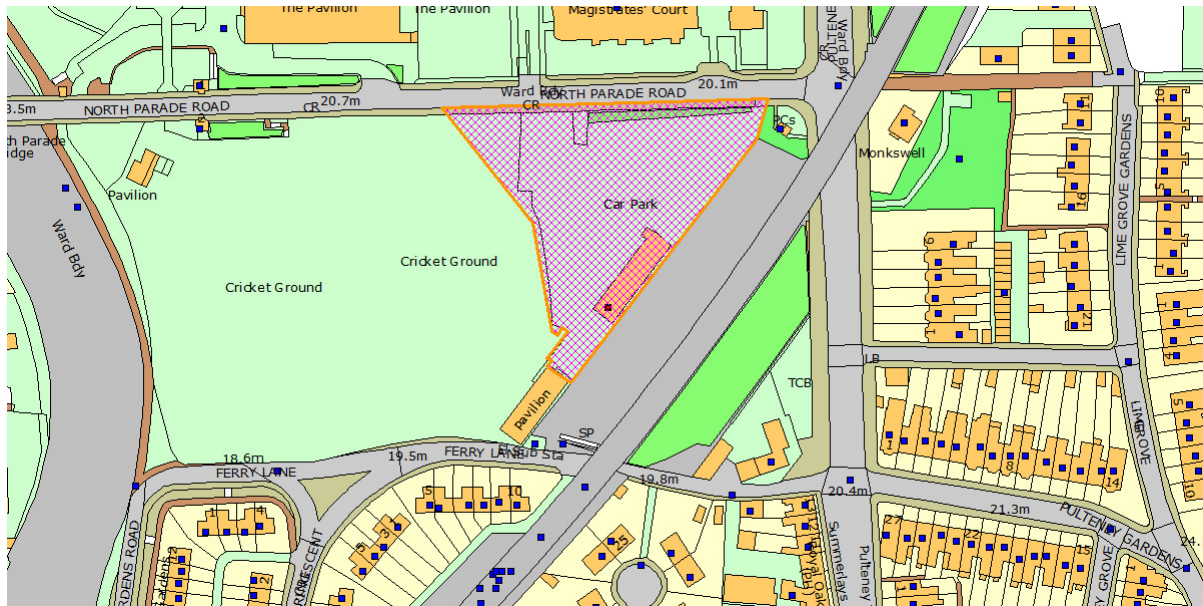


Item No: 02
Application No: 17/04338/FUL
Site Location: Bath Cricket Club North Parade Road Bathwick Bath Bath And North East Somerset



Ward: Widcombe **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor I A Gilchrist Councillor Jasper Martin Becker

Application Type: Full Application

Proposal: Erection of 136 no. bed spaces of purpose built student accommodation (sui generis) and associated communal and ancillary facilities, re-provision of car parking, demolition and replacement of indoor cricket training facility, formation of new access, and landscaping works.

Constraints: Article 4 Bath Demolition Wall, Article 4 Reg 7: Estate Agent, Article 4 HMO, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Conservation Area, Contaminated Land, Policy CP9 Affordable Housing Zones, Flood Zone 2, Flood Zone 3, Policy LCR5 Safeguarded existg sport & R, LLFA - Flood Risk Management, MOD Safeguarded Areas, Policy NE5 Ecological Networks, Railway, River Avon and Kennet & Avon Canal, SSSI - Impact Risk Zones,

Applicant: Gilltown Ltd.
Expiry Date: 16th March 2018
Case Officer: Chris Griggs-Trevarthen

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

REPORT REASON FOR REPORTING TO COMMITTEE

Councillor Patrick Anketell-Jones has requested that the application be referred to the Development Management Committee if officers are minded to refuse the application.

Councillor Anketell-Jones' comments are summarised in the representations section below.

In accordance with the Council's Scheme of Delegation, the application was referred to the chairman of the Development Management Committee who has decided that the application should be determined by committee.

DESCRIPTION

The application site comprises a triangular parcel of land measuring approximately 0.47 hectares located on the east side of the river adjacent to Bath city centre. It is currently occupied by a 128 space car park, which is privately owned and managed by the Bath Cricket Club, and an indoor cricket training facility located adjacent to the south-east boundary.

The railway line runs past the south-east boundary of the site, but is separated by a wooded embankment. North Parade Road is to the north of the site and is situated above the level of the car park with current vehicular and pedestrian access achieved via the existing ramp. The cricket pitch lies immediate to the west of the site and the cricket pavilion is located adjacent to the south-west corner of the site.

The site is bordered on all sides by trees. The most substantial of these trees line North Parade Road, but there are also a significant number of trees on the railway embankment. The trees along the western boundary of the site are smaller and help to define the edge of the cricket pitch.

The site is located within flood zone 3a, the Bath Conservation Area and the World Heritage Site.

The application proposes the demolition of the existing indoor cricket training facility and the erection of 136 bed spaces of purpose built student accommodation (PBSA) and a replacement indoor cricket training facility. The number of bed spaces was reduced from 142 to 136 during the course of the application. The impact of these changes is discussed later in this report. With the exception of the indoor cricket training facility, the proposed building would be raised up on stilts so that 108 car parking spaces can be provided at ground level underneath the building. The new cricket training facility will include a mezzanine floor containing a gym.

The existing access ramp will be removed and a new vehicular access ramp alongside a new pedestrian ramp down to the cricket ground/pavilion and a short pedestrian bridge up to the student accommodation at first floor level. There is a secondary pedestrian access in the north-east corner of the site near to the junction with Pulteney Road.

RELEVANT PLANNING HISTORY

The site has been subject to the following relevant planning applications:

Planning application reference: 01/01495/FUL

Erection of a new clubhouse and cricket school following demolition of existing

Application status: WITHDRAWN

Planning application reference: 02/02226/FUL

Additional use of 1st floor of pavilion for physiotherapy service
Application status: PERMITTED

Planning application reference: 02/02496/FUL
Erection of a new clubhouse and cricket school following demolition of existing
(Resubmission application)
Application status: PERMITTED

Planning application reference: 11/03055/FUL
Refurbishment and extensions of cricket school and modifications to club house
Application status: PERMITTED

Planning application reference: 12/04482/FUL
Reconstruction of fire damaged cricket pavilion building.
Application status: PERMITTED

Planning application reference: 12/04483/FUL
Reconstruction of fire damaged cricket pavilion building including minor extension
Application status: PERMITTED

Planning application reference: 13/01596/FUL
Refurbishment and extension of the Cricket School and construction of a score box
Application status: PERMITTED

Planning application reference: 14/00645/FUL
Erection of cricket nets
Application status: PERMITTED

Planning application reference: 16/04185/FUL
Provision of new canopy on existing raised terrace in front of Pavilion
Application status: PERMITTED

The following planning applications for other sites are also relevant:

Address: Former St John's School, Pulteney Road, Bathwick
Planning application reference: 16/01314/FUL
Redevelopment of former St John's School following demolition of former school building
including refurbishment of 33/34 Pulteney Road in order to build student accommodation
(183 bedrooms), occasional event parking and associated landscaping.
Application status: PERMITTED

Address: Pickfords, 34-35 Lower Bristol Road, Bath
Planning application reference: 17/03774/OUT
Outline application for the erection of two buildings to provide residential accommodation
for students (up to 204 bedrooms) with ancillary accommodation and facilities and external
courtyards, alterations to existing pedestrian and vehicular access, and associated
infrastructure following demolition of existing building. Access, appearance, layout and
scale to be determined and landscaping reserved.
Application status: PERMITTED (Pending S106 agreement)

EIA REGULATIONS

The Council have adopted an EIA screening opinion in respect of the proposals (ref: 17/01648/SCREEN). It is considered that, having regard to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, the application does not represent EIA development which requires an Environment Statement.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

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

Drainage and Flooding: NO OBJECTION, subject to conditions.

Environmental Protection: NO OBJECTION, subject to conditions.

Archaeology: NO OBJECTION, subject to conditions.

Economic Development and Regeneration: NO OBJECTION, subject to obligation.

Contaminated Land: NO OBJECTION, subject to conditions.

Highways (First response): NO OBJECTION, subject to conditions

Highways (Second response): NO OBJECTION, subject to conditions

Avon and Somerset Police: NO OBJECTION

Network Rail: NO OBJECTION

Urban Design (First response): OBJECTION

The proposed scheme is unacceptable due to height, scale, massing, public realm, elevation design and roof design in relation to both immediate and city-wide context. Amendments to the scheme since pre-application have consistently failed to address poor design solutions primarily due to the constraints that raising the building above the flood level creates.

Urban Design (Second response): OBJECTION

The amendments to the scheme have not overcome the previous objections.

Conservation (First response): OBJECTION

Due to the footprint, building form and height it is considered that the development would be at odds with local character and cause harm to the World Heritage Site and Bath Conservation Area. This harm would be at the higher end of 'less than substantial'.

Conservation (Second response): OBJECTION

The slight reduction in height and redistribution of building bulk and positioning fail to overcome the strong concerns resulting from overdevelopment as identified in the original submission.

Landscape (First response): OBJECTION

The proposals are unlikely to conserve or enhance local landscape character, landscape features and local distinctiveness. Furthermore, the proposed development would be unlikely to preserve or enhance those elements which contribute to the special character or appearance of the Conservation Area and would likely harm the outstanding universal value of the World Heritage Site, its authenticity and integrity

Landscape (Second response): OBJECTION

A comparison of the superseded Visually Verified Montages previously submitted (Nicholas Pearson Associates October 2017 NPA 10900 GILL) and those that replace them (Nicholas Pearson Associates December 2017 NPA 10900 GILL) make clear that proposed changes to the development proposals would not result in a diminution or mitigation of the adverse landscape and visual impact of the proposals to any significant degree.

Arboriculture (First response): OBJECTION

The site is surrounded by trees which are protected by the Bath Conservation Area. Combined, these trees contribute towards the green infrastructure and linkages beyond the site. The close proximity of the proposed building to the trees along the south eastern boundary results in a requirement for significant cutting back and loss of trees and will result in pressure for future pruning and removals. The scheme results in the avoidable loss of trees without sufficient space for replacement.

The scheme does not respect the current and future growth of the offsite trees to the south east and does not enhance or reinforce the green infrastructure on and continuing offsite.

Arboriculture (Second response): OBJECTION

The revised proposals have not overcome the previous concerns. There is particular concern about the proposals to purchase a strip of land from Network Rail to enable the felling of trees on the embankment.

Parks Arboricultural Team: OBJECTION

The scheme has been objected to as it proposes the removal of 2 large Semi Mature Lime trees T26C2 and T27B1 from the line of Lime trees growing in the highway verge on North Parade Road that the Parks and Greenspaces Team are responsible for managing. (Officer Note: following the receipt of revised plans only 1 tree is now proposed for removal on North Parade Road)

Also the close proximity of the proposed buildings to these large Lime trees is likely to result in requests from the occupants to have works carried out to the trees e.g. to allow more light to their rooms and height reduction requests due to concerns regarding potential tree failure.

Ecology (First response): NOT ACCEPTABLE IN CURRENT FORM

Completed habitat survey and lighting reports have also been provided. The light spill levels from the development are acceptable, subject to the final details of lighting design being secured by condition.

