal walls.

As stated previously the roof profile and dormer windows require review. This may include raising the parapet to screen the dormers slightly.

Flank facades do not appear to be shown in submitted elevations. These are important and require clarification.

The frontage is in three elements. There should be greater distinction between the west element and the main block.

Solid to void does not conform with BWR guidance, with a significantly greater proportion of void. The facade proportions do not correspond with classical proportions, which, together with the roof form separates the appearance from the townhouse terraces to the east. The facade is formal and regular in its rhythm and largely flat, in conformity with BWR coding.

The lack of doors and run of 20 window openings without relief combines with the height and top storey treatment to emphasise the single mass of the block. Reductions in height and refinements to the dormers will assist in reducing massing.

Pre-application discussions suggested that greater variety and randomness could be introduced into each bay to soften the impact of massing. This included introducing projecting balconies (as specified on garden frontages). It is noted that detailing does begin to do this, however, the brass coloured detailing further reduces the simplicity of the stone structure, which is a characteristic of Bath's buildings.

At present the appearance falls uncomfortably between creating a terrace and a large block

Garden Block and Facades

As previously stated, within the block there is much greater scope for individuality and distinctive design. Subject to impact on amenity, it is not intended to impose design coding principles on these facades. Only where there is a need to review roof forms is there a need to review the top floor appearances.

Materials

Design coding guides material specification. The principle of using stone cladding as the main facade material and slate mansard material is appropriate in principle.

It is understood render will only be proposed for balcony pillar sides and rear of the riverside block and on internal faces. If so this is acceptable.

The principle of applying bronze coloured detailing is appropriate in principle, as this accords with the Bath Pattern Book. However, the material should be bronze. The extent of application has been discussed above.

Metal window surrounds and frames are appropriate. However, the choice of white and grey appears overly complex and is questioned. A sample should be provided. Further attention to

detailing doors and neighbouring boundary treatment is needed. All materials will need to be given detailed consideration upon receipt of samples.

B&NES Urban Design (further comments:) No objection - summarised as follows:

River Frontage Building

The proposed reduction in height is a meaningful response to previous comments. Changes to the roof form and dormer size contribute to the perceived reduction of height and top-heaviness.

The proposed revisions (i.e. off-set and reduced scale of entrance wing) have removed a direct harmful relationship. Whilst it may be argued that the neighbouring fabric (Nelsons Villas) is under-scaled, the height of the proposed building remains a challenging increase in scale; four storeys would be more comfortable. The building's proposed height however is with the SPD guidance and previous consultation responses have been taken into account.

The remainder of the revised development largely enhances the conservation area (subject to resolution of some details). The benefits of the wider scheme, in respect of enhancing the conservation area outweigh the perception of excessive height and harm to Nelson Villas and this section of riverside.

The changes to the roof and side gables are positive and the sculptured parapet is a sufficiently contemporary twist. The dormer 'frames' should be omitted. It is unfortunate that the west wing is not more distinctive in a similar way to the east.

Revisions to the façade treatment have simplified it, increasing verticality and unity; this compensates well for the loss of height. The columns between windows should be Bath stone leaving detailing and articulation within window voids.

Upper Bristol Road building

The reductions in height to the roadside block and the changes to form address previous concerns. The mansard has been lowered but not treated with a double pitch - this increases its bulk. Revisions to this façade are welcomed.

Central building (garden block)

There is less concern regarding the garden block as previously stated. Render and roofing materials must be approved however. Concerns raised by Bath Heritage Trust in relation to the plinth will need to be addressed.

The proposed materials continue to be acceptable in principle, concerns re. white metal work remain. All materials must be approved.

The proposed street trees on Upper Bristol Road are at odd with Bath's character and will obscure the façade and block light; they should be deleted.

B&NES Landscape Architect: Objection

No objection in principle. No objections to the Upper Bristol Rd element, the landscape treatment within the central core could work well. The main riverside block is simply too tall and will have an adverse effect on those living near the site and those using the riverside and Norfolk Crescent areas. These receptors are classified as high sensitivity.

I do not necessarily agree with all the BW / TVIA findings. Para 8.23 confirms that adverse change in view could arise from an increase in the sense of enclosure and the loss of sky, yet this phenomenon does not seem to have been addressed in the assessment. For example, viewpoint 4 at the western end of Nelson Villas is a key area where the relative height difference between the existing terrace and the proposed building is apparent. The TVIA measures the distance to the site as 7m but is described as a 'partial' view and the conclusion is shown as moderate / major beneficial.

Concern with the café element and how this use will impact on the adjacent terrace. There will be increased noise and movement and remain unconvinced that this has been worked through the design.

The hard and soft landscape treatment along the riverside frontage has not been fully addressed and this needs to be resolved in more detail. This is a very busy pedestrian and cyclist thoroughfare and new surfacing and detailing is required. Current and emerging policies aim at enhancement and this element needs further refinement. There needs to be a co-ordinated approach to materials, furniture, signage and vegetation design and management between the proposed scheme and the B&NES led regeneration projects.

In conclusion, the issue is straightforward in my opinion. The riverside unit is simply too tall and will have a significant adverse impact on users of the riverside and those living and working in the vicinity. The disparity in heights is clear in the submitted material and this will be clear and apparent, not only to receptors located close to the building, but from wider vantage points as well. The scheme is unacceptable in its current format, specifically because of the harms caused by the height of the unit closest to the riverside.

B&NES Archaeology: No objection subject to conditions

This application has been submitted with a desk-based Archaeological Assessment. During pre-application discussions a geotechnical investigation of the site was monitored by Foundations Archaeology.

Whilst the desk-based assessment concludes that the archaeological potential of the site is low, only one of the 15 geotechnical test pits went through the post medieval and modern fills down to natural geological deposits. Given the close proximity of significant Roman occupation on the Lower common and the projected Roman road alignment, we cannot rule out possibility of earlier deposits being masked by 18th and 19th century demolition and modern makeup layers. It is recommend that that archaeological conditions are attached to any planning consent, to ensure (1) a field evaluation of the site, (2) a subsequent programme of archaeological work or mitigation, and (3) publication of the results.

B&NES Economic Development: Support

Should the application be approved a S106 Site Specific Targeted Recruitment and Training in Construction Obligation should be applied. This is estimated to be the following targeted recruitment and training outcomes: 11 work placements; 2 apprentice starts; 2 new jobs advertised through DWP and; a financial contribution of £6545.

It is a requirement of the developer to provide a method statement following a template and guidance produced in partnership with the B&NES Learning Partnership that will outline the delivery of the TR&T target outcomes. The developer will also be required to participate and contribute to a TR&T Management Board supported by the B&NES Learning Partnership that will have the overall responsibility of delivering the outcomes. The first management board should be set up within three months of permission being granted and the method statement should be written within three months of the first management board.

B&NES Contaminated Land: No objection subject to conditions

The site is currently a garage for sale and repair of vehicles, it was previously used as a petrol station and prior to that had a use as a rubber mill. A former landfill is also present to the southeast of the site. A Geo-Environmental Interpretative Report & Foundation Exposures Report has been submitted with the application. The report does not include the chemical analysis certificates and the report should be updated to include the certificates

The recommendations for further investigation and subsequent provision of a remediation strategy [set out in the submitted report] are supported. It is recommended that the Environment Agency are consulted regarding risks to Controlled Waters taking account of the potentially contaminative historical use of the site and the proximity to the River Avon. Conditions are recommended to secure the undertaking and submission of further work in relation to land contamination.

