

DELEGATED REPORT

Application No: 22/04122/FUL

Details of location and proposal and Relevant History:

Waterworks Cottage , Charlcombe Way, Fairfield Park, Bath, Bath And North East Somerset

The application refers to a site is located in the Fairfield Park residential area of Bath, within the World Heritage site but outside of the Conservation Area. The Green Belt bounds the site to the north along with the AONB.

Planning permission is sought for the erection of two detached dwellings with associated means of access, car parking and associated infrastructure following demolition of existing dwelling and outbuilding.

Relevant Planning History:

AP - 22/00002/RF - DISMIS - 26 April 2022 - Extension and alteration to existing Cottage and creation of two detached dwellings.

DC - 20/04067/FUL - RF - 4 August 2021 - Extension and alteration to existing Cottage and creation of two detached dwellings.

DC - 22/01884/DEM - RF - 1 June 2022 - Demolition of dwellinghouse (Waterworks Cottage).

DC - 22/02297/DEM - RF - 4 July 2022 - Demolition of dwellinghouse (Waterworks Cottage).

DC - 22/03249/DEM - PAPNRQ - 9 September 2022 - Demolition of dwellinghouse (Waterworks Cottage).

Summary of Consultation/Representations:

Consultation Responses :

CHARLCOMBE PARISH COUNCIL:

8th Nov: The Parish Council is aware that the deadline for comments is today but request a one week extension to enable them to agree the exact detail of the comments before submitting them by Tuesday 15th November at the latest.

14th Nov: Charlcombe Parish Council wishes to object strongly to this proposal. It's a tragedy that the original perfectly habitable historic cottage is to be demolished, and this proposal builds on that tragedy by replacing it with two excessively large and oversized box dwellings, totally inappropriate for the setting. The dwelling nearest the path has a ridge height some 2m taller than the existing cottage and is far larger and situates the house much closer to the upper boundary wall of the site. The result is a looming building that completely obliterates the existing views across the valley to Solsbury Hill, currently enjoyed by the many walkers along the adjacent narrow road. The scale and massing of this building alone is huge compared to the original cottage. This error is then repeated on the second building below, which matches the first in being excessive in scale and massing for the site. The new properties will create intrusive light spill into the valley below and

turn what is currently a rural valley setting below the existing cottage into an over developed estate and car parking lot. The proposals are claimed to be sustainable construction but clearly are not when the huge volumes of concrete, steel and glass required far outweigh the simple renovation of the existing cottage that could easily be carried out by a more sympathetic owner. This site will create a significant loss of visual amenity for the many walkers in the area and shows no respect towards the local environment or the local community. Due to the huge number of real and passionate objections which far outweigh the trickle of support, it is essential that if B&NES is minded to permit this application, then it must be called in for planning review and discussion by the Development Control Committee, as requested by Ward Cllrs Rob Appleyard and Joanna Wright. We trust this will be the case. Charlcombe Parish Council respectfully repeats that this application should be refused in its entirety.

COTSWOLDS CONSERVATION BOARD:

3rd Nov: Comments only. In reaching its planning decision, the local planning authority (LPA) has a statutory duty to have regard to the purpose of conserving and enhancing the natural beauty of the National Landscape.² The Board recommends that, in fulfilling this 'duty of regard', the LPA should: (i) ensure that planning decisions are consistent with relevant national and local planning policy and guidance; and (ii) take into account the Board publications.

DRAINAGE:

7th Nov: Further information required. The application form indicates that soakaways will be used. However, they do not appear to be shown on the drawings. The drawings need to show the locations of the proposed soakaways.

ECOLOGY:

13th Dec: No objection

HIGHWAYS:

28th Nov: No objection subject to conditions.

LANDSCAPE:

1st Dec 2022: Objection. The site is highly sensitive in landscape terms, being within the WHS and in very close proximity to and visible from both the AONB and the Green Belt. A Landscape and Visual Appraisal (LVA) Rev A dated Sept 2022 has been provided, but not all of its conclusions can be relied upon. The LVA conclusions (p24) acknowledge that the proposed development would 'disrupt views to the Cotswold AONB'. The LVA also accepts that the character of the site would change significantly as a result of the proposed development, which is correct, but goes on to claim that the existing transition in character from urban to rural would be retained which I do not accept and which is inconsistent with the fact that there would be a significant change in the character of the site. The proposals would fail to conserve or enhance local landscape character and local distinctiveness.

Representations Received :

Cllr Rob Appleyard: Given the huge ongoing focus on this site and it's development I have been asked to request that this application, should you be mindful to approve , be set before the committee for further consideration as there are concern regards the size and massing which is leading to an overdevelopment of the site.

Cllr Joanna Wright: With regards to the application for two houses to be built on the former site of Waterworks cottage could I please ask that should you be minded to approve this application that it is called into committee to be agreed.

85 objections have been received from third parties, the following is a summary of the points raised:

Bath and Counties Archaeological Society:

Objection. The removal of the cottage will be a significant and irreplaceable loss to the local heritage. We believe it will have a detrimental effect on the Cotswolds AONB and the World Heritage Site.