The tree lines adjacent to the site are the main features of ecological value, offering connective green infrastructure and habitat suitable for a range of wildlife. This would include bats, which utilise such features as part of their foraging and commuting flight routes, potentially connecting with other nearby habitats of value further afield such as the River Avon.

The proposal appears not to allow space for green infrastructure and the proposals will harm and result in future pressures to remove or reduce adjacent trees and tree lines, as a result of the mass of the proposal and its proximity to trees. Space for new planting is missing.

Ecology (Second response): NOT ACCEPTABLE IN CURRENT FORM

The amendments to the scheme have not overcome the previous objections.

Planning Policy: OBJECTION

The 2008 Strategic Flood Risk Assessment (SFRA) shows the application site is within Flood FZ3a. Land on the University of Bath campus is a reasonably available site appropriate for the proposed development. Therefore it fails to pass the sequential test for flooding and is considered contrary to Core Strategy Policy CP5.

Emergency Planning: COMMENTS

There is no functional safe access or egress to this site during a 1% AEP flood event which will worsen with climate change. This presents an unacceptable hazard to the evacuation route.

Locating student accommodation in a hazardous location could possibly result in a large number of residents entering flood waters to evacuate the building. It has the potential to put a massive burden on the emergency services if called to aid residents who were unable to evacuate before the flood.

The flood evacuation plan needs to adapt to changes in forecasting and for future development. Flooding can also come from a variety of forms and the current plan does not consider what would happen if the route is blocked, or if, during the lifetime of the development, the route needs to change.

There is no mention in the plan in regards to helping disabled or vulnerable people who may be visiting friends and are in the building when a flooding event occurs.

There needs to be an evacuation plan for the cricket club in co-ordination with the student accommodation.

It is not clear how students will know the difference between a fire evacuation and a flood evacuation, who will be responsible for closing the car park during a flood event and how members of the public and residents who may be elsewhere when the flood occurs will be informed not to enter the building.

In conclusion, looking at the evacuation plan it is considered that placing a large number of people into an area of high risk flooding, using the Environment Agency's warning system, which is done on a best endeavours basis, is not a suitable way of initiating an evacuation and therefore we feel more work needs to be undertaken to ensure that a more guaranteed arrangement is in place to understand timings for a safe evacuation.

Environment Agency (First response): OBJECTION

The FRA submitted with this application does not comply with the requirements set out in the Planning Practice Guidance and the National Planning Policy Framework. The submitted FRA does not therefore provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

This is considered to be a dangerous place to locate student accommodation, as there will be areas of extremely hazardous flooding in proximity to the living accommodation.

Environment Agency (Second response): COMMENTS

The Flood Risk Assessment addendum/flood plan has sought to avoid the unsafe depth/functional safe access/egress issue by stating they will evacuate before flooding occurs.

The applicant has emphasised that this is a managed scheme and that there will be no additional demands placed on the emergency services in a flood event. However, this is heavily reliant on advance warning, adequate site management and emergency planning for the lifetime time of the development which cannot be guaranteed.

The applicant expects 12 hours advance warning of a flood alert. This is not always possible. Although there is often advance warning in Bath, this is not guaranteed and the Environment Agency endeavour to issue flood alerts at least 2 hours before flooding is forecast. Again, this is done on a best endeavours basis.

This could also be compromised should the site no longer have permanent on site supervision or should other related factors change. It is also dependent on the University of Bath providing emergency transportation and accommodation.

There will be no functional safe access or egress to this site during a 1% AEP flood event. This situation worsens when you consider increased climate change scenarios - the amount and depth of flooding both increase. North Parade could be under approximately 900mm of floodwater. This is considered a hazardous depth of flooding for an escape / access egress route.

This area should be considered as one of the highest risk locations within flood zone 3a in Bath and North East Somerset area because it floods frequently and to significant depths.

There is at least a 5% chance of flooding in any one year and in extreme events it will have flood depths of over 2m. Over the lifetime of the development, this flood depth could increase to over 4m considering the predicted impacts of climate change. Even in relatively frequent flood events, the depth of flooding could be approximately 1m.

The Environment Agency considers this to be one of the least sequentially preferable locations for more vulnerable development within flood zone 3a. This proposal introduces a large number of people into an area at very high flood risk.

Historic England (First response): COMMENTS

By virtue of its massing and height, the proposed development will erode the green setting of the city, one of the attributes of the Outstanding Universal Value (OUV) of the City of Bath World Heritage Site, and cause harm to the character and appearance of the Conservation Area. A lower, more fragmented building would have far less impact and that the quality of design and the response to its context should be improved, particularly in regard to the North Parade Road elevation. The degree of harm to is less than substantial, and therefore the harm of the proposals must be weighed against any perceived public benefits as required by para 134 of the NPPF.

Historic England (Second response): COMMENTS

Whilst the block facing onto North Parade Road has been reduced in height, this is a very modest adjustment when considering the overall quantum and massing of the proposed development. There are also some minor improvements to the balustrading over the raised plinth on the north side of the side and some adjustments to the roof form further back towards the railway embankment. However, these changes are not a meaningful response to the previous advice. There remains concern that the revised submission does not include a Heritage Impact Assessment that is required to satisfy the statutory requirements of the NPPF.

Sport England (First response): OBJECTION

There is insufficient information to adequately assess the proposal or to make a substantive response.

Key issues missed in the design: Access to the building (including disabled parking), reception/circulation space, changing rooms, access/egress to hall (including fire escape), and vertical access (lift)

Further information needed in terms of detailed design to assess 'ECB compliance':
Lighting specification, flooring specification, netting layout and specification.

Sport England (Second response): SUPPORT

The proposed development would result in an improved level of sport and recreation provision in the area.

Transition Bath (First response): OBJECTION

Combined Heat and Power (CHP) heating and hot water system is not a renewable technology and thus will not meet B&NES's Placemaking Plan's 10% carbon reduction target through renewables

Transition Bath (Second response): COMMENTS

The revised application has the potential to be compliant with B&NES council's SCR1 Placemaking Plan carbon requirements, and that Air Source Heat Pump (ASHP) is a better lower carbon long-term solution than CHP.

Concern that the 'backup or parallel gas boilers' will be used not as a backup but a primary source of heat and hot water.

There is also concern that the developer hasn't demonstrated an air quality strategy for the building which would maintain good quality air all year-round.

Recommend planning conditions to demonstrate that there is sufficient hot water storage capacity, that the heat pumps are configured to act as the primary source of heat and hot water and that the estimated percentage of heat and hot water will deliver the 10% reduction in carbon reduction required by SCR1.

Bath Preservation Trust (First response): OBJECTION

Object to the principle of student accommodation on this site and urge B&NES to resist yet more Purpose Built Student Accommodation on valuable brownfield land which should be developed to meet local housing need, contribute to local housing targets and prevent further development pressure on greenfield sites on the periphery of the city.

The proposed scheme by virtue of its scale, height and massing would be harmful to the setting of significant designated heritage assets, would neither preserve nor enhance the character and appearance of the conservation area, would be detrimental to the visual amenity of the street scene and would detract from the special qualities of the WHS. The scheme would be contrary to Section 12 (Conserving and Enhancing the Historic Environment) of the NPPF, policies B1, B2, B4, and CP6 of the B&NES Core Strategy and policies CP6, D.1, D.2, D.5, HE1 of the Placemaking Plan.

Bath Preservation Trust (Second response): OBJECTION

There is no meaningful improvement to the harmful impact of the scale, massing and bulk of the overall scheme on the special qualities of the WHS, conservation area and nearby multiple heritage assets. It continues to present hard, dense and impermeable elevations and an unacceptably high quantum of development on what is currently an open green site that contributes positively to the OUV of the WHS.

Widcombe Association (First response): OBJECTION

The Widcombe Association are concerned about the proposals for another PBSA development in the Pulteney Road area and suggest that the market for student accommodation may be reaching saturation point. They consider that it might seem a more suitable site than many for students to live and that it would be compatible with the

cricket academy, but have concerns about potential air pollution and noise. They suggest that the car park should be confined to the footprint of the building rather than extending beyond it and indicate that there is no obvious provision for level access to the student accommodation.

They also state that, although similar to the magistrates' court opposite, the scale of the proposal dwarfs the cricket pavilion and reduces the open aspect of the green playing field. They feel there should be a more pronounced stepping down towards the pitch to maintain some of this sense of openness.

Widcombe Association (Second response): OBJECTION

Despite a slight reduction in height and number of bedrooms and adjustments to enable the retention of one more tree, the Widcombe Association consider that the majority of their previous concerns have not been addressed.

The Widcombe Association also consider the allegation that land on the University campus is not 'available' because it is only suitable for a different 'species' of PBSA is ludicrous. They point to the growth of the universities creating an imbalance of the community in Bath. They make a number of criticisms of the legal opinion submitted by the applicant and make the following points:

Whilst the decision of an inspector has no authority in law it will always be a relevant matter in considering similar issues;

The application should be considered on its own merits and there are material differences between this site and others which have been approved;

The potential impacts of development in a flood plain are of a different order and nature to those concerned with the retail sequential test;

To justify the development on the basis of a shortfall in student accommodation would be a dangerous concession to make, to the detriment of the character of Bath.

Federation of Bath Residents' Association (FoBRA): OBJECTION

This proposed development is considered by FoBRA as being too high, too bulky, too massive, one which would dwarf the current clubhouse and, importantly one which would severely restrict iconic city views. FoBRA believes that more residential housing, including affordable housing, should be built instead of another PBSA so near to the city centre boundary.

University of Bath: SUPPORT

The University is bringing forward additional student accommodation on its estate but that alone will not meet the identified need for PBSA within the city. The University's plans for additional student accommodation on its estate, are at an early stage but in any case it is clear that the available capacity of the campus to accommodate further development is ultimately limited and insufficient to meet identified needs, and academic and other facilities that need to be co-located on the Claverton Campus.

These accommodation proposals, are therefore supported by the University as they would help to address the anticipated accommodation needs in the short to medium term, and

meet the demand from students seeking accommodation in the private rented sector in the city without fuelling applications to increase the number of HMOs.

Councillor Patrick Anketell-Jones: COMMENTS

There is considerable public interest in the provision of purpose built student accommodation which has an important role to play in limiting the spread of student HMOs.

The development site is in a flood risk area and it is limited for alternative uses.

The redevelopment of the Cricket School offers significant potential to improve public health and leisure opportunities.

Councillor Ian Gilchrist: COMMENTS

Cllr. Gilchrist has submitted comments on behalf of two local residents. These have been summarised in the third parties/neighbours section below.

THIRD PARTIES/NEIGHBOURS: Letters of SUPPORT have been received from 23 third parties. The main points raised were:

Bath Cricket Club plays a vital role in promoting sport and healthy lifestyles which are of a benefit to the community. The proposals will generate income for the club to help secure its future and to be put towards the growth of cricket in the local area resulting in further benefits to the community.

The proposed new cricket school facilities will improve access to sports and exercise for various members of the community and will enhance the community and recreational sport offer within the city.

The site is a good location for student accommodation, near the city centre and close to public transport, and is not suitable for alternative development due to the flooding issues. Purpose built student accommodation will also take the pressure off HMO developments in other parts of the city helping to preserve family dwellings and communities.