B&NES Highways No objection subject to conditions

No objection to the principle of the development. The proposed levels of car, cycle and mobility scooter parking is considered to be appropriate. The proposed development will not result in a material increase in the number of vehicle trips generated by the site. The swept path analysis demonstrates that the proposed parking spaces are accessible. A draft Travel Plan has been submitted, and it is recommended that this becomes a full Travel Plan before the buildings are occupied.

Conditions are recommended to ensure that the proposed parking remains as such; the submission of a Construction Management Plan; and the submission of a Travel Plan.

Avon & Somerset Police: Objection

- o The underground parking area should be secured on the forward building line. It must be properly lit and covered by CCTV;
- o Access to the lift and stairwells must be properly controlled;
- o Boundary gates and fencing should be at least 2m high;
- o The use of low level bollard lighting should be avoided;
- o All access points should be covered by good quality CCTV, other key areas should be covered;
- o The building should be managed in a secure way.

B&NES Drainage and Flooding: No objection subject to conditions

Conditions are recommended requiring the submission of a drainage strategy and agreements being in place with Wessex Water regarding their on-site infrastructure

B&NES PRow Officer: Comments

Footpath AQ91 runs along the river path at the southern boundary of the proposed development site. There must be no changes to the line and width of the footpath during and after the works

B&NES Conservation Team: Objection

The principle of the redevelopment site which would entail the demolition of the existing modern buildings that currently occupy the site is welcomed and supported.

The roadside building has some merit but its appearance and stature is overbearing. Viewed from the east, the stark juxtaposition between the proposed building and modest historic buildings is

evident. The building appears incongruous and fails to assimilate within the existing and established traditional streetscape.

Each storey is of the same proportions and the roof is dominant; this conflicts with the predominant tradition in Bath where roof storeys and dormers are subservient to the lower storeys. Roof storeys are also often obscured by a parapet. The proposed attic storey should be made more subservient by reducing the height of the roof and the size of the dormers. Such an approach would create 3.5 storeys as opposed to 4.

The use of a crescent form is unclear. In Bath crescents were used to create architectural set pieces, a crescent is not appropriate in this context and will be incongruous.

The riverside facing building (5 storeys) is clearly inappropriate in scale; this view has been expressed consistently by the Council and others. Attempts to reduce the impact of this building are tokenistic and fail to reduce the buildings negative impact. There is an established built form which the proposed building fails to reference or adhere to. Nearby Norfolk Crescent is of a similar scale but this is monumental and a set-piece - it does not therefore provide an appropriate reference. The proposed building appears to take its reference from Western Riverside - this is also inappropriate.

The proposed development does not preserve or enhance the Conservation Area or World Heritage Site, it causes unacceptable harm.

Conservation Team: Objection (further comments)

Remain to be convinced that the approach will not cause harm to the setting of a plethora of heritage assets that surround the site including many historic buildings, listed and otherwise, the Conservation Area and the WHS;

There has been some reduction in height of the building that fronts the river; this has not gone far enough. There is a compromise solution which is to allow three stories plus a set-back or attic storey;

The building that fronts the road is improved although it is suggest that in order to remedy the issue of the stark contrast in the existing historic buildings to the east and the proposed building that a more meaningful transitional element should be introduced in the same manner as that used on the building fronting the river

The use of a curved plan form is resisted; this is incongruous, anomalous and discordant with the existing built form and streetscape and the relationship with the footway/highway;

The resultant green space that is created with tree planting is not characteristic in what is a very urban established form;

The applicants are encouraged to revise the proposals in accordance with the above advice and suggestions and that provided by others including Historic England.

Natural England: Comments:

Horseshoe bats have been detected commuting along the river at this location; the river surface must remain dark. It is accepted that the models are worst-case scenarios which do not take account of the possibility of dimmer switches being used or of curtains being drawn. NE needs to be confident that light spill can be acceptably controlled even in the worst-scenario. NE also need to know what maintenance factor has been used, so that we can be confident that the external

lights can be dimmed down appropriately on installation to allow for this. It is understood that a further illumination impact assessment will be undertaken in relation to the amended plans.

Ward Member (Cllr Furse): Objection (summary below)

There are a number of good points including the redevelopment of the site itself, the land use as assisted living accommodation (a relief from student accommodation), vehicular access from the Upper Bristol Road and the development being permeable i.e. not a gated community.

There are a number of significant issues however. The height and massing of the building are excessive. The building will dominate the local area and tower above Nelson Villas causing amenity issues including loss of light and loss of privacy. Building heights should be reduced by at least one storey and windows and balconies re-orientated.

The cafe is unacceptable and will introduce a commercial element to a quiet residential back-water. It will result in vehicles having to access the site day and night along an inadequate road (to the fore of Nelson Villas) and will introduce large gatherings of people, day and night, generating considerable noise. No parking permits should be available to residents or visitors.

Construction vehicles must not access the site via Nelson Villas but instead use the Upper Bristol Road. Demolition and piling work must not be undertaken at unsociable hours. It is suggested that the S.106 Agreement and/or CIL receipt contributes towards parking and extending Zone 6 until 8pm; improvements to the green; repairs and upgrades to local pavements and; the national cycle network which runs through alongside the site.

Ward Member (Cllr Furse) supplemental comments (summarised): -

Victoria Bridge Court residents are very concerned about the impact of the development upon their residential amenity. I echo their concerns centred around the bulk adjacent to Victoria Br Ct, the overlooking and overshadowing their 'garden' and the height and proximity to the river of the rear elevation.

Ward Member (Cllr Furse): Further supplemental comments:

If you are minded to approve then can I stress the need to bring to committee for the following reasons please;

Overlooking and loss of residential amenity to neighbouring residents, particularly Victoria bridge court and Nelson villas; height and dominance of building to surrounding buildings and; proximity and dominance to the road and footpath. Also, there are a significant number of valid objections on specific issues and it is in the public interest that these are discussed and determined in public session.

Cllr Patrick Anketell-Jones (Cabinet Member for Economic Development): Objection

I visited the original public consultation in the Elim Church, Charlotte St. My comment at the time was that the proposed river front block was overbearing, too tall and massive; it did not relate to its immediate environment.

The current, revised plans show a more attractive building but it also retains the fundamental characteristics of too much volume and mass. In addition, it presents itself as top heavy - very dissimilar to Bath architecture.

This is a sensitive location close to the river, Victoria Bridge and Norfolk Crescent. The new block will be dominant and there is a danger the nearby historic buildings will become subservient to the

newcomer. It is likely that the Hinton site is just the beginning of comprehensive development of the north bank of the river between Victoria Bridge and Destructor Bridge. It would not be right to allow this building to set a precedent that will effectively crowd the river bank with large buildings that diminish the presence of the river.

We are supposed to be opening up the river to public view where it can be seen as a natural, accessible benefit to the city. It is therefore my opinion that monolithic apartment blocks are not the answer to developing the river frontage.