Bath Preservation Trust:

Objection. By virtue of the scale, massing, and density of the proposed development, this application constitutes overdevelopment of the site, harm to the indicative townscape setting of the conservation area, Cotswold AONB, and Green Belt, and harm to the Green Setting OUV of the World Heritage Site. The form, articulation, and footprint of the development would be contrary to the grain and layout of its setting, and would introduce an overdominant suburbanising influence into the streetscape at odds with the mid-density low profile character of dwellings set low into the hillside. The proposed design and form of the dwellings would fail to reinforce local distinctiveness and local townscape character. We maintain our in-principle opposition to the proposed demolition of this NDHA. This application is therefore contrary to Section 16 of the NPPF, and Policies B1, B4, BD1, CP6, D1, D2, D3, HE1, NE2, and NE2A of the Core Strategy and Placemaking Plan, and should be refused or withdrawn.

Charlcombe Toad Rescue Group:

Objection. After studying this latest application we have not changed our view that the development of this site will have a detrimental effect on the local amphibian (common toads, common frogs and newts) population.

Cotswolds Conservation Board:

In reaching its planning decision, the local planning authority (LPA) has a statutory duty to have regard to the purpose of conserving and enhancing the natural beauty of the National Landscape.² The Board recommends that, in fulfilling this 'duty of regard', the LPA should: (i) ensure that planning decisions are consistent with relevant national and local planning policy and guidance; and (ii) take into account Board publications.

CPRE:

Objection. One might hope that following the demolition the replacement would be a suitable interesting modern building that is sympathetic to the environment. Unfortunately it would seem that the plans are instead for over-development of the site with two very large buildings. Not only will land be lost to buildings but also concreted over to provide the necessary facilities for access and parking. This would be bad enough in an urban area but this site has an important presence in relation to the adjoining Area of Natural Beauty, the entrance to the World Heritage City and the local Green Belt and local recreational areas. The NPPF recognises the importance of such factors in determining planning for such sites and requires local authorities to take account of them in making a planning decision. Such plans should only be approved when they make a positive contribution which is clearly not the case here. The visual loss to the landscape of such a development cannot be mitigated by the planting of a few hedges.

Third parties:

- Overdevelopment
- Mass, spread and bulk concerns
- Design not in keeping with locality
- General design detail concerns
- Impact on neighbours residential amenity

- Overbearing impact
- Privacy concerns
- Loss of light
- Impact on local environment
- Impact to ecology
- Impact to wildlife and biodiversity
- Contrary to ecological emergency
- Loss of the cottage as a heritage asset
- Heritage concerns
- Impact to World Heritage Site
- Impact to Bath conservation area
- Application should be heard at committee
- Applicant should not be able to make revisions
- Proposal is not sustainable
- Proposal is green washing
- Parking concerns
- Access and egress concerns
- Traffic and congestion concerns
- Highways safety concerns
- Not appropriate housing mix
- Impact on local views
- Landscape concerns
- Concern with loss of trees
- Impact to AONB
- Climate crisis concerns
- Impact on local community
- Impact on neighbours health and wellbeing
- Noise and pollution concerns
- Discrepancies on the submitted plans
- Impact to existing utilities
- Drainage concerns
- Underground spring impacts
- No housing need
- Subsidence concerns

14 comments of support objections have been received from third parties, the following is a summary of the points raised:

- Cottage is architecturally insignificant
- Provision of two family homes
- Good design
- Density is inkeeping
- Use of local materials
- Will integrate with locality and landscape
- Addresses ecology matters
- Provided biodiversity net gain
- Provides needed housing delivery

Policies/Legislation:

The Development Plan for Bath and North East Somerset comprises:

- o Bath & North East Somerset Core Strategy (July 2014)
- o Bath & North East Somerset Placemaking Plan (July 2017)
- o Bath & North East Somerset Local Plan Partial Update (2023)

- o West of England Joint Waste Core Strategy (2011)
- o Made Neighbourhood Plans

CORE STRATEGY:

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

B4: The World Heritage Site and its setting
 CP6: Environmental quality
 CP10: Housing mix
 SD1: Presumption in favour of sustainable development

PLACEMAKING PLAN:

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

B1: Bath spatial strategy
 BD1: Bath design policy
 D1: General urban design principles
 D2: Local character and distinctiveness
 D3: Urban fabric
 D5: Building design
 D6: Amenity
 D7: Infill and backland development
 GB1: Visual amenities of the Green Belt
 H4: Self Build
 HE1: Historic environment
 LCR9: Increasing the provision of local food growing
 NE2A: Landscape setting of settlements
 PCS1: Pollution and nuisance
 PCS2: Noise and vibration
 SCR5: Water efficiency

LOCAL PLAN PARTIAL UPDATE:

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

D8: Lighting
 H7: Housing accessibility
 NE2: Conserving and enhancing the landscape and landscape character
 NE3: Sites, species, and habitats
 NE3a: Biodiversity net gain
 NE5: Ecological networks
 NE6: Trees and woodland conservation
 PC55: Contamination
 SCR6: Sustainable construction policy for new build residential development
 SCR9: Electric vehicles charging infrastructure
 ST7: Transport requirements for managing development

SUPPLEMENTARY PLANNING DOCUMENTS:

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

Sustainable Construction Checklist Supplementary Planning Document (January 2023) is also relevant in the determination of this application.