The proposed building is a sympathetic design which is appropriate for the location and will improve the view from North Parade Road over what is otherwise an ugly car park.

Letters of OBJECTION have been received from 33 third parties. The main points raised were:

There are too many student developments within the area which is creating an imbalance in the community. New student accommodation should be located on the University campus.

Student accommodation will generate additional noise, disturbance, traffic, congestion, air pollution and put additional strain on public transport.

The site should be utilised for affordable housing instead of student accommodation.

There is no need for luxury student accommodation and there is a risk of it being turned into short-term lets.

The scheme is overdeveloped with too many rooms for the size of building, lack of space around the building for landscaping and a density which is out of keeping with the area.

The height, scale, massing and density of the proposed building is too great and results in a massive, intrusive building which is inappropriate for the site and will block views towards St Johns Church, Beechen Cliff and the other surrounding green hillsides, particularly as one moves along North Parade Road.

The site is at risk of flooding.

The existing open, green space of the cricket ground, its car park and the surrounding trees contribute towards the character of the Conservation area and the Outstanding Universal Values of the World Heritage Site and provides the setting for the historic core of Bath. The proposed building will block views of this open space, destroy this sense of spaciousness and will make the cricket pitch feel enclosed and oppressive.

The proposed building is a poor design with poor elevations.

The proposals will result in the loss of trees which will adversely affect the local area and wildlife.

Construction traffic will impact upon local traffic and noise conditions.

Loss of parking spaces for the city centre.

There will be a loss of light and outlook from neighbouring property, Monkswell, on Pulteney Road.

The extent of glazing in the proposals will result in significant light pollution.

There has been a lack of consultation by the developer.

The majority of representations have no objection to the replacement of the indoor cricket training facility.

POLICIES/LEGISLATION

The Development Plan for Bath and North East Somerset comprises:

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

RELEVANT CORE STRATEGY POLICIES

SD1 Presumption in favour of Sustainable Development

DW1 District Wide Spatial Strategy

- B1 Bath Spatial Strategy
- B4 The World Heritage Site and its Setting
- B5 Strategic Policy for Bath's Universities
- CP2 Sustainable Construction
- CP3 Renewable Energy
- CP5 Flood Risk Management
- CP6 Environmental Quality
- CP7 Green Infrastructure
- CP9 Affordable Housing
- CP10 Housing Mix
- CP13 Infrastructure Provision

RELEVANT PLACEMAKING PLAN POLICIES

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

- SCR1 On-site renewable energy requirement
- SCR5 Water efficiency
- SU1 Sustainable Drainage
- D1 General Urban Design Principles
- D2 Local Character and Distinctiveness
- D3 Urban Fabric
- D4 Streets and spaces
- D5 Building Design
- D6 Amenity
- D8 Lighting
- D10 Public Realm
- HE1 Historic Environment
- NE2 Conserving and Enhancing the Landscape and Landscape Character
- NE2A Landscape Setting of Settlements
- NE3 Sites, Species and Habitats
- NE4 Ecosystem Services
- NE5 Ecological Networks
- NE6 Trees and Woodland Conservation
- NE1 Development and Green Infrastructure
- PCS1 Pollution and Nuisance
- PSC2 Noise and Vibration
- PCS3 Air Quality
- PSC5 Contamination
- PCS7A Foul Sewage Infrastructure
- LCR6 New and Replacement Sports and Recreational Facilities
- LCR9 Increasing the Provision of Local Food Growing
- ST1 Promoting Sustainable Travel
- ST7 Transport Requirements for Managing Development
- BD1 Bath Design Policy

OTHER GUIDANCE/SPD

- Houses in Multiple Occupation in Bath SPD, 2017
- City of Bath World Heritage Site Setting SPD, 2013

Bath City-wide Character Appraisal SPD, 2006
Planning Obligations SPD, 2015
Draft Pulteney Road Character Appraisal: Bath Conservation Area, 2015
Strategic Flood Risk Assessment (SFRA) of Bath and North East Somerset, 2009
Green Infrastructure Strategy 2013
West of England Sustainable Drainage Developer Guide, 2015
Bath Building Heights Strategy, 2010

National Planning Policy Framework (March 2012) and the National Planning Practice Guidance (March 2014) can be awarded significant weight.

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

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

OFFICER ASSESSMENT

The main issues to consider are:

1. Principle of Student Accommodation
2. Replacement Sports Facilities
3. Flood Risk
4. Heritage, Character and Appearance
5. Trees and Woodland
6. Ecology
7. Residential Amenity
8. Highways and Parking
9. Contaminated Land
10. Archaeology
11. Drainage
12. Sustainable design, construction and energy
13. Community Infrastructure Levy
14. Other Matters
15. Planning Balance

1. PRINCIPLE OF STUDENT ACCOMODATION

Policy B1 of the Bath and North East Somerset Core Strategy (2014) enables the provision of new-campus student accommodation, subject to the provisions of policy B5, to allow for an increase in the overall number of students whilst avoiding growth of the student lettings market. Policy B5 states that:

Proposals for off-campus student accommodation will be refused within the Central Area, the Enterprise Area and on MoD land where this would adversely affect the realisation of other aspects of the vision and spatial strategy for the city in relation to housing and economic development.

Although lying very close to the Central Area, the site does not fall within any of the areas identified within policy B5 where student accommodation would be refused.

Furthermore, the site is close to the city centre where there is good access to services and public transport which are likely to be utilised students. The site is therefore considered to be relatively sustainable in terms of the accessibility of its location and there is no objection to the principle of student accommodation in this area.

2. REPLACEMENT SPORTS FACILITIES

Policy LCR6 of the Bath and North East Somerset Placemaking Plan (2017) states that replacements or improvements to existing sports and recreation facilities will be permitted within existing town or settlements provided that it complements the existing pattern of recreational facilities and it is accessible by sustainable transport modes.

The existing indoor cricket training facility clearly forms part of the existing pattern of sport and recreational facilities in Bath. Its replacement with new, improved facilities on the same site is therefore clearly complimentary to the existing pattern of recreational facilities. Furthermore, the site is close to the city centre and accessible by a wide range of sustainable transport modes including walking, cycling and public transport.

The second part of policy LCR6 states that replacement sports or recreational facilities will only be permitted where: (a) the proposals will not have an unacceptable impact on landscape character or areas of ecological interest; (b) the re-use or adaptation of existing buildings is not practical or viable and that the replacement facilities are of a scale appropriate to the location and recreational use; and, (c) if an ancillary facility is proposed, it is well-related to the attraction it serves.

The matters in respect of (a) are discussed in more detail other sections of this report below.

In terms of (b), the existing indoor cricket training facility is too small to comply with the England and Wales Cricket Board (ECB) standards. Whilst the existing building has undergone refurbishment in the past (ref: 13/01596/FUL), the size constraints mean that the existing building will never be able to comply with the ECB standards for indoor cricket training facilities. Re-use or adaptation of existing buildings is not practical for achieving the proposed development.

In terms of (c), the proposed facility also includes an ancillary gym located at mezzanine level. The gym is proposed for use by cricket club members and students living in the proposed accommodation. Its size and function are clearly related to the use of the indoor cricket training facility and the cricket ground more widely and can be deemed ancillary.

The principle of the replacement indoor cricket training facility is therefore considered acceptable.

3. FLOOD RISK

Paragraph 100 of the NPPF states that inappropriate development in areas of risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. It goes on to state that this will be achieved, inter alia, through the application of the Sequential Test and, if necessary, the Exception Test.

The Strategic Flood Risk Assessment (SFRA) for Bath and North East Somerset indicates that the site falls within Flood Zone 3a where there is a high probability of flooding. Flood Zone 3a is defined as land having a 1 in 100 or greater annual probability of river flooding.

The applicant's site specific FRA indicates that the site has a 1 in 20 annual probability of river flooding. The risk of flooding on this site is therefore considered to be very high.

The Flood Risk Vulnerability Classification Table within the NPPG classifies student halls of residence as 'more vulnerable' and assembly and leisure uses, such as the proposed indoor cricket training facility, as 'less vulnerable'.

The NPPG indicates that where developments contain different elements of vulnerability, the highest vulnerability category should be used. The proposal is therefore considered to be in the 'more vulnerable' category of development.

The Flood Risk Vulnerability and Flood Zone 'Compatibility' Table within the NPPG indicates that 'more vulnerable' development can be appropriate in Flood Zone 3a, provided that the Sequential Test and Exception Test are passed.

Sequential Test

Paragraph 101 of the NPPF states that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

The applicant has submitted their assessment of the availability of sequentially preferable alternative sites for the development. The area of search for alternative sites was defined as being within the urban area of Bath with the following additional criteria:

1. All sites within the designated Central Area and Bath Enterprise Area have been discounted due to the restrictions placed upon student accommodation in these areas by policy B5 of the Core Strategy.
2. Only sites within 300m of bus stops for bus routes serving the University of Bath have been included.
3. All sites within or partly within Flood Zone 3 have been discounted.
4. All sites designated as Green Belt, Area of Outstanding Natural Beauty or with ecological designations (Sites of Special Scientific Interest, Sites of Nature Conservation Interest and Local Nature Reserves) have also been discounted.

It is considered that given the proposed accommodation is intended to serve students attending the University of Bath, restricting the area of search to the city of Bath is reasonable.

It is also considered reasonable to discount sites within the Central Area and Bath Enterprise area and those sites with restrictive environmental designations, as suggested by criteria 1 and 4.

However, it is considered that criterion 2 is unduly restrictive in limiting the area of search. Whilst there would obviously be a preference for alternative sites to be close to bus routes for the university, accessibility within most areas of the city of Bath is good enough to serve student accommodation. Furthermore, it is considered that the benefits of providing greater accessibility to public transport would not outweigh the reduced flood risk arising from a sequentially preferable site that is further than 300m from a bus stop.

In respect of criterion 3, it is considered that ruling out all sites which are within or partly within Flood Zone 3 fails to capture all sites which would be sequentially preferable to the application site. The application site is entirely within Flood Zone 3a and has a 1 in 20 annual probability of river flooding. The Environment Agency has described this site as possibly the least sequentially preferable site in the district in terms of flood risk. Alternative sites which are only partly within Flood Zone 3a or which have an annual probability of flooding less than 1 in 20 should also be included within the area of search as these would represent sequentially preferable sites.

Notwithstanding the above reservations about the search criteria, the applicant has reviewed sites within the Housing Land Availability Assessment 2013 and the updated HELAA (2015) and sites on the planning register to identify sequentially preferable sites. They have also undertaken searches with property agencies to identify additional sites. This identified a total of 31 sites within the area of search.

The applicant discounts 22 of these sites as not being suitable for the development and discounts the remaining 9 sites as being 'unavailable'.

The applicant initially argued that for a site to be 'reasonably available' it must be available for sale to them to enable them to undertake the development. However, following a review of appeal decisions they have accepted that the correct approach is that the availability of sites is appropriately tested by reference to the availability of land for a similar development to that proposed rather than the issue of the availability of such land to the applicant in question.

Whilst it is broadly agreed that the majority of the sites identified by the applicant are unsuitable or not available for the proposed development, there are 2 sites which are considered to fulfil the criteria of being both reasonably available and appropriate for the proposed development in an area with a lower risk of flooding.