Bath Preservation Trust: Comment (additional further comments)

- o The Trust welcomes the revisions to the proposed scheme submitted recently;
- o Pleased to see the changes to the degree of the roof slope, height (reduced by .85m) and the added string course detailing of the roof elements of this elevation; the reduced height and dominance of this storey;
- o The provision of a higher parapet and reduction of the dormer size ensures that it sits more comfortably within the streetscape and harmonises with the predominantly Georgian character of the immediate area;
- o The simplifying of the overall facade by the rationalising of detailing is also welcome and connects well with the overall classical Greek inspired simplicity of the adjacent townhouses;
- o Pleased to see the revisions to roof articulation and actual height (reduced by 1.85m)[is it actual, or perceived?] on this elevation [in relation to riverside block] as well as the techniques employed to reduce the perceived height;
- o These changes have reduced the dominance and disproportionality of the earlier scheme and incorporated a welcome and more comfortable hierarchy to the elevation. The gable ends as pitched mansard style arrangements are now less dominant via the changes to the ratio of stone to roof material and their stepping back is also a welcome change that reduces their visual bulk;
- o The revisions to the material detailing to refine and slightly simplify the facades are also welcome and we agree with the idea that any bronze work must harmonise with the palette of the Bath stone;
- o We continue to question the extensive use of white metal as this is not traditional colour of metalwork in Bath but we support the proposed use of grey metal to roof elevations;
- o In our original submission to the planning application, the points we raised regarding the detail of the specific type of stone to be used (and the finish and pointing) has not been addressed, neither the provision of detailed 1:1 drawings of architectural detail, nor the look and performance of grey fibrous board;
- o We continue to note that although the Heritage Statement cites that there will be enhancement to the setting of Nelson Villas we are not convinced that this is the case for their immediate amenity;
- o There is a failure to address the issue of the possible harmful impact of the high building plinth on the rear gardens and outlook of these undesignated heritage assets;
- o It is difficult to gain an understanding of how this development will connect with and impact on the rear of these dwellings as there are no specific context elevations provided for this element of the scheme;
- o it is not clear from section drawings what will actually be the reality for the residents of the villas;
- o It is suggested that further work is done on residential amenity issues on the basis of goodwill towards the residents of the immediate area.

Specifically in relation to amendments:

- o There is a welcome lowering of heights on some buildings but overall the massing is still too great;
- o The reduction of the ridge height by 1.825 m to the Riverside building and 0.85 m to the Upper Bristol Road building are welcome but still not nearly enough;

- o There are no changes to the central building - previous issues are not addresses;
- o There are many improvements but concerns remain in relation to concerns on overall heights, massing, community amenity, harm to the conservation area and the setting especially of Norfolk Crescent, impact on Nelson Villas, design and structure of the café;
- o Continued lack of community engagement;
- o Concern regarding foul drainage;
- o The revisions are minor and do not address previous objections;
- o Look forward to serious amendments being made;
- o The height, concentration of buildings, raised ground levels and café is still totally unacceptable;
- o The revised submission shows only a very small token reduction in building heights;
- o This does not lessen the impact upon Nelson Villas of the overall building height and mass;
- o Loss of natural sunlight remains an issue;
- o The mass, size and impact of the development remains unacceptable;
- o The Planning mistakes of the 1950s must not be repeated;
- o It is still too bulky and should be reduced in height;

Bath Preservation Trust: Concerns (further comments)

- o Concerned about the impact of the site plinth and retaining wall on Nelsons Villa;
- o Lack information regarding topography;
- o Further contextual elevation images should be submitted;
- o The garden building has a stark architectural treatment, white render is at odds with the colour palette - it should be bath stone colour;
- o The balconies should be different colour, they should be grey rather than white;
- o Further design work should be undertaken to break up the stark facades;
- o The fibre cement cladding is of concern as it can be reflective;
- o All roof treatments should be dark grey in colour to respect the traditional palette of Bath

Bath Preservation Trust: [initial comments] Generally supportive but some concerns (summary below):

- o The Trust welcomes the development in principle;
- o We welcome the restoration of building line, and repair of the street scene on the Upper Bristol Road;
- o The proposed scheme will, with some adjustments (below) enhance the character of the conservation area and the setting of listed buildings;
- o Pleased to see the stepping down and detailing of the side gables
- o We have an overall concern that the scheme is half a storey too high

North elevation to Upper Bristol Road

- o The curved building line is welcomed;
- o There are strong concerns regarding the finer detail of the proportions of the north elevation;
- o The pitch of the roof is overly assertive creating a top heavy effect - exacerbated by the lack of any significant step back or parapet arrangement;
- o There is a disconnect between the excessive height of the attic and 4th storeys and the rest of the townhouse elevation;
- o Confused by the addition of [tall] trees to the north elevation as there is no historical precedent for these

South elevation to the riverside

- o The hierarchy of the built form appears unbalanced, skewed by the apparently excessive height of the top (roof) storey which presumably houses high ceilinged penthouse style apartments;
- o Further thought is given again to manipulating the proportions of the components of the façade to reduce the visual impact of the roof and balance the general architectural composition;
- o The Trust is always very concerned at the proposal to leave crucial elements of the design such as materials to Condition.
- o The Case Officer is strongly urged to insist on more detailed specifications and information on architectural detailing and Materials;
- o Further information on the finish, texture, treatment, patination and weathering of the bronze detailing;
- o Detailed information on the exact type of Bath stone work and cladding (brick, ashlar, etc) should be provided as well as details of construction, finish, pointing etc we would like to see well detailed sections and details at 1:1
- o We have concerns about the predominance of the white metal detailing throughout the scheme and would recommend a re-think of this element;
- o The roof surface of the central block is of concern; we are unsure of the look and performance of 'grey fibrous board the Trust is generally supportive of this scheme subject to our concerns detailed above;
- o With some adjustments to architectural scale and proportion and significantly more detail provided on materials and finish, we feel this development could be a welcome and positive addition to Bath's riverside

Bath Heritage Watchdog (initial comments): Objection

Objection on design ground only. The Upper Bristol Road façade does not gel with its context. A traditional design approach would have had more merit than the contemporary approach that has been taken. The general height and scale are broadly acceptable. There is a lack of horizontal detail; the storey proportions look wrong; the window design is odd and out of keeping; it would be preferable to have timber front doors; it would be more appropriate if the roof was a hipped mansard; the bronze metal window surrounds are not appropriate.

There are greater concerns regarding the riverside block; it is a storey too tall. It introduces a scale and form in a transitory location of 2/3 storey buildings. The height does not comply with the Buildings Height Strategy; it will block sight lines of the northern slopes; it will dwarf the Victorian apartments; it will have a detrimental impact on the listed Victoria Bridge and Norfolk Crescent; a dangerous precedent will be set; some of the external materials are objectionable although the use of slate for the roof is supported; clarification is required as to the nature of the proposed stone-cladding.