The first site is the University of Bath campus at Claverton Down which includes land removed from the Green Belt and specifically allocated in the Placemaking Plan for 'university related development' (Policy SB19). The applicant's sequential test assessment agrees that the campus is suitable, but rules it out as being 'not reasonably available' for the proposed development for a number of reasons.

Firstly, it is suggested that there is a lack of clarity around how much land on the campus will be available for the development of PBSA and that this clarity will only be provided once the university has completed its masterplan under policy SB19.

However, there is sufficient clarity to suggest that enough land will be available to provide at least the same number of student bedrooms as promoted by the current development proposal. A capacity assessment undertaken by the university in support of a planning inquiry in 2016 suggested that there was scope for up to 800 bedspaces on the eastern playing fields, 150 bedspaces on the tennis courts site, 222 bedspaces on the south car park site and 150 bedspaces on the Lacrosse Pitch site.

Whilst this assessment is now out of date, it does demonstrate that there is at least sufficient capacity on the campus to accommodate the number of bedrooms proposed in the current application.

A further argument put forward by the applicant, supported by a letter from the University of Bath, is that the priority for on-campus development is the provision of accommodation for academic purposes and central student activities, not student accommodation.

However, policy SB19 sets out the following development principle for the campus:

Development on campus should contribute to the full spectrum of the University's needs, including academic space, all the accommodation space that is needed for the growth in the intake of first years from 2011 and a major share of the accommodation space that is needed for their subsequent years of study.

This essentially means that the university is required to meet the majority of its student accommodation needs on the campus if it intends to grow. Under the current policy framework, the university will therefore be required to include a component of student accommodation on land at the campus as part of its growth plans and cannot simply propose that all the available land is utilised for academic purposes.

It is also argued that there are two types of PBSA; that built and managed by the University and that built and operated by third parties.

However, in planning use terms that there is no difference between university managed accommodation and third party accommodation. Both serve the function of providing accommodation for university students. The distinction about where such developments can be located is a largely irrelevant consideration in terms of the type of development proposed. If the University were to permit the construction of third party managed student accommodation on-campus this would function in entirely the same manner as the accommodation built and managed by the university on its campus. Similarly, there is no distinction between the demand for university managed student accommodation and third party student accommodation. It is therefore considered that there is no real distinction in planning terms between the 'two types' of PBSA and for the purposes of the sequential test.

The applicant also asserts that if the proposal is not allowed to go ahead then there will be inadequate accommodation to meet the anticipated student accommodation demands for

2020. However, the Sequential Test as set out in the NPPF requires an assessment of sites which are reasonable available for the proposed development. It does not require an assessment of whether there are enough sites reasonable available to meet the demand or need for a particular type of development. Even if this were the case, the Sequential Test would still require that the sequentially preferable sites are developed first. It would not be reasonable to develop the sites most at risk of flooding whilst there are still sites available at a lower risk of flooding.

The demand for student accommodation is discussed in further detail in the planning balance section of this report.

In addition to the above, it is material to note that there is currently a site on the west side of the campus with planning permission for student accommodation comprising 293 student bedrooms (ref: 16/02345/FUL). This site is currently under construction and provides for a similar proportion of the demand for student accommodation as the currently proposed development.

It is therefore considered that land at the University of Bath Claverton Down campus can be considered sequentially preferable and reasonably available for the proposed student accommodation.

A second site which can be considered reasonably available for the proposed development is Pickfords on the Lower Bristol Road which has planning permission for a 204 bed PBSA. The site frontage is located in flood zone 3a with the remainder of the site located within flood zone 2. The part of the site within flood zone 3a has a 1 in 100 annual probability of river flooding with a lower probability of flooding across the rest of the site. The site is therefore considered to have a lower risk of flooding than the current application site.

The site has planning permission (ref: 17/03774/OUT) and so therefore must be considered appropriate for the type of development proposed, i.e. student accommodation. It is also comparable in size and will be meeting the same demand as the current proposal. Although not available to the applicant it is reasonably available for development by another party due to the recently granted planning permission.

The applicant points to the approval of PBSA close to the site at the Former St John's School on Pulteney Road (ref: 16/01314/FUL), where it was demonstrated that the development passed the Sequential Test, and argue that there is an expectation that the current proposals should be treated in the same way and should therefore also pass the Sequential Test. However, following the approval of the application at the Former St Johns School site the Council were made aware of an appeal decision which clarified the meaning of 'reasonably available' in respect of the Sequential Test. This meant that alternative sites no longer had to be available to just the applicant to be considered 'reasonably available'. This was a material change in circumstance which cannot now be set aside when considering the current application. Furthermore, it is a long established principle that each case must be determined on its own merits.

The applicant also argues that the development of the PBSA is linked to the development of the replacement indoor cricket training facility, because the indoor cricket training facility can only practically be located on the existing site, there are no other reasonably available

sites which could accommodate the proposed development. However, the two uses are not functionally linked and can be considered separately. The only link between the two uses is the financial/land deal which has been struck between the developer and Bath Cricket Club. Given that the Sequential Test must be considered on the basis whether alternative sites are reasonably available 'for the proposed development' and not simply to the particular developer promoting the application, this financial/land deal should not prevent consideration of whether the aspects of the development could be provided separately on reasonably available, sequentially preferable sites. Whilst not of any bearing in respect of the consideration of the sequential test it is also not necessarily the case that an alternative land deal would not be possible to achieve the sports improvements sought by the cricket club.

Finally, the applicant has argued that the site is suited to student accommodation use only, due to the requirement for an effective flood evacuation procedure. It is argued that it is therefore not suitable for any other use and therefore it should pass the Sequential Test. However, there is no evidence to demonstrate that an alternative use would not be suitable on the site. Notwithstanding this, the Sequential Test requires consideration of whether alternative sites are suitable and available for the proposed development, not whether the proposed site is suitable for alternative uses.

In light of all of the above, it is considered that there are two sequentially preferable sites which can be considered reasonably available for a similar development to that proposed. It has not been demonstrated that these sites are not appropriate for the proposed development or that they are not reasonably available. The sequential test has therefore not been passed.

Exception Test

Paragraph 102 of the NPPF advises that if, following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied.

Notwithstanding the application's failure to pass the sequential test, it is prudent to consider the Exception Test in the event that circumstances change and there are no longer any reasonably available sites suitable for the proposed development in an area with a lower probability of flooding.

The Exception Test comprises two parts, both of which must be passed for the development to be permitted. The first part requires it to be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk. This matter is considered in detail within the planning balance section of this report.

The second part requires that a site-specific FRA must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

The NPPG outlines what a developer must do to demonstrate that a development will be safe. Part of this relates to ensuring any habitable accommodation would be raised above

the level of any flood water. The proposed development would be raised on stilts so that the finished floor level of the student accommodation would be above the flood level of an extreme flood event (0.1% AED, a 1 in 1000 chance each year).

Another important aspect is ensuring that there is safe access and egress to and from the development. The NPPG advises that access considerations should include the voluntary and free movement of people during a 'design flood', which is defined as a fluvial flood event likely to occur with a 1% annual probability (a 1 in 100 chance each year).

The Environment Agency have advised that the development will not have a functional safe access or egress during such an event as the route along North Parade Road will be underwater. The situation worsens when you consider the impact of increased climate change scenarios - the amount and depth of flooding both increase. The NPPG advises that where it is not possible for access routes to be situated above design flood levels then limited depths of flooding may be acceptable provided that the proposed access is designed with appropriate signage to make it safe. The acceptable flood depth for safe access will vary depending on flood velocities and the risk of debris within the flood water, but it advises that even low levels of flooding can be pose a risk to people in situ.

Government guidance published by Defra (FD2320) sets out the danger to people for different flood depths. Even at very low velocities, a flood depth of 600mm is a danger for most people and anything over 2m is a danger for everyone. North Parade Road could be under approximately 570mm of floodwater during a 1 in 100 year event increasing to up to 900mm of floodwater with increased climate change scenarios. This is considered to be a hazardous depth of flooding for an access / egress or escape route. The Emergency Planning Team has indicated that they consider this to be unacceptably hazardous as an evacuation route during this event.

It is therefore considered that the proposed development does not have a functional safe access/egress that will allow voluntary and free movement during a 'design flood' and therefore it has not been demonstrated that the development will be safe.

Instead the applicant seeks to rely upon a comprehensive evacuation plan to ensure that the building is fully evacuated before the onset of flooding.

The applicant's FRA indicates that there will be 24 hours following an EA flood warning before North Parade Road begins to flood or, as a minimum, 12 hours should the EA warning system fail and the on-site flood warning system proposed be relied upon. They also state that the road will only flood during the very peak of a 1% AED flood event and that it will only be inundated for a relatively short period of 7.5 hours. They advise that the operator of the student accommodation will be responsible for the implementation and evacuation of the building and provision will be made for occupants to be accommodated at the university during flooding. All evacuated students will be accommodated in gymnasiums within the University of Bath during the flood event. The University have confirmed their agreement to this arrangement.

The Emergency Planning Team have made a number of detailed criticisms of the flood evacuation plan including: its failure to consider how to respond if the escape route becomes blocked or needs to change; how disabled or vulnerable people will be evacuated during a flood event; lack of co-ordination with the evacuation plan for the

cricket club; how will residents distinguish between a flood evacuation and a fire evacuation; failure to identify who has responsibility for closing the car park; and how members of the public and residents, who may be elsewhere when the flood occurs and therefore have not heard about the evacuation, will be warned and informed not to enter the building.

Whilst a number of these matters could potentially be resolved through the use of a planning condition requiring a revised flood evacuation plan to be submitted before occupation of the building, several of these issues point to the fundamental problem arising from a reliance upon evacuation instead of providing a functional access and egress route during a design flood event.

The Environment Agency point out that they issue flood alerts for this area on a fairly frequent basis and that this may result in the site being evacuated unnecessarily. For example there were 9 flood alerts issued by the Environment Agency in this area in 2012. The stated intention is to evacuate before flooding reaches North Parade Road. However, the EA system does not provide a flood alert or warning for this kind of event.

Furthermore, whilst the Environment Agency often get advance warning of flooding in Bath, this is not guaranteed and they endeavour to issue flood alerts at least 2 hours before flooding is forecast. However, this is done on a best endeavours basis and cannot be guaranteed.

The applicant will therefore rely upon the bespoke, on-site flood warning gauge which they intend to install which will offer 12 hours warning of a flood.

There is no level access to the student accommodation and there is concern about how those with disabilities or restricted mobility will be evacuated from the building during a flood event. This is contrary to the advice in the NPPG which states when considering safety, specific local circumstances need to be taken into account, including that the safety of people within a building if it floods and also the safety of people around a building and in adjacent areas, including people who are less mobile or who have a physical impairment (Paragraph: 054 Reference ID: 7-054-20150415.) This includes the ability of residents and users to safely access and exit a building during a design flood and to evacuate before an extreme flood.

The applicant has stated that disabled students or those with limited mobility will not be offered accommodation within the building. However, this does not address the issue of how disabled or vulnerable people who may be visiting friends and are in the building when a flooding event occurs will be evacuated. It does, however, raise separate issues in respect of creating sustainable communities which are discussed later in this report.