29 members of the public have objected to the application and objections have also been received from Bath Heritage Watchdog and the Norfolk Crescent Green Residents Association. Objections are summarised as follows:

- o The development is out of character for Bath;
- o It is too close to the river and towpath;
- o The building is simply too high;
- o The height is particularly inappropriate as compared to Nelsons Villas [2 storey];
- o The contrast between little and large is rather imposing;
- o It will dominate the area by its scale, height, size and proximity to the river
- o Neighbouring buildings are dwarfed;
- o The view of the skyline will be blocked by this development;
- o Photomontages do not give a true representation;
- o The riverside façade is not in sympathy with the finer grain locally;
- o Further changes are needed to integrate the building with its surroundings;

- o The proposal is an anomaly in respect of its height;
- o The buildings are 4 times the height around a 300% increase;
- o The layout is too dense - it is overdevelopment;
- o There will be an adverse impact on listed buildings and the conservation area;
- o Harm to this part of the World Heritage Site;
- o It is unworthy of a world class heritage city like Bath;
- o It is functional and monolithic and nondescript;
- o There will be a loss of privacy;
- o Residents will be able to look straight into neighbours bedrooms;
- o Loss of light and overshadowing;
- o Pile driving will cause noise and vibration and potential structural damage;
- o Neighbouring properties will be placed in heavy shade for large parts of the day;
- o Concern regarding noise and pollution from the café extraction and air conditioning;
- o There should not be an alcohol or evening opening license;
- o The raised ground level for the café and terrace/garage is of particular concern;
- o Site levels will be raised by 4 metres which is a huge increase;
- o There is no consideration for ecology;
- o There is no green area by the river for ecology or to soften the appearance;
- o Significant disruption and impact upon indigenous wildlife;
- o Concern regarding potential effect on bird and bat population;
- o Reduction in property value and thus financial loss;
- o Impact on future saleability of existing properties nearby;
- o Environmental impact of increased traffic flow and associated noise;
- o Overflow car parking provision is unclear;
- o Two car parking spaces will be lost to the front;
- o There is a safety issue in respect of the cycle path;
- o The development will cause a severe flood risk as a result of increased flood risk;
- o It is suggested that the café is instead replaced by a community centre;
- o The land is contaminated;
- o The development will generate litter and food waste and attract vermin;
- o Artificial lighting for the development is likely to spoil the character of Nelson Villas and be a nuisance and loss of amenity for people living there.

Comment (Savills representing Crest)

- o The lighting strategy must have no impact on Crests lighting strategy across the river;
- o It is acknowledged that the building's height is within the BWR SPD limits;
- o It is questioned whether the riverside building is subordinate to the Upper Bristol Road frontage as also required by the SPD
- o Actual heights are higher than those of the townhouses opposite;
- o The proposed development will be 4.25m higher than Crests buildings opposite, the photomontages however appear to show the buildings as lower than Crests buildings opposite - there may be an error

2 members of the public have supported the application, these are summarised as follows:

- o Excellent facility for retired people;
- o It has easy access to the city and is on the flat;
- o The developer has taken on board comments and criticisms;
- o The view from the Riverside development will be improved by this development;
- o The development will validate the Riverside development and make this part of the river an attractive part of the town;
- o It is a big step forward

Policies/Legislation:

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

Core Strategy
Saved Policies in the B&NES Local Plan (2007)
Joint Waste Core Strategy

The following Core Strategy policies are relevant:

Policy DW1: District-wide spatial strategy
Policy B1: Bath spatial strategy
Policy B4 : World Heritage Site and setting
Policy SD1: Presumption in favour of sustainable
Policy CP5: Flood risk management
Policy CP6: Environmental quality
Policy CP9: Affordable housing
Policy CP13: Infrastructure provision

The B&NES Local Plan policies that are replaced by policies in the Core Strategy are outlined in Appendix 1 of the Core Strategy. Those B&NES Local Plan policies that are not replaced and remain saved are listed in Appendix 2 of the Core Strategy.

The following saved Local Plan Policies are relevant:

Policy IMP1: Planning obligations
Policy D2: General design and public realm considerations
Policy D4: Townscape considerations
Policy ES3: Gas and electricity services
Policy ES4: Water supply
Policy ES9: Pollution and Nuisance
Policy ES12: Noise and Vibration
Policy ES15: Contaminated land
Policy WM4: Waste recovery and recycling
Policy B1: Bath western riverside
Policy NE9: locally important wildlife sites
Policy NE10: Nationally important species and habitats
Policy NE11: Locally important species and habitats
Policy NE13A: Bath hot springs
Policy BH2: Listed buildings and their setting
Policy BH6: Development within/affecting Conservation Area
Policy BH7: Demolition in Conservation Areas
Policy BH12: Important archaeological remains
Policy BH13: Significant archaeological remains in Bath
Policy T1: Overarching access policy
Policy T24: General development control and access policy
Policy T26: On-site parking and servicing provision

City of Bath World Heritage Site Setting SPD (August 2013)
Bath City-Wide Character Appraisal SPD (August 2005)
Planning Obligations SPD (April 2015)
Bath Western Riverside SPD (2008) (including design codes)
Bath Building Heights Strategy (September 2010)

At the Council's Cabinet meeting on 2nd December 2015 the draft Placemaking Plan was approved for consultation purposes and also approved for Development Management purposes. However, currently the Plan has limited weight in the determination of planning applications. The following policies set out within the Placemaking Plan are relevant:

Policy DW1: District-wide Spatial Strategy
Policy SD1: Presumption in favour of sustainable
Policy SCR1: On-site renewable energy requirement
Policy SCR5: Water efficiency
Policy CP4: District heating
Policy CP5: Flood risk management
Policy SU1: Sustainable drainage
Policy CP6: Environmental Quality
Policy D1: General urban design principles
Policy D2: Local character and distinctiveness
Policy D3: Urban fabric
Policy D4: Streets and spaces
Policy D5: Building design
Policy D6: Amenity
Policy D8: Lighting
Policy HE1: Historic environment
Policy NE3: Sites, species and habitats
Policy NE4: Ecosystem services
Policy PCS1: Pollution and nuisance
Policy PCS2: Noise and vibration
Policy PCS3: Air quality
Policy PCS5: Contamination
Policy PCS8: Bath Hot Springs
Policy CP9: Affordable Housing
Policy H1: Housing for the Elderly
Policy CP10: Housing mix
Policy ST7: Transport
Policy CP13: Infrastructure
Policy B1: Bath spatial strategy
Policy B4: World Heritage Site
Policy BD1: Bath design
Policy SB8: Western Riverside

National Policy

The National Planning Policy Framework adopted March 2012
National Planning Practice Guidance

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

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

Officer Assessment:

Principle

The site is situated within the built-up area of Bath where the principle of development is accepted. At present a number of modern buildings, which are of no architectural or historic merit, occupy this brownfield site and as such the clearance of these buildings and the redevelopment of the site can be supported in principle. Core Strategy (CS) Policy DW1 prioritises the development of brownfield sites in order to minimise the need to develop green field sites.

The application site is located within both the Central Area and the Enterprise Area as designated in the Core Strategy. CS Policy B1 (Bath spatial strategy) supports the regeneration of sites within the Central Area and Enterprise Area in order to create new areas of productive and attractive townscape as well as to provide a much improved relationship between the city and the river. The redevelopment of the former Hinton Garage site offers the opportunity to significantly improve the local townscape as well as provide improved frontages to both the Upper Bristol Road and the river. The redevelopment of the site could contribute to meeting the objectives of the aforementioned adopted Bath spatial strategy and as such redevelopment is supported in principle.