Even with an evacuation plan in place, there remains the possibility of residents and members of the public, who may have been elsewhere when the flood occurs, trying to re-enter the building and thereby putting themselves at risk.

The NPPG advises that flood evacuation plans are a method for managing the residual risks associated with extreme flood events. They are not a substitute for a safe, functional access and egress during a more common 'design flood' event. The lack of a safe, functional access and egress route during a design flood event means that if for whatever

reason evacuation is not totally successful or people try to re-enter the building during a flood event that they will be stranded or potentially put at risk attempting to cross hazardous flood waters.

Given the nature and density of the PBSA, the proposals potentially place a significant number of people at risk in an area where flood depths will be over 2m in places. Over the lifetime of the development, this flood depth could increase to over 4m considering the predicted impacts of climate change. Even in relatively frequent flood events, the depth of flooding could be approximately 1m. It would also potentially place a massive burden on the emergency services if called to aid residents who were unable to evacuate before the flood.

In light of the above, it is considered that it has not been demonstrated that the proposed development will be safe for its lifetime and therefore it fails to pass the 2nd part of the Exception Test.

Flood risk conclusions

The application site is extremely susceptible to flooding and the proposals would introduce a large number of residential properties into this high risk area. There are sequentially preferable sites at a lower risk of flooding which are available for a similar development of PBSA. The proposal therefore fails the Sequential Test and in accordance with paragraph 101 of the NPPF should not be permitted. Even if these sites were not considered to be reasonably available and the sequential test could be passed, the development does not provide a functional access and egress during a design flood and is not considered to be safe for its lifetime. It is therefore considered that it would also fail to pass the Exception Test contrary to paragraph 102 of the NPPF.

The application is therefore contrary to national policy in the NPPF and policy CP5 of the Core Strategy.

4. HERITAGE, CHARACTER AND APPEARANCE

Context

The application site is part of the cricket grounds which forms one of the low lying green areas close to the heart of the city centre. The site falls within the Pulteney Road character area which has been the subject of a draft conservation area character appraisal. The character appraisal identifies this area as part of the green heart of Bath which contributes significantly to its setting, forming the foreground to some of the best views of Bath Abbey and the city centre from the eastern slopes. It goes on to state that the sports grounds, which include the cricket grounds, are crucial to views within the character area and to views into the city from the surrounding hills.

In reference to the cricket grounds it states that the green, open space in this part of the character area is of key significance to Bath's green setting as a World Heritage Site (WHS). The land form of this area is entirely flat as it forms part of the valley floor. The openness of the area allows for many short and long views. The distant views from North Parade Bridge to wooded slopes to the south east are described as a particular feature within the character appraisal. It also notes that there are good views to St John's Church

spire from the cricket ground and views from the raised railway line towards the city centre.

The character appraisal also identifies the following important views (without excluding other viewpoints) from the sensitive Bath skyline:

- From Beechen Cliff and Alexandra Park and to some extent from the Holloway area below, this character area frames the right-hand side of the crucial and much-loved view of Bath.
- From the hilltops east of Bath (i.e. National Trust Skyline Walk, Claverton Down, Bathwick Hill, Bathampton Down, North Road, etc.) the open tree-fringed space and sports grounds form a significant foreground element to views of the city centre and Bath Abbey.
- From the National Trust walk on the east side of Prior Park landscape garden, this character area forms a foreground to views of the Abbey, Pulteney Bridge and St John's church.

These observations are supported by Historic England who consider that the legibility of the Georgian town is very much evident from Beechen Cliff, with a series of terraces and villas creating an urban frame to the green open space consisting of the Bath Recreation Ground and the Cricket Ground. They describe the space as being bisected by North Parade Road with its avenue of trees screening much of the modern leisure centre and consider the juxtaposition of this green setting of the city, softened by peripheral tree planting and revealing the rhythmic lines of Georgian terraces to be a fundamental contribution to the Outstanding Universal Value (OUV) of the WHS.

The density within this part of the character area is described as very low, with wide open views on all sides except to the north where the sports pitches are enclosed by the tall backs of the Great Pulteney Street terraces. This is in contrast to other parts of the character area, such as Dolemeads, which is much denser.

The wide tree-lined carriageway of North Parade Road contributes to the open feel of the area. The character appraisal states that the outstanding quality of the character area is the extent of its open green spaces, providing a green lung for the city of Bath and facilities for exercise and numerous competitive sports at amateur and professional levels.

All of the above observations from the draft character appraisal are relevant to the consideration of the current application site and development proposals.

More specifically, the character of the area to the south of North Parade Road is significantly different to that of the area to the north which contains the Sports Centre and Magistrate's Court, both large-footprint civic scale buildings. The new PBSA block built on the site of the former St Johns School (ref: 16/01314/FUL) sits comfortably with this character.

To the south of the road the loose-knit character of this part of the conservation area is strongly identified by the open space of the cricket ground, car park and grouping of mature trees, reinforced by the presence of the river. There are domestic scale two and

three storey buildings abutting the site to the south on Ferry Lane and on Pulteney Road to the east, beyond the railway embankment. This local character is reinforced by the abundance of mature trees both within and immediately adjoining the site. Overall the character is dominated by the river, open space and trees with attractive established open views, both short and longer distance.

Views and setting

The application has been submitted with visually verified montages (VVMs) from a range of viewpoints including North Parade Road, South Parade, Spring Crescent, Sydney Buildings, Bathwick Fields (Skyline Walk), Sham Castle, Alexandra Park and Camden Crescent.

The VVMs demonstrate that in key long distance views the proposed building would be surrounded by the mature boundary trees, but would protrude above them, blocking and harming their valued contribution within these important views.

The view from Beechen Cliff would encompass the massing and roof-scape of the development and the additional built form would increase the building density at the junction of North Parade Road and Pulteney Road, further diminishing the more fragmented character of this area. The proposed building would also mask and block views of the boundary trees in this view diminishing their contribution towards the green setting of this important open area to the east of the city centre.

The impact on the distant view from Camden Crescent is more subtle. The existing view of trees and the lack of tall built form create the appearance of an area of woodland at the centre of the view. The extent of this apparent woodland and therefore its visual impact would be significantly reduced by the construction of the proposed building which would increase the urban character while reducing the parkland character of the view.

In more local views the harm caused by the development is considerably greater in terms of its visual impact.

The greatest impact would be from North Parade Road. Whilst the existing car park does not make a positive contribution to the landscape and visual character of the area, it does allow views to the west across the site to the green hillsides and the openness it affords in combination with the cricket pitch and the trees around the site help to create a distinctive parkland character.

This openness and parkland character of the site would be completely changed by the proposed building. The open views south from North Parade Road would be dominated by development of excessive height and bulk. Beyond the views shown in VVMs there is a sequence of views which are currently obtained across the site between North Parade Bridge and the junction with Pulteney Road, a large number of which would be adversely affected by the proposed building.

The height and dominance of the building is exacerbated by the need to raise the building above flood levels which results in a high and visually unrelieved wall rising above footpath level. The large footprint of the building means that it is also located too close to North Parade Road.

The applicant has attempted to relieve the impact of this wall through the introduction of wall planting with a 'sunken garden' in front along the North Parade Road frontage. However, this is unsuccessful and does not create a visual or physical connection between the proposed building and the pavement level of North Parade Road that is either characteristic of Bath or of sufficient quality for pedestrians.

The drop in level from the street to the cricket ground also requires a long pedestrian ramp which sweeps along the west edge of the site and would appear 'alien' in this context. The combination of such features at ground level and below would fail to preserve and enhance the character and appearance of this part of the conservation area street scene.

In the view from South Parade looking towards the site across the river and from the residential environs of Ferry Lane and Spring Crescent to the south, the development would be visually intrusive and interrupt the established views of important trees with green hillsides beyond and making it more urban in character through the introduction of a large built form.

Despite the robust tree screen on two sides of the triangular site, the proposed development would sit prominently against the railway embankment. The higher four storey elements will marginally break the skyline from in these views. Although partially filtered by the existing trees along the edge of the cricket pitch, these are proposed for removal and replacement. Whilst replacements will eventually provide a similarly or possibly a slightly greater level of screening, these will take a long time to mature during which the building will be more starkly exposed and harmful.

Building design

The footprint of the proposed scheme appears excessive and out of keeping with the loose-knit, low density character with this part of the conservation area.

The building appears monolithic in its scale and the attempts to articulate its form has resulted in the proposed elevation designs and roof forms lacking a coherent relationship to one another and the local context.

This concern is added to by the heights proposed, and certain of the built forms which fail to satisfactorily reflect local built character. This includes the mono-pitch roof and bulky form of the north-west corner block which would be prominently located in the street scene view on North Parade Road, in particular.

Conclusions

Due to the footprint, building form and height it is considered that the development would be at odds with local character and cause harm to the WHS and conservation area. In the terms of paragraph 134 of the NPPF this harm is considered to be at the higher end of 'less than substantial' and is contrary to policies HE1 of the Placemaking Plan and B4 of the Core Strategy. Paragraph 134 goes on to state that where a development will lead to less than substantial harm to the significance of the designated heritage asset, the harm

should be weighed against the public benefits of the proposal. This is considered in the planning balance section of this report.

The proposal is considered not to conserve or enhance the local landscape character, landscape features and local distinctiveness and this would be contrary to Policy NE2 of the Placemaking Plan and CP6 of the Core Strategy.

Additionally, the design of the proposals fails to contribute positively to local distinctiveness, creates a blank, imposing and inactive frontage along North Parade Road, is not in keeping with the grain of development and does not relate successfully to the public realm. The proposal is therefore also contrary to policies D1, D2, D3 and D5 of the Placemaking Plan.

Amendments were made to the scheme during the course of the application which resulted in a slight reduction in height and redistribution of the building bulk and positioning. However, the scale of changes overall were minimal and do not overcome the strong concerns identified above.

5. TREES AND WOODLAND

As discussed above, the trees along North Parade Road and surrounding the site along the railway embankment and the edge of the cricket pitch make a vital contribution towards the character and visual amenity of the area, including contributing towards the character and appearance of the conservation area and the green setting OUV of the WHS.

All of these trees are protected by virtue of their location within the conservation area.

Policy NE6 of the Placemaking Plan states that development will only be permitted where it seeks to avoid any adverse impact on trees and woodlands of wildlife, landscape, historic, amenity, productive or cultural value; and it includes the appropriate retention and new planting of trees.

The proposals include the removal of three trees within the existing car park, one of which is already dead (T30). There is no objection from the Council's arboriculturalist to the removal of these three trees subject to appropriate replacement planting.

The new vehicular access from North Parade Road results in the loss of a single category B lime tree (T28). This is a significant tree which contributes towards the avenue effect of the line of trees along North Parade Road. The tree survey indicates that the tree does not suffer from any visible defects and its removal would therefore be a direct response to the development proposals. The Council's arboriculturalist considers that the loss of this tree would be avoidable if the existing access ramp was utilised instead of the new ramp proposed by the application.

It is considered that if the application was acceptable in all other regards and it could be demonstrated that it was unavoidable then the loss of this tree could be justified, but only if space for an appropriate on-site replacement could be made. The current proposals propose a single replacement tree along the North Parade Road frontage. Any

replacement will take many years to mature before it provides the same level of benefits as the existing tree. There is insufficient space along this part of North Parade Road for any further replacements or succession planting. The applicant claims that this is largely due to the existing presence of mature trees restricting space along this frontage, but it also relates to the excessive footprint of the proposed building which sits too close to the northern boundary of the site.

Along the western boundary of the site beside the cricket pitch there are a row of 10 category C trees which are proposed for removal. The applicant argues that these trees have not been correctly managed or located and therefore do not have sufficient room to grow. They propose their replacement with 5 new trees planted in a line along the western boundary. This is unacceptable for two reasons. Firstly, the number of replacements for the number of trees lost is far too low and does not accord with the ratio of trees lost to replacement trees as set out in the Planning Obligations SPD. Secondly, it will take a significant length of time for any replacement trees along this boundary to mature and during that time there will be a significant gap in the boundary screening of the site which will open up harmful views of the building.

The proposed building is situated approximately 2m from the south-east boundary. The embankment which runs along this boundary is covered by numerous self-seeded trees and shrubs. Although largely self-seeded, the trees along the embankment provide an important green backdrop for the cricket ground and views in and out from North Parade Road and other key viewpoints.

Several of these tree canopies extend into the application site. The application proposes to cut back or remove the trees which overhang the existing car park to enable the proposed building to be built. The number of trees to be lost is not specified within the application, but it is clear that there would be a significant number of trees lost as a result of the proposals. Due to the footprint of the building and its proximity to the boundary, there is no room for any replacement planting. The proposals therefore result in the loss of significant trees without adequate compensatory planting contrary to policy NE6 of the Placemaking Plan.

Additionally, the south-east elevation of the proposed building contains a significant number of habitable student rooms which will face towards the embankment and the substantial trees on it. As the trees grow and mature this will reduce light levels into these rooms which are only served by single windows. The trees are therefore likely to be perceived by the occupants as a nuisance in terms of the dominance and overbearing impact of the trees along this boundary. This will lead to future pressure for further cutting back or tree removal which the Council would find difficult to resist.

The applicant has suggested that they could purchase a strip of land from Network Rail and introduce a replacement planting scheme on the embankment, following the cutting back and removal of the trees. However, no details of the replacement planting scheme have been submitted with the application and, given the proximity of the proposed building, there is insufficient space for proper compensatory planting and the proposals would inevitably result in a narrowing of the tree cover along this part of the embankment. Furthermore, it will take a significant length of time for any replacement trees along this boundary to mature and during this time there will be a significant gap in the vegetation along this boundary.

In summary, the proposals result in the direct removal of a significant number of important trees and will result in pressure for further pruning or removals in the future due to the impacts upon occupiers. Such losses primarily arise from the large footprint of the building and are therefore considered to be avoidable if the building was reduced in size. The excessive footprint of the building also means that there is inadequate space for appropriate compensatory planting. Additionally, the proposed replanting will take many years to mature and will leave significant gaps in the tree line in the intervening period. The proposal is therefore considered to be contrary to policy NE6 of the Placemaking Plan.

6. ECOLOGY

A completed habitat survey has been submitted and lighting reports are also provided.

This identifies that the tree lines adjacent to the site are the main features of ecological value, offering connective green infrastructure and habitat suitable for a range of wildlife. This would include bats, which utilise such features as part of their foraging and commuting flight routes, potentially connecting with other nearby habitats of value further afield such as the River Avon.

The lighting report submitted demonstrates that the proposals will not result in any greater light spill onto the surrounding vegetation than the existing situation.

However, as discussed in the trees and woodland section above, the proposal will result in the removal of a number of trees along the three boundaries of the site with insufficient space for appropriate replanting. The proposal therefore appears to not allow space for green infrastructure and will result in damage or harm to the existing green infrastructure corridors which run around the site.

The potential value of the trees, their connectivity for wildlife and their contribution to green infrastructure is not sufficiently recognised in the application.

Along the south-east boundary, the proposals will result in a narrowing of the important green infrastructure corridor along the embankment through the removal of trees and associated vegetation. This will damage its ability to provide habitats and green infrastructure benefits. The concern along this boundary is particularly acute as there is potential that the future electrification works to the railway will result in further tree removals on the embankment, narrowing and threatening this green infrastructure corridor further.

The proposal is therefore considered not to protect or enhance existing green infrastructure assets on and adjacent to the site and is therefore contrary to policy CP7 of the Core Strategy and policy NE1 of the Placemaking Plan.

7. RESIDENTIAL AMENITY

The application site is generally set apart from nearby residential properties and the proposed building will not directly impact upon any adjoining neighbours.

However, specific concerns have been raised by the property Monkswell on Pulteney Road who are concerned about a loss of light and outlook. Monkswell is over 30m from the application site and is situated on the opposite side of Pulteney Road and as such will not suffer any significant loss of light as a result of the proposals. Whilst the very top of the proposed building may be visible from Monkswell, it will largely be obscured and will not significantly affect the outlook from this property.

Concerns have been raised about the potential for the PBSA to result in additional noise and disturbance within the locality. However, the site is located close to the city centre alongside two relatively busy roads where a significant degree of activity must already be expected. The proposed PBSA would also be fairly well contained by the surrounding trees and railway embankment. The proposals will inevitably lead to an increase in the footfall and activity within this area, but this will not necessarily be excessive or out of place within the near city centre location.

Concerns about the behaviour of students have also been raised. However, the advantage of PBSA over HMO student accommodation is that these premises are supervised and managed by the operator who can monitor and enforce behaviour in the accommodation. It is proposed that a student management plan is secured by condition to assist in ensuring that there are no adverse impacts in terms of noise and disturbance to surrounding occupiers.

With the exception of the rooms located on the south-east boundary and impacted upon by the embankment trees, the proposal provides a decent standard of amenity for the potential occupiers. In terms of outdoor amenity space, the proposals only provide a small area of 'sunken garden' on the north side of the building adjacent to North Parade Road. This is unlikely to be a very attractive space for occupiers to use. However, given the location of the site near to the city centre and surrounding open spaces and parks it is considered that there is sufficient open space to serve the potential occupiers adequately.

8. HIGHWAYS AND PARKING

Student accommodation

The student accommodation is proposed to be constructed above the existing car park with pedestrian access direct from the southern foot way of North Parade Road. The car park would effectively become an under-croft beneath the student accommodation.

The application states that student tenancy agreements would be 'car-free' and legally enforced by the proposed management company. This accords with standard practice at the majority of new PBSA in the city and can be secured through a planning condition requiring a student management plan. The site is also located within parking permit zone 1 where on-street parking is restricted. No new parking permits would be available to be issued to the occupiers of the proposed development. The proposals are therefore considered not to result in any additional on-street parking demand.

Secure parking for 50 cycles is proposed in the north-west corner of the site. This complies with the standards set out in the Placemaking Plan.

The Transport Statement (TS) predicts that the PBSA will generate minimal additional peak hour traffic and the Highways Officer accepts this given the restrictions on car ownership which will be included within the tenancy agreements that are to be applied.

Car park

The existing car park is owned by the Cricket Club, is open to the public, and is operated on the club's behalf by a private company. It currently has 128 spaces which the TS claims will be reduced by the proposals to 108. However, the proposed drawings show a further reduction to 105 spaces.

The operating company keep comprehensive records of parking accumulation and have clear evidence to show that average maximum parking accumulation at the site rarely exceeds 84 on a weekday or 107 on a Saturday. As existing demand and proposed capacity are very similar there is no highway objection to the proposed quantum of parking to be retained.

The proposal indicates a sole vehicular access onto North Parade Road to the west of the existing access, which is to be stopped up. The geometry and layout of this access is acceptable with an adequate level of visibility. While there are a number of vehicular accesses within the vicinity of the proposed access, including a barrier controlled access on the opposite side of the carriageway, cross vehicle movements do not raise any highway safety concerns. The proposed access will be located further from the signalised North Parade Road / Pultney Road junction which is welcomed.

Amendments made to the scheme during the course of the application included the removal of a pedestrian footway that was previously shown running along the western side of the vehicular access ramp. Whilst its removal does not raise any highways objection, users of the car park, particularly those using spaces in the mid/northern part of the car park, may decide to use the vehicle ramp in preference to the pedestrian ramp which is proposed to be provided along the western side of the development.

It is also noted that the highways officer considers that vehicles will not be able to make turns between the access ramp and the aisle that is proposed to run west to east from the foot of the access ramp. Whilst these spaces are still accessible, they may find this inconvenient to use and, as a consequence, difficult to manage. However, none of these matters are sufficient to raise a highways objection. The rest of the internal layout of the site is appropriate and makes clear provision for pedestrian routing to and from their cars. It is also adequate to facilitate delivery access and refuse collection from the site with space for those vehicles to enter and leave the site in forward gear.

Indoor cricket school

It is accepted that the cricket school is a replacement for the existing facility at the latest ECB standards and that as such it will not generate additional traffic movement. It does have the facility to be used for non-cricket events. Historically, these have never been undertaken excessively and are not expected to do so in the future.

Parking for student moving days

A clear and coherent management plan is proposed and will mitigate the adverse impact of student movement days on the local highway network. This will stagger student arrivals and departures and will allocate 7 spaces for specified arrival and departure times and will be strictly enforced by the management company. This can be secured by condition.

Other highways matters

The site is considered to be well located for access to essential services available in the City Centre; bus stops and rail services; the university campuses in the city centre and at Claverton Down; and has good pedestrian and cycle links. It is therefore considered, in accessibility terms, to be sustainably located.

A draft framework travel plan has been submitted as part of the application which aims to encourage use of more sustainable modes of transport. A detailed travel plan can be secured by condition.

The construction of the proposed development would be a substantial operation which would have the potential to impact upon the operation of the local highway network and the amenities of nearby residential properties. A draft construction management plan has been submitted and is considered to be a reasonable approach to managing these issues. A detailed construction management plan can therefore be secured by condition.

9. CONTAMINATED LAND

A Phase1 Geo-Environmental Desk Study Report has been submitted with the application and reviewed by the council's scientific officer who notes that infilling may have taken place at the cricket ground site and on land the northwest of the site. They have advised that the potential infilling on site and in the vicinity should be investigated and assessed as part of a further desk study, investigation and assessment of the site.

Taking account of the sensitive nature of the proposed development (residential) and the identified potential sources of contamination on site, including potential infilled ground on and off site and the findings and recommendations of the submitted desk study report, the scientific officer has no objection subject to conditions requiring further investigation and risk assessment and, if necessary, a remediation scheme and verification report.

10. ARCHAEOLOGY

A desk-based archaeological assessment has been submitted with the application. This concludes that whilst the proposed development is close to the possible line of a Roman Road, no evidence for archaeological features and deposits have been observed in previous evaluation work. It also states that the majority of heritage assets surrounding the site are post medieval in date and, as such, it does not consider the archaeological potential of the site to be high.

Whilst the council's archaeologist broadly accepts these findings, they note that there have been significant archaeological discoveries made in similar parts of the city that at the time were thought to be of relatively low archaeological potential. They have therefore recommended a programme of archaeological works is secured by condition.