Loss of Employment

Local Plan (LP) Policy ET3 seeks to minimise the loss of non-office business uses but the protection the policy offers is focussed on premises within the core employment areas; the application site is not within a core employment area. The development plan is more flexible in respect of sites outside of the designated core employment areas. The Core Strategy recognises that there will be a significant contraction in industrial floor space during the plan period (which is to be planned for rather than resisted) and in light of this LP Policy ET3 does not resist the loss of non-office business uses, outside of the core employment areas, unless the site is capable of offering continued adequate business premises or unless the continued use of the site for business purposes would perpetuate environmental or traffic problems.

It is considered that the redevelopment of the site for continued non-office business purposes would be incompatible with the site's residential surroundings. The site is almost entirely surrounded by residential properties and this has been consolidated further by the residential redevelopment of Bath Western Riverside immediately to the south. Residential redevelopment offers the opportunity to provide a more compatible form of development; this clear benefit outweighs the loss of business employment and is in accordance with LP Policy ET3.

Flood Risk

The site is situated in a riverside location and unsurprisingly those parts of the site closest to the river are at a high risk of flooding. The southern, riverside extremities of the site are designated as Flood Zone 3 which is an area deemed by the Environment Agency to be at a high risk of flooding. The remainder of the site is designated as Flood Zone 2 (medium risk) and Flood Zone 1 (low risk).

Planning policy requires development that is proposed in areas deemed to be at a high or medium risk of flooding to be subject to the sequential test; this involves demonstrating that there is no land reasonably available in lower flood risk zones for the development. It should also be noted that Paragraph 104 of the NPPF states that where sites have been allocated for development in development plans, through the sequential test, applicants need not apply the sequential test. The application site forms part of the Bath Western Riverside allocation as prescribed by saved Policy GDS1 of the saved Local Plan as well as the associated Supplementary Planning Document (within which it is identified as a 'development zone'). It is not considered necessary therefore to sequentially test this site.

Following the sequential test it is necessary for the exceptions test to be passed in accordance with Paragraph 102 of the NPPF. It must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk and that the development will be safe for its lifetime. It is considered that the sustainable benefits to the community outweigh the flood risk. Benefits include the social benefits of providing 68 units of assisted living accommodation, the economic benefits that such a development brings and the general benefits in redeveloping this site. Given these public benefits and given that the majority of the site is deemed to be at medium to low risk, it is considered that the benefits outweigh the risk and this element of the Exceptions Test is passed.

A detailed Flood Risk Assessment (FRA) has been submitted with the application; this sets out a range of measures, which are integral to the design of the building, to mitigate the impact of a flooding event on the development. The lower ground floor will only contain 'less vulnerable' and 'water compatible uses' with a finished floor level set at the 1:00 year flood level (18.61m AOD). There will also be flood defence measures on the lower ground floor, the wellbeing centre and building plant on that floor will be tanked as a precaution against ground water flooding. All residential accommodation will be above the 1 in 1000 flood level and the development will remain operational up to a 19.45m AOD flood. The Environment Agency are satisfied with the content of the FRA and have raised no objection to the application subject to a number of conditions which ensure that the measures set out in the FRA are implemented, and deal with contamination matters. The application complies with Policy CP5 of the Core Strategy and the NPPF in so far as it relates to flood risk matters.

Highway Considerations

The proposal involves the provision of a 61 space basement car park across the majority of the site; this is to be accessed via a ramp from Upper Bristol Road. The existing western access to the garage (from Upper Bristol Road) is to be retained in a revised form in order to provide the electricity supplier with maintenance access to an electricity substation on-site. A layby is proposed on the Upper Bristol Road frontage to serve delivery vehicles and taxi drop-offs/pick-ups. The proposed car park includes parking/storage space for 23 mobility scooters and 25 parking spaces will also be provided across the development for resident and staff bicycles.

The Highways Team agree that the proposed development will not result in an increase in traffic movements from the site given the site's historic use by the motor trade. The highway arrangements are acceptable to the Highways Team including the proposed levels of car, cycle and mobility scooter parking. The site can be adequately serviced and the swept path analysis satisfactorily demonstrates that the parking spaces are accessible. A number of conditions are recommended in order to secure the submission of a Construction Management Plan, Travel Plan and to ensure the parking spaces remain free of obstruction. The application accords with saved policies T1, T24 and T26 of the Local Plan; the proposed means of access is both suitable and safe and as such the development accords with Paragraph 32 of the NPPF.

Residential Amenity

The application site is surrounded by residential properties some of which are in close proximity to the site. Victoria Court is situated immediately to the west of the application site and the rear wing of the riverside block will directly face it. Be that as it may it is not considered that the living conditions of those occupying flats within Victoria Court will be significantly adversely affected. The window to window distances typically measure 30-34m; this is sufficient to both ensure loss of privacy and significant loss of light does not occur. Other elements of the riverside block are closer to Victoria Court but these elements tend not to directly face it and as such loss of privacy will not occur due to the acute angle involved; this orientation will also minimise overshadowing.

The roadside block will occupy a gap between two existing terraces on Upper Bristol Road; as such the building will be situated alongside those residential properties rather than directly facing or obstructing them. There is limited scope therefore for the roadside block to have a meaningful detrimental impact upon the amenity of the occupiers of Upper Bristol Road properties. It is considered that the riverside block is too distant from the properties situated on the Upper Bristol Road for an adverse impact to result.

The properties known as Nelsons Villas are likely to be those most affected by the proposed development. Nelsons Villas, as stated, are a row of Victorian terraced houses and flats located immediately to the east of the application site. The rear of the roadside block will directly face the rear of Nelsons Villas as will significant parts of the riverside block. The window/balcony to window distances however will be substantial and more than sufficient to ensure that loss of privacy will not occur. The roadside block is to be situated approximately 20-25m to the north of Nelsons Villas whereas the rear flank of the riverside block will be approximately 18m to the west. There is no question that the rear gardens of Nelsons Villas will be significantly overlooked by the proposed development but these gardens are already overlooked by a large number of neighbouring properties and as such enjoy little privacy. It cannot be reasonably argued that the proposed development will result in an unacceptable loss of privacy in respect of the gardens of Nelsons Villas when there is little privacy to be lost.

Due to the changes in levels the proposal involves the construction of a substantial retaining wall to the west-side and rear of some of the properties in Nelsons Villas. It should be noted however that there is already a high boundary wall on parts of this boundary and it is not considered that the proposed retaining structure will have a significantly increased impact on amenity as compared to the existing situation. To the rear (north) the proposed wall will for the most part cast its shadow away from Nelsons Villas. To the side (west) the retaining wall will shade the nearest residential property but to no greater extent than the substantial former Hinton Garage building which is currently situated immediately adjoining the boundary and which has a substantial overshadowing impact on Nelsons Villas.

A Daylight and Sunlight Assessment has been submitted with the application. The report concludes that all assessed rooms (in neighbouring properties) that could be affected in respect of loss of sunlight are BRE compliant. The report further concludes that the vast majority of assessed rooms (in neighbouring properties) that could be affected in respect of a loss of daylight are BRE compliant. The report acknowledges that a small number of bedrooms in Victoria Court will experience a loss of daylight marginally in excess of the BRE criteria but concludes that natural light levels will nevertheless be consistent with those found in denser urban environments and the main living space will be unaffected; these conclusions are accepted.