11. DRAINAGE

The majority of the existing site is covered by the car park and therefore is largely impermeable. The proposed development will not significantly alter this situation as it will remain largely comprised of impermeable surfaces. The discharge rate for the development will therefore be no greater than the existing situation.

The application has been submitted with a drainage strategy which initially considered the options for utilising infiltration methods of surface water drainage. However, this was ruled out due to the high probability of flooding on the site which would cause any form of infiltration feature to silt up during a significant flood event and, as a result, require significant levels of maintenance to maintain their effectiveness.

The drainage strategy therefore proposes a controlled discharge of surface water to a public surface water sewer located in Ferry Lane. The presence of the cricket pitch provides an opportunity for capture and reuse of surface water runoff in line with SUDS principles. It is proposed that drainage from the new development will be collected by a series of pipes before discharging into a rainwater harvesting tank to provide additional water for irrigation of the existing Bath Cricket Club grounds. An overflow from the harvesting tank will be provided to the surface water drainage network which discharge into the dedicated surface water drainage system beneath Ferry Lane at a flow equivalent to the identified brownfield run off rate.

The drainage and flood risk team consider this acceptable in principle, but have requested evidence that the connection to the public sewer in Ferry Lane is acceptable to the sewerage company. If the sewerage company request a lower discharge rate, some additional onsite attenuation may be required. This can be secured by condition.

There are two possible outfalls for the proposed foul flows, the first is located to the north east of the proposed site and the second located to the south of the proposed site within Ferry Lane. Both are acceptable options and therefore there is no objection to the foul water drainage proposals.

12. SUSTAINABLE DESIGN, CONSTRUCTION AND ENERGY

Policy CP2 of the Core Strategy requires sustainable design and construction to be integral to all new developments.

The application has been submitted with sustainability and energy statements which address a number of sustainable design and construction matters. This includes high performance building fabric and energy efficient lighting, services and equipment; Passive design measures to reduce energy demand for heating, cooling, ventilation and lighting; an Air Source Heat Pump (ASHP) to provide the majority of the hot water heating; a reversible ASHP for the management suite, large common room and comms room; and water saving fittings and appliances and low water use washing machines in the communal laundry.

It also includes details of the consideration of efficiency in materials use, including the type, life cycle and source of materials to be used and how waste will be minimised and recycling maximised through a Site Waste Management Plan.

As discussed in the drainage section above, the proposals also include potential rainwater harvesting for irrigation of the existing Bath Cricket Club grounds. This would comply with the requirements of SCR5 and could be secured by condition.

Policy SCR1 requires major developments to provide sufficient renewable energy generation to reduce carbon emissions from anticipated energy use in the building by at least 10%.

The application includes proposals to use an ASHP to supply the majority of the hot water load. The energy modelling presented in the application indicates that this will reduce carbon emissions by greater than 10% relative to the baseline. The proposals therefore comply with the requirements of SCR1.

Concern has been raised from third parties about whether the proposed air source heat pump will have sufficient capacity to generate the required heat and hot water for the building. Such matters of detail can be secured by a condition.

In light of the above, it is considered that the proposal complies with policies CP2, SCR1 and SCR5.

13. COMMUNITY INFRASTRUCTURE LEVY

The proposed development for PBSA is liable for CIL which is charged at £200 per square metre of floorspace. The proposed development will generate a CIL liability of £872,000.

14. OTHER MATTERS

Community mix and balance

A number of representations received suggest that there are too many student developments within the area and that this is creating an imbalance in the community. They argue that all new student accommodation should be located on the University campus. Whilst there is land available at the Claverton Down campus which is allocated for university development, including new student accommodation, the current development plan does not restrict new off-campus PBSA unless it is located within the Central Area, the Enterprise Zone or MoD land and would adversely affect the realisation of other aspects of the vision and spatial strategy for the city (policy B5 of the Core Strategy).

The proposals do not result in the loss of any existing accommodation and therefore can be argued to contribute towards the mix of housing in the area. The concerns about the balance in the community are acknowledged, but it is also acknowledged that students can contribute positively to the community through bringing increased activity to an area, additional footfall alongside social and economic benefits (discussed in more detail in the planning balance section of this report). Paragraph 69 of the NPPF states that the planning system can play an important role in facilitating social interactions and creating health, inclusive communities and decisions should aim to achieve places which promote

opportunities for meetings between members of the community who might not otherwise come into contact with each other. In light of this it is considered that the concerns about balance in the community are not sufficient to warrant the refusal of PBSA in this location.

Affordable housing

Several comments received suggested that the site would be better used for the provision of affordable housing instead of PBSA. The purpose of a planning application is not to determine what the best use of a site would be, but is to determine whether the proposals put forward by the applicant are acceptable in planning terms. It is therefore not relevant to consider whether the site could be put to an alternative use.

Air pollution

A number of comments have been received which are concerned about the potential air pollution impacts of the development. The site is not located within an air quality management area. Furthermore, the proposed PBSA is 'car-free' and will not give rise to any significant additional traffic movements. Similarly, the indoor cricket school is a replacement of an existing facility and will not generate significant additional traffic. Furthermore, the site is accessible by a range of more sustainable transport modes which will further reduce the chance of any significant increase in traffic movements.

During construction the applicant's sustainability statement indicates that best practice methods for minimising the formation of dust and emissions from construction activities will be implemented including control such as, appropriate site layout, screens or barriers around dust/emission generating activities, good site maintenance and inspections and sealed storage for cement, sand and fine aggregates.

It is therefore considered that the proposals will not give rise to any significant impacts upon air quality.

Disabled access

The Public Sector Equality Duty (PSED) requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities.

Paragraph 69 of the NPPF states that planning decisions should aim to achieve developments which are safe and accessible. Paragraph 32 states that decisions should take account of whether safe and suitable access to the site can be achieved for all people and paragraph 35 states that developments should be located and designed, where practical, to consider the needs of people with disabilities by all modes of transport. Policy ST7 of the Placemaking Plan states, inter alia, that developments should provide safe and convenient access to and within a site for pedestrians, cyclists and those with a mobility impairment.

Due to the depth of potential flood waters on this site, the proposed PBSA is raised up above ground level on stilts and is only accessible via the steps on the pedestrian bridge or steps from the north-east corner. There is no ramped pedestrian access to the PBSA and therefore no access for wheelchair users or those with restricted mobility.

The applicant argues that it is reasonable not to provide such disabled access due to the reliance upon evacuation and relocation during a flood event which would incur a greater

risk for a person with disabilities, particularly if they are wheelchair bound. They argue that the university prioritise offering on-campus accommodation to people with disabilities and that therefore it is not required to offer disabled accommodation as part of this proposal.

Whilst the risks to people with disabilities during a flood event is acknowledged, this approach is considered exclusionary and would not meet the aims of paragraphs 32, 35 or 69 of the NPPF or policy ST7 of the Placemaking Plan. It underlines the inappropriateness of the proposed flood risk strategy which is entirely dependent upon evacuation during a flood event rather than providing a safe, functional access and egress which could be utilised by all users of the building, whether disabled or otherwise. This weighs heavily against the proposal.

Disability is a protected characteristic under the Equality Act 2010 and, as set out above, the proposed development will discriminate against those with a disability and will fail to advance equality of opportunity.

15. PLANNING BALANCE

Public benefits

There are a number of public benefits and material considerations which weigh in favour of the application.

Firstly, the proposals would provide 136 student bedrooms for use by University of Bath students and would support the growth aspirations of the university by helping them to meet the demand for student accommodation. The use of PBSA to achieve this aim has the potential to relieve the pressure for further housing stock within Bath being converted to HMO accommodation. However, there is little evidence that building new PBSA will release existing HMO accommodation back to family housing stock.

The applicant argues that there is an unmet demand for student accommodation. However, it should be noted there is no currently identified target for student accommodation within the current Core Strategy, except for the strategy to development about 2,000 study bedrooms at the Claverton Campus as expressed in policy B5.

The background paper 'Universities' Growth and Student Accommodation' was published alongside the new Local Plan Issues and Options consultation document. It states that about 1,500 bedspaces are needed by 2020/21 to facilitate the growth plans recently submitted by the Universities. Only 120 bedspaces would be needed if the admissions were maintained at 2018/19 level.

The Pickfords application (ref: 17/03774/OUT) was recently recommended for approval and will increase the supply of bedspaces by 204. Therefore, if the growth of universities is maintained at the 2018/19 level, no further PBSA is required to meet the demand.

The consultation document sets out potential options for student accommodation if the universities' latest growth plans are to be met. Even though there is currently no weight afforded to these options, it is important that this application is considered in this wider strategic context.

Whilst the provision of these bedrooms is clearly a benefit of the scheme, there is no agreed target against which this can be measured. It is not correct therefore to suggest that the proposals would contribute towards meeting a formally identified 'need'.

The applicant has also advised that they have entered into a contract with the University of Bath to provide the accommodation to 2nd and 3rd year students and postgraduates only. This would ensure that the proposal does not simply facilitate the growth in 1st year admissions at the university which would subsequently put additional pressure on Bath's housing stock through an increased demand for HMOs accommodation as follow on accommodation for these students. This is a matter which can be secured by condition.

Additionally, the accommodation proposed by the application consists primarily of cluster flats rather than the more expensive studio accommodation. This type of accommodation is considered better suited to meeting the demand for student accommodation in the city.

The provision of student accommodation in itself can bring economic benefits to the city. Research undertaken by the NUS and New Economics Foundation in 2013 indicates that individual students can have a significant economic footprint, which is estimated to be circa £9k per student per annum spend in the local economy net of accommodation costs and tuition fees. This weighs in favour of the application.

A major benefit of the scheme is the replacement of the existing indoor cricket training facility with a new ECB compliant facility with an incorporated gym. This will enable the delivery of higher quality training and functions at the cricket club ground. The benefits of provide improved sports facilities weigh in favour of the application.

The applicant also states that the proposals to allow the developer to build PBSA on the car park land owned by Bath Cricket Club will unlock significant capital for the club to invest in community cricket initiatives in Bath and the wider area. The club have submitted a letter of intent outlining some of the initiatives they would hope to fund with the capital secured from the development deal. These include, inter alia:

- Investment in new facility at Brownsword site - new clubhouse
- Cost of children's cricket club being delivered to other local cricket clubs to be subsidised
- Lunchtime club working with educationally challenged young people to be run all year round and at multiple schools
- Additional financial support for coaches to become qualified
- Employ a ladies/Girls Cricket Development Officer
- Community cricket programme
- Visits to old people's homes in area to watch cricket
- Introduce free after school competitions for all age groups
- Regular coach from Twerton to Club
- A disabled cricket programme based at the Club

The list of initiatives is clearly laudable and will be of benefit to the community. However, no details of the financial deal between the developer and Bath Cricket Club have been provided and so it is unclear what the scale of the proposed investment will be.

Furthermore, as the capital required for these initiatives arises from a private land/development deal between the PBSA developer and Bath Cricket Club, the Council cannot control where, when or how much of this money is invested in these good causes nor can it insist upon or monitor the outcomes of these initiatives. There is therefore a significant degree of uncertainty around what actual benefit will be derived from this investment. Whilst the stated intention of the club to invest the capital unlocked from this deal into cricket initiatives is a benefit of the scheme, given the level of uncertainty it is not possible to afford this any significant weight in favour of the application.

The scheme would generate CIL contributions of over £870,000 which can be spent on infrastructure on the Council's regulation 123 list. This weighs in favour of the application.

The proposed development has a construction value of £9.2m and so will make a significant contribution towards local economy during construction, e.g. local employment opportunities and opportunities for local suppliers. However, it should be noted that this is only a temporary benefit of the scheme for the duration of the construction period.

Less than substantial harm vs public benefits

The proposed development results in harm to the Bath Conservation Area and the WHS. This harm has been identified as 'less than substantial' in the terms of the NPPF, but is still considered significant.

Paragraph 134 of the NPPF requires 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. The requirement to conduct this balancing exercise is also reflected within the wording of the Placemaking Plan policy HE1.

Paragraph 132 of the NPPF states that great weight should be given to the conservation of heritage assets. It also states that the more important the asset, the greater the weight should be and goes on to list World Heritage Sites as heritage assets of the 'highest significance'.

The harm identified to the WHS relates to its impact upon the green setting of Bath which is one of the OUVs for which the city was inscribed by UNESCO. Whilst considered 'less than substantial' in the terms of the NPPF, the harm is considered to be at the upper end of this range and can be described as significant. This significant harm to a key attribute of the WHS should therefore be given very great weight indeed.

The harm identified to the Bath Conservation Area is also considered to be at the upper end of less than substantial. Whilst not a heritage asset of the same level of significance as the WHS, the NPPF still directs that great weight should be given to its conservation.

It is not considered that the public benefits identified above, either individually or cumulatively, outweigh the significant harm that has been identified to the WHS and the conservation area. It is therefore considered that the proposals are contrary to paragraphs 132 and 134 of the NPPF, policy HE1 of the Placemaking Plan and policy B4 of the Core Strategy.

Flood risk vs wider sustainability benefits to the community

The first part of the Flood Risk Exception Test requires that the development provide wider sustainability benefits to the community that outweigh the flood risk. The application site is at a very high risk of flooding (1 in 20 annual probability of river flooding) and therefore this is considered a high bar to pass.

The NPPG advises that, in considering what criteria to use in this assessment, regard should be had to the objectives of the development plan's sustainability appraisal framework.

It also advises that if a planning application fails to score positively against the aims and objectives of the development plan's sustainability appraisal or development plan policies, or other measures of sustainability, the local planning authority should consider whether the use of planning conditions and/or planning obligations could make it do so. Where this is not possible, the Exception Test has not been satisfied and planning permission should be refused (Paragraph: 037 Reference ID: 7-037-20140306).

The benefits of the proposal identified above do score positively against a number of the sustainability appraisal objectives and development plan policies. For example, the replacement indoor cricket training facility scores well against SA objective 1 which seeks to improve the health and well-being of all communities.

Other benefits of the scheme score positively against other SA objectives such as building a strong competitive economy (SA objective 4), promotion of cycling and walking (SA objective 5), careful and efficient use of natural resources and sustainable construction (SA objective 12) and the promotion of waste management (SA objective 13).

However, the application also scores poorly against a range of the SA objectives including protecting and enhancing the district's historic, environmental and cultural assets (SA objective 7), encouraging and protecting habitats and biodiversity (SA objective 8), reduce vulnerability to and manage flood risk (SA objective 10) and increased resilience to climate change (SA objective 11). Whilst some mitigation of these matters may be possible with the use of planning conditions, the fundamental concerns with the application identified in the report above cannot be addressed in this way.

Weighing these matters up, it is considered that the proposal do not provide wider sustainability benefits to the community sufficient to outweigh the identified flood risk. The proposal therefore does not pass the first part of the Exception Test.

Overall balance

The following harms resulting from the proposed development have been identified:

1. Increase to flood risk
 - Failure to pass the Sequential Test
 - Not safe for its lifetime
 - Failure to pass the Exception Test
 - Conflict with policy CP5 of the Core Strategy

- Conflict with NPPF (Paragraphs 100 - 103)
2. Harm to the OUVs of the Bath World Heritage Site
 - 'Less than substantial', but considered to be significant.
 - Conflict with policy B4 of the Core Strategy
 - Conflict with policy HE1 of the Placemaking Plan.
 - Conflict with NPPF (Paragraphs 132 - 134).
 3. Harm to the character and appearance of Bath Conservation Area
 - 'Less than substantial', but considered to be significant.
 - Conflict with policy B4 of the Core Strategy
 - Conflict with policies HE1, D1, D2, D3 and D5 of the Placemaking Plan.
 - Conflict with NPPF (Paragraphs 132 - 134).
 4. Harm to landscape character, landscape features and local distinctiveness
 - Conflict with policy CP6 of the Core Strategy
 - Conflict with policy NE2 of the Placemaking Plan.
 5. Harm to significant trees
 - Lack of space for adequate replanting and pressure for future works
 - Conflict with policy NE6 of the Placemaking Plan
 6. Harm to green infrastructure
 - Conflict with policy CP7 of the Core Strategy
 - Conflict with policy NE1 of the Placemaking Plan
 7. Other harms
 - Lack of disabled access
 - Conflict with policy ST7 of the Placemaking Plan
 - Conflict with NPPF (Paragraph 32, 35 and 69)

Against these harms, the following material considerations in favour of the application have been identified:

1. Provision of 136 student bedrooms for use by University of Bath students (2nd, 3rd Years and Postgraduates)
 - Accommodation provided in more affordable cluster flats;
 - Relieve some pressure for housing stock to be converted to HMO accommodation.
2. Delivery of replacement indoor cricket training facility
 - ECB compliant;
 - New ancillary gym;
 - Health and social benefits associated with improved sports facilities.
3. Unlocks capital for cricket club investment in community cricket initiatives
 - Health and social benefits associated with cricket initiatives; but,
 - Amount of investment is unknown;
 - Cannot be secured as part of the planning permission.
4. Economic benefits of the proposal
 - CIL contributions of over £870,000;

- Construction value of £9.2m and benefits to local economy/jobs during construction;
- Economic benefit from increased student population - equivalent to £9k per student

As can be seen from the above, there are numerous and significant conflicts with the Core Strategy, the Placemaking Plan and the NPPF. Whilst the proposals do provide some unique benefits they are not of any significant scale when compared to the number and degree of harms identified.

In light of the above, it is considered that the benefits of the proposal are clearly outweighed by the identified harms and the conflicts with the development plan policies. The decision should therefore be taken in accordance with the development plan policies and material considerations do not indicate otherwise.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 The application is located within flood zone 3a. It has not been demonstrated that there are no sequentially preferable sites which are reasonably available for the proposed development in areas with a lower probability of flooding. The proposed development therefore fails the Sequential Test.

Notwithstanding the failure to pass the Sequential Test, it is considered that the proposal does not provide wider sustainability benefits to the community that outweigh the flood risk and the development will not be safe for its lifetime. The proposed development therefore fails the Exception Test.

The proposed development is therefore contrary to the National Planning Policy Framework and the Development Plan, in particular policy CP5 of Core Strategy.

2 The proposed development, due to its massing, height, footprint, layout and design, will harm landscape character, landscape features and local distinctiveness resulting in the erosion of the green setting of the city, one of the attributes of the Outstanding Universal Value (OUV) of the City of Bath World Heritage Site, and cause harm to the character and appearance of the Conservation Area. The degree of harm is considered to be 'less than substantial', but still significant. It is considered that the public benefits of the proposal do not outweigh the harm identified. The proposed development is therefore contrary to the National Planning Policy Framework and the Development Plan, in particular policies CP6 and B4 of the Core Strategy and policies HE1, NE2, D1, D2, D3 and D5 of the Placemaking Plan.

3 The proposed development will result in the avoidable loss of a significant number of important mature trees without providing sufficient space for an adequate amount of compensatory planting. Furthermore, due to its footprint and proximity to the boundaries of the site, the proposed development will result in increased pressure for tree pruning and tree removal. The proposed development will therefore harm the integrity, quality and connectivity of important green infrastructure corridors around the site. The proposed development is therefore contrary to the National Planning Policy Framework and the

Development Plan, in particular policies CP6 and CP7 of the Core Strategy and policies NE1 and NE6 of the Placemaking Plan.

4 The proposed development does provide access for wheelchair users or those with mobility impairment. The proposed development would therefore not provide safe and suitable access to the site for all people and does not consider the needs of people with disabilities. The proposals therefore do not promote sustainable communities and are contrary to the National Planning Policy Framework and the Development Plan, in particular policy ST7 of the Placemaking Plan.

PLANS LIST:

1 P001 SITE LOCATION PLAN
P010 EXISTING SITE PLAN
P020 PROPOSED SITE PLAN
P100 PROPOSED GROUND FLOOR PLAN (CAR PARK LEVEL)
P101 PROPOSED FIRST FLOOR PLAN (HABITABLE LEVEL)
P102 PROPOSED SECOND FLOOR PLAN
P103 PROPOSED THIRD FLOOR PLAN
P104 PROPOSED FOURTH FLOOR PLAN
P105 PROPOSED ROOF PLAN
P110 PROPOSED FLOOR PLANS
P201 PROPOSED NORTH ELEVATION (NORTH PARADE)
P202 PROPOSED SOUTH EAST ELEVATION (RAILWAY EMBANKMENT)
P203 PROPOSED WEST ELEVATION (CRICKET PITCH)
P204 PROPOSED SOUTH ELEVATION
P205 PROPOSED BUILDING INNER ELEVATIONS & SECTION
P206 PROPOSED SECTIONS
P207 PROPOSED ILLUSTRATIVE ELEVATIONS
P301 PROPOSED CONTEXT ELEVATION 1
P302 PROPOSED CONTEXT ELEVATION 2
P303 PROPOSED CONTEXT ELEVATION 3
P304 PROPOSED CONTEXT ELEVATION 4
P400 PROPOSED SECTIONS THROUGH NORTH PARADE
P401 PROPOSED ELEVATIONS - DETAILED MATERIALITY
P500 EXISTING PLANS AND ELEVATIONS
P500 EXISTING BUILDING TO BE DEMOLISHED
09001 LANDSCAPE DESIGN PLAN
09101 TREE PROTECTION, REMOVAL AND RETENTION PLAN
09140 SOFT LANDSCAPE DESIGN WORKS PLAN
09160 HARD LANDSCAPE DESIGN WORKS PLAN
09180 BOUNDARY TREATMENT PLAN
09301 PROPOSED LANDSCAPE SITE SECTIONS
09401 TREE PIT IN SOFT LANDSCAPE DETAIL
09402 FURNITURE AND PAVING DETAILS
09403 TYPICAL FENCE DETAILS
09404 CYCLE STAND DETAILS
EX/001 C EXTERNAL GROUND FLOOR LIGHTING
EX/002 C EXTERNAL FIRST FLOOR LIGHTING

DECISION MAKING STATEMENT

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. The Local Planning Authority has engaged with the applicant through pre-application discussions and has outlined its concerns with the application at an early stage. The Local Planning Authority has worked positively and proactively with the applicant during the application process in an effort to address some of these issues. However, for the reasons given above it has not been possible to recommend the application for approval.

2 Community Infrastructure Levy

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