It is proposed that a café will occupy the eastern end of the riverside block and a terrace serving that café will be situated between the building and Nelsons Villas; this café will serve both residents and the public. Subject to appropriate conditions managing the impact of the café on nearby residential properties (controlling opening hours for example) it is considered that this can be a compatible form of development. The café and its terrace will inevitably generate a degree of external noise but so too did the commercial garage/workshop use previously on the site. Given the proximity of the café to residential properties, care must be taken to ensure the extraction and ventilation systems do not cause undue noise or odour. The submitted Ventilation and Extraction Statement states that kitchen exhaust will rise through ductwork to roof level. It also states that grease and odour filters will be installed and that the system will be acoustically attenuated. This can be adequately controlled by the local planning authority through the imposition of an appropriate condition(s). The hydrotherapy pool at the opposite end of the block (close to Victoria Court) will also require a ventilation system; the positioning of this is unclear and therefore it will need to be clarified and controlled through condition. It has been stated in the submission that an ozone system of water treatment will be utilised which minimises odour.

A Noise Assessment has been submitted with the application but its focus is on the potential noise levels to be experienced by future residents rather than the wider noise implications of the development itself; its conclusions are accepted.

Archaeology

An archaeological desk study has been submitted with the application. It is identified that the Upper Bristol Road follows the line of an ancient route between Bath and Sea Mills (Bristol). There is strong evidence to suggest that the Fosse Way itself passed through the site. There is much evidence of roman activity in the area surrounding the site including a villa within the nearby Lower Common allotments and presumed roman remains in Marlborough Lane.

To-date there has been no evidence of roman activity within the application site itself but there is a high theoretical possibility of evidence of roman activity to be present. There is also a high theoretical possibility that the foundation levels of 18th and 19th century buildings are present within this site, particularly along the Upper Bristol Road frontage. The desk study concludes that whilst the site has a high theoretical possibility for archaeological material to be present, in practice the potential is very low due to the significant disturbance resulting from the various phases of construction and demolition on the site, including substantial terracing.

The council's archaeologist had input into the geotechnical investigation at the pre-application stage and has opined that whilst the desk-based assessment concluded that the archaeological potential of the application site is low, only one of the 15 geotechnical test pits went through post-medieval and modern fills down to natural geological deposits. As such conditions are recommended to ensure a field evaluation of the site, a programme of archaeological investigation and the publication of the results. It is possible that earlier deposits are being masked by later 18th and 19th century demolition and modern makeup layers and hence the aforementioned conditions are necessary.

Design and Impact on Heritage Assets

It is one of the government's 12 core planning principles, as set out in the National Planning Policy Framework, to always seek to secure high quality design. Paragraph 56 of the NPPF states, "Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people". The NPPF goes on to state that decisions should aim to ensure that development functions well and adds to the overall quality of the area. Furthermore decisions should ensure that development responds to local character and history, reflecting the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation.

Paragraph 64 of the NPPF states, "Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions".

Core Strategy Policy CP6 encourages good quality design which reinforces and contributes to its specific context. It is also clear that any harm to the historic environment must be weighed against any demonstrable public benefit.

The application site is situated within both the Bath Conservation Area and City of Bath World Heritage Site; these are both designated heritage assets. Paragraph 132 of the NPPF states, "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be".

Paragraph 134 of the NPPF states that, "where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use".

The proposed development, as stated above, takes the form of two distinct blocks; a curved 'terrace' fronting the Upper Bristol Road and an 'L' shaped block fronting the river. These two key elements of the proposal are dealt with in turn.

Riverside Block

The element of the development facing south to the River Avon has been the subject of much discussion during the processing of the application as well as during the pre-application stage. The advice given by both the local planning authority and Historic England has consistently been that this building is too high. The riverside block comprises four full storeys with a fifth storey within a mansard style roof; it measures some 16.5m in height measured from ground finished floor level to the roof ridge. Surrounding buildings are notably lower; Victoria Bridge Court which is situated immediately to west of the site and which also has extensive river frontage is three-storeys. Nelson Villa's, a Victorian terrace in close proximity to the east, is two-storeys. The proposed building steps-down to three storeys' at each end adjacent to Victoria Bridge Court and Nelson Villas.

Design amendments during the processing of the application have resulted in the overall height of the proposed building being lowered so that it is now 1.825m lower than the original submission. Additional revisions to the design, in particular alterations to the roof structure, have sought to reduce the perceived height and dominance of the building/roof. Notwithstanding these amendments the proposed riverside block remains substantially taller than the buildings within its surroundings. Other amendments have been made to the detailing of some of the elevations as well as the proposed materials and these are welcomed.

The Council's Conservation Team have objected to the height of the proposed building and the unacceptable harm that the building will cause on surrounding heritage assets; these concerns are echoed by Historic England. The building will be visually incongruous as a result of its excessive height and will dominate the much lower buildings surrounding it. The building will be particularly harmful and incongruous when viewed from the river and from nearby Norfolk Crescent. For these reasons the development fails to comply with saved Policy D2 of the Local Plan which ultimately requires high design quality. Furthermore the proposal is contrary to saved Local Plan Policy D4 which requires development to respond to the local context as well as reinforce or complement attractive qualities of local distinctiveness or improve areas of poor design and layout.

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.' Here the excessive height of the riverside block and its resultant dominating impact is such that the setting of adjacent listed buildings will be harmed. The building will dominate and bear down on the Grade II listed buildings at nos. 8 & 9 Albion Place immediately to the north, diminishing their significance.

The unusual triangular green forward of the nearby Grade II* listed Norfolk Crescent are a crucial part of their setting as well as an important part of the setting of the Grade II listed buildings at Nelson Place West on their northern side. The proposed riverside block will in part front onto these gardens and will be highly visible from both Norfolk Crescent and from the green; indeed the proposed building will form a central element of the view and terminate it along Nelson Place West/Nelson Villas. The erection of a large incongruous building of the anomalous and excessive height proposed will harm setting of the green and thus undermine, in a harmful manner, the

setting of the Grade II* Norfolk Crescent and Grade II properties in Nelson Place West. The proposed development is contrary to saved Policy BH2 of the Local Plan which seeks to ensure, amongst other things, that development affecting the setting of a listed building preserves that setting.

With respect to any buildings or other land in a conservation area the Council has a statutory requirement under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of that conservation area. For the reasons set out above the Bath Conservation Area will neither be preserved or enhanced by this proposal, indeed it will be harmed. The excessively tall and thus incongruous riverside block will not preserve or enhance the setting of the adjacent green. The green is an important element of the conservation area in that it represents the western extremity of Bath's Georgian expansion, the street scene at the foot of the green will be interrupted by an excessively tall building which is out of context with its surroundings. The riverside is also an important element of the conservation area and a number of derelict or vacant sites along its northern bank offer significant opportunities to enhance the conservation area through sensitive redevelopment; the proposed development misses that opportunity.

Saved Local Plan Policy BH6 states, "Development within or affecting a conservation area will only be permitted where it preserves or enhances the character or appearance of the area in terms of size, scale, form, massing, position, suitability of external materials, design and detailing" [the policy then goes on to set out particular factors for analysis]. The proposed development is contrary to this policy as it fails to preserve or enhance the character or appearance of the conservation area by reason of its size/scale i.e. its height.

The proposed development will be harmful the Outstanding Universal Value (OUV) of the World Heritage Site for the reasons set out above. Core Strategy Policy B4 is clear that there is a strong presumption against development that will result in harm to the OUV of the World Heritage Site, its integrity and authenticity.

The application site is located within the area to which the Bath Western Riverside Supplementary Planning Document applies (hereafter referred to as the SPD). It is acknowledged that the SPD envisages roof heights of 3-5 storeys on the sites north of the River Avon. The SPD is also clear however that variations within these limits are necessary so that a uniform roof scape does not result; as such each site must be assessed on its own merits having regard to circumstances of the case and in particular the context. As set above the application site's context is one of significantly small/lower buildings. In addition this site is one most constrained sites' included within the SPD by virtue of its close proximity to neighbouring buildings and its close proximity to the fine Norfolk Crescent and other heritage assets; in addition it is one of the closest SPD sites to the historic City Centre.

It is important to note that the SPD's guidelines in relation to the number of storeys' are based upon typical residential roof heights i.e. floor to ceiling heights of 2.5m. The SPD's guidelines of 3-5 storeys on this site therefore translate as 7.5-12.5m; the proposed riverside block is 16.5m in height and indeed higher if the plinth is included.

Upper Bristol Road Block

This element of the proposal takes the form of a slightly curved building fronting the main road which has been design to take the form of a terrace. The building is three full storeys with a fourth storey within a mansard. In this case the proposed building is slightly lower than the neighbouring building situated immediately to the west (which is also three storeys with a fourth within a mansard). The neighbouring buildings to the east are approximately half the height at two-storeys. Slight reductions to the overall height of the building, which also reduce the scale of the roof, have been made during the processing of the application (a reduction of 0.85m) although the number of

storeys remains unchanged. Amendments have also been made to the detailing of some of the elevations as well as the proposed materials and these changes are welcomed.

The Council's Conservation Team object to the height of the Upper Bristol Road building as well as elements of its detail and form including the curvature of its plan; these concerns are largely shared by Historic England. Whilst these concerns are noted it is the case that the proposal as a whole has been the subject of extensive pre-application discussions over a significant period of time and the Council has not previously raised these concerns. As such it is not recommended that objections to the Upper Bristol Road element of the scheme are pursued and that it is instead accepted in its current, form.

Planning Obligations and Viability

Core Strategy Policy CP9 requires the provision of 30% affordable housing on residential developments in this part of Bath. The Council's adopted Supplementary Planning Document 'Planning Obligations' (2015) states that this requirement for affordable housing includes extra-care accommodation, sheltered/retirement dwellings and other forms of housing with care and support that has a C3 Use Class (Use Classes Order 1987 (as amended)). The applicant argues that the proposed development does not fall within Use Class C3 and as such is not liable for an affordable housing contribution.

It is argued that that the development does not fit within Use Class C3 for a number of reasons. It is argued that the individual apartments are not severable from the remainder of the development but part of a community with communal facilities and that the relevant planning unit is therefore the entire development, not the individual apartments. It is argued that the use is C2 (residential institutions) or if not sui-generis (a class of its own). The level of care provided is argued to be the key determining factor in whether the development is within Use Class C2 as well as the fact that the building is restricted to those in need of care. It is stated that all residents will benefit from an extensive range of lifestyle, care and well-being services; the operator will be required to provide these facilities and a significant service charge will be applicable.

Other local planning authorities are quoted as having concluded that the other developments undertaken by the applicant are Use Class C2 or sui-generis and it is stated that the current scheme is essentially the same as those schemes.

A S.106 Agreement is suggested by the applicant; it is suggested that this will set a number of controls including a residents minimum age limit of 60 (excluding spouses/partners), a requirement that the development is operated at all times as specialist assisted living accommodation for older people and that the range of services and facilities are provided to residents at all times by management. The restrictions and requirements set out in the proposed S.106 Agreement are relevant to the use class question.

The applicants/agents comments are noted but it is considered that the proposed development constitutes a residential development falling within the scope of Use Class C3. The units of accommodation proposed are self-contained with all of the facilities required for independent living. It is accepted that the development as a whole includes extensive communal facilities including care/health and leisure facilities but these are not akin to those provided within a residential institution; they are essentially optional extras which those individuals residing in the proposed apartments may use if they opt to.

The applicant has confirmed that there is no minimum care package and as such in theory the apartments may be occupied solely by residents receiving no care whatsoever. Even if care is provided within an individuals' apartment, this is considered ancillary to the principal use as a dwelling. The proposed development constitutes a Use Class C3 apartment building(s) albeit with

a higher than typical level of communal/health facilities; an affordable housing contribution is therefore required.

As stated Core Strategy Policy CP9 requires an affordable housing contribution of 30% in relation to residential developments in excess of 10 dwellings in this location. The policy however is also clear that the viability of the proposed development must be taken into account. Local planning authorities are advised (at Paragraph 026 of the NPPG) that "where an applicant is able to demonstrate to the satisfaction of the local planning authority that the planning obligation would cause the development to be unviable, the local planning authority should be flexible in seeking planning obligations". It goes on to state that "this is particularly relevant for affordable housing contributions which are often the largest single item sought on housing developments. These contributions should not be sought without regard to individual scheme viability".

A viability appraisal (undertaken by Savills) has been submitted by the developers and this seeks to establish whether an affordable housing contribution is viable.

The appraisal highlights that the proposed development includes extensive communal space (around 44% of the gross internal area) and as such there is no revenue income to offset the capital cost of these areas. Furthermore there are additional costs involved in the specialist design and specification of extra-care housing as well as other differentiating factors; development of this nature has significant in-built costs. The appraisal highlights that Pegasus Life must compete for land on the open market; they must compete against other developers (including non-specialist residential developers) many of whom have lower costs, and proportionately higher revenue. It is argued that as a result, extra-care housing will inevitably make a reduced affordable housing contribution as compared to a non-specialist house builder. It is argued that when this is applied to a brownfield site with a significant Existing Use Value and where viability issues lead to mainstream house builders unable to provide policy compliant levels of affordable housing, this may result in a very low or nil contribution from extra-care developments.

The onus is on the developer to demonstrate that only a reduced (or nil) level of affordable housing contribution is viable. The general approach is to calculate the Gross Development Value (GDV) of the proposed scheme and subtract from that all costs incurred in providing that development including construction costs, professional costs and finance costs for example and including the developers profit which in this case is 20% of the Gross Development Value. The resultant figure constitutes the site's Residual Land Value. If a scheme is to be viable the residual land value must equal or exceed the site's existing undeveloped value (the establishment of which must also be undertaken as part of the viability appraisal).

This exercise has been undertaken; the provision of affordable housing has correctly not been included as a cost and it has also been assumed that the development is exempt from the Community Infrastructure Levy (CIL) on the basis that more than 30% of the accommodation is non-saleable. The calculated residual land value does not equal or exceed the site's existing value, indeed it is significantly less, the site has a negative land value and as such the proposed scheme is not deliverable at present even without planning obligations. The viability situation is worsened by the fact that, as stated in the submitted appraisal, Pegasus Life paid in excess of the site's calculated existing value (although no figure is given). Ultimately it is concluded that it is not viable for the development to make any contribution towards the provision of affordable housing.

The figures and calculations set out in the submitted Savills appraisal cannot be taken at face value but must be carefully scrutinised by the Council; to this end Carter Jonas has been instructed to review the findings of the appraisal. Carter Jonas has undertaken this review and they have concluded that they are in agreement with the Savills appraisal in all respects. It has been highlighted that Pegasus Life need not have a 20% margin and that this could be reduced to 17.5%; the point is made however that even at this reduced margin the scheme would still not be viable, indeed a margin of 12.5% would be needed for the scheme to be in a break-even position

(a margin at this level is too low and unreasonable). It is accepted therefore that an affordable housing contribution cannot be reasonably sought in this case.

Ecology

The application site is derelict and contains a number of unoccupied buildings. There is an area of scrub along the southern boundary of the site. The River Avon is located immediately to the south of the application site and is designated as a Site of Nature Conservation Importance (SNCI).

No evidence of bats was recorded internally or externally on the site but there are a number of features on the site which have the potential to support bats. Horseshoe bats are known to commute along the river at this location and it is necessary to ensure that the river surface remains dark thus preserving the commuting route. This issue has been the subject of on-going discussions between the applicant's consultants, Natural England and the Council's Ecologist. Models have been run assessing light levels emitted when a range of lighting scenarios occur including just bedroom lights switched on, 60% of lights switched on and 100% of lights switched on. In each scenario Natural England has opined that the light levels over the river are too high; it must be noted however that these scenarios assume that the curtains are not drawn.

At the time of writing discussions between Natural England, the Council's Ecologist and the developer are on-going and are yet to be concluded. Natural England have not formally objected to the application. Given the lack of a formal objection and the given that mitigatory measures can be employed to minimise light spill across the river (which could have been secured by condition had the recommendation been to grant permission) it is not recommended that this issue forms a formal reason for refusal.

Conclusion and Planning Balance

The proposed redevelopment of the site is acceptable in principle and offers the opportunity to improve and enhance the character and quality of the townscape, conservation area and wider World Heritage Site. The design of the scheme currently proposed however is unacceptable; an unacceptable harmful impact on a range of heritage assets will result. It is noted that other elements of the scheme are acceptable, including the highway arrangements and its impact on residential amenity for example but these do not outweigh the need for the development to conserve heritage assets which carries significant, and in this case overriding weight.

The harm caused by the proposed development as set out in detail above is considered to be 'less than substantial harm' in NPPF terms but harm nevertheless. As quoted above Paragraph 134 of the NPPF requires that in respect of development that will result in less than substantial harm that harm must be weighed against any public benefits that the proposal brings in reaching a final decision.

It is acknowledged that the proposed development brings with it some public benefit although these benefits are considered to be overstated in the planning submission. The development will result in the redevelopment of a vacant edge-of-centre previously developed site enabling it to be brought back into an active use (as envisaged by the SPD); this is unquestionably a benefit. Be that as it may this is not a site that has been vacant for a significant period of time; the site was only recently vacated. Furthermore whilst the redevelopment of the site offers the opportunity to visually enhance the area, the site is not considered to be causing significant harm to the character or appearance of the area in its current state. The site was redeveloped as recently as the 1990s and the existing commercial buildings on the site are typical of those found on the major routes in/out of the city.

The provision of 68 residential units is a benefit in itself and these will contribute towards meeting the city's housing needs; it is also noted however that the development will do nothing in respect of

meeting the city's need for affordable housing as none is to be provided. The enhancement of the riverside and the indirect economic impacts of the development in respect of employment, including during the construction phase, all constitute benefits.

The harm that the proposed development will cause to the setting of adjacent listed buildings and the wider conservation area carries significant and statutory weight. Furthermore the NPPF advises at Paragraph 132 that the more important an asset, the greater the weight that should be attached to its conservation. The site is within the World Heritage Site, World Heritage Sites are considered to be of very high importance in heritage asset terms; the need to conserve the World Heritage Site therefore carries very great weight.

The significant weight that must be attached to the preservation/conservation of the relevant heritage assets outweighs the benefits of the proposal in this case. The harm that the development will cause, whilst 'less than substantial' will none the less be unacceptable; there are no overriding public benefits. As such and in accordance with Paragraph 134 of the NPPF it is recommended that permission be refused.

Recommendation:

REFUSE

1 The proposed development (specifically the riverside building) by reason of its excessive and incongruous height will have an unacceptable harmful impact upon surrounding heritage assets. The setting of nearby listed buildings will be undermined to an unacceptable degree. The proposed building is excessively tall and fails to respect its context; as a result the development will have an unacceptably harmful impact upon the character and appearance of the surrounding conservation area as well as the Outstanding Universal Value of the Bath World Heritage Site, its authenticity and integrity. The application is contrary to the Bath & North East Somerset Core Strategy in particular policies CP6 and B4, as well as the saved Bath & North East Somerset Local Plan in particular saved policies D2, D4, BH2 and BH6. This harm to heritage assets outweighs the public benefits that the proposed development brings.

PLANS LIST:

This application has been determined on the basis of the following plans and drawings:

Proposed Site Plan: Drawing No. 1002_01_98 P2
Proposed Lower Ground Floor Plan: Drawing No. 1002_07_099 P2
Proposed First Floor Plan: Drawing No. 1002_07_101 P2
Proposed Second Floor Plan: Drawing No. 1002_07_102 P2
Proposed Third Floor Plan: Drawing No. 1002_07_103 P2
Proposed Roof Plan: Drawing No. 1002_07_104 P2
South [River] Elevation: Drawing No. 1002_07_200 P2
North Elevation: Drawing No. Drawing No. 1002_07_201 P2
South [Garden] Elevation: Drawing No. 1002_07_202 P2
Side Elevations [Gable]: Drawing No. 1002_07_203 P2
Section 01/02 North - South: Drawing No. 1002_07_300 P2
Section 03 North - South: Drawing No. 1002_07_301 P2
Section 04/05 East - West: Drawing No. 1002_07_304 P2
Site Section 01 North-South: Drawing No. 1002_07_310b P2
Context Elevation 01 South: Drawing No. 1002_07_311_b P2
Bay Study South: Drawing No. 1002_07_400 P2
Bay Study North: Drawing No. 1002_07_401 P2
Bay Study East [Garden]: Drawing No. 1002_07_402 P2
Bay Study North [Courtyard]: Drawing No. 1002_06_403 P2

Bay Study South [Garden]: Drawing No. 1002_06_404 P2

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority please note that CIL applies to all planning permissions granted on or after this date. Thus any successful appeal against this decision may become subject to CIL. Full details are available on the Council's website www.bathnes.gov.uk/cil

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. Notwithstanding informal advice offered by the Local Planning Authority the submitted application was unacceptable for the stated reasons and the applicant was advised that the application was to be recommended for refusal. Despite this the applicant chose not to withdraw the application and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision. In considering whether to prepare a further application the applicant's attention is drawn to the original discussion/negotiation.

Case Officer:
Chris Gomm

Authorising Officer:
Sarah James