Transport and Development Supplementary Planning Document (January 2023) is also relevant in the determination of this application.

Planning Obligations Supplementary Planning Document (January 2023) is also relevant in the determination of this planning application.

NATIONAL POLICY:

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

Officer Assessment:

The main issues to consider are:

- Principle of development
- Character and appearance
- Residential amenity
- Highways matters
- Flooding and drainage
- Technical matters
- Any other matters
- Planning balance

NOTE:

During the course of this application the Local Plan Partial Update for Bath and North East Somerset Council was adopted, on 19th January 2023. The Local Plan Partial Update has introduced several new policies and updated some of the policies contained within the Core Strategy and Placemaking Plan which were relevant at the time of the applications submission.

PRINCIPLE OF RESIDENTIAL DEVELOPMENT:

Policy DW1 of the Local Plan Partial Update states that the focus of new housing in the district will be Bath, Keynsham and the Somer Valley. Policy B1 of the Placemaking Plan seeks to enable delivery of around 7000 homes across the site, including from windfall sites. It states subject to compliance with all other policy considerations residential development will be acceptable in principle provided the proposal lies within the existing urban area of Bath as defined by the Green Belt boundary. The site proposed two new dwellings within the defined built-up area of Bath. The principle of development is acceptable. This is subject to other material planning considerations discussed below.

HERITAGE:

Waterworks cottage is not listed but is considered to have heritage significance. It is considered to be a Non-Designated Heritage Asset (NDHA). The existing site is the World Heritage site.

Non-Designated Heritage Asset:

Evidence confirms that there was a connection between Waterworks Cottage and the Bath Water Works that is situated in close proximity to the site. Map regression and Census material in particular provide strong evidence that the house was occupied by workmen/engineers working on the Waterworks plant. Waterworks Cottage is a simple traditional stone-built house on the edge of suburban Bath set within a large garden plot. It retains much of its original form through its footprint, internal plan and remnants of some internal features such as fireplace surrounds. However, other external features such as its roof structure and fenestration have been replaced in the recent past, leading to some erosion of its architectural authenticity. Given the aforementioned, the significance of the non-designated heritage asset therefore derives mainly from its historic interest and in part from its architectural interest.

Policy HE1, Historic Environment, of the Placemaking Plan sets out under paragraph g that proposals affecting non-designated heritage assets should ensure they are conserved having regard to their significance. Paragraph 203 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application.

The proposal results in the demolition of Waterworks cottage which therefore results in the total loss of its significance deriving from its historic and architectural interest. The harm arising from the total loss is considered to be, in the words of the NPPF, substantial harm.

Paragraph 203 of the NPPF goes on to say that 'In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.' Unlike the requirements for harm to listed buildings, there is no requirement within the NPPF that the harm arising be weighed against public benefits, it is simply a balanced judgement. Nevertheless, policy HE1 goes on to require that, even for non-designated heritage assets, public benefits are considered. This is fully considered in the planning balance below.

World Heritage Site:

The proposed development is within the World Heritage Site; therefore, consideration must be given to the effect the proposal might have on the setting of the World Heritage Site.

The World Heritage Site is Designated for its Outstanding Universal Values (OUV). These can be summarised as 1. Roman Archaeology, 2. The Hot Springs, 3. Georgian Town Planning 4. Georgian architecture, 5. Green Setting of the City in a hollow in the hills, 6. Georgian architecture reflecting social ambitions (e.g. spa culture). The cottage is Victorian and whilst it is located on the edge of the built area it is outside of the area designated as the landscape setting of Bath. The built form will be within the envelope of the site and doesn't encroach into Charlcombe Valley. The Green Setting of the city is not considered to be harmed in the context of the World Heritage Site. As such the proposal is considered to be acceptable in the World Heritage Site setting and complies with Policy B4.

LANDSCAPE:

Local Plan Partial Update policy NE2 has regard to conserving and enhancing the landscape and landscape character. The policy notes a number of criteria which should be met in order for the development to be considered acceptable in landscape, including conserving the local landscape character and conserving. The policy also states that development should seek to avoid or should adequately mitigate any adverse impacts on the landscape. Proposals with the potential to impact on the landscape/townscape character of an area or on views should be accompanied by a

Landscape and Visual Impact Assessment undertaken by a qualified practitioner to inform the design and location of any new development.

The Landscape officer has been consulted on this scheme and raised an objection on the grounds that the conclusions of the submitted LVIA cannot be relied upon and the Landscape Officer considers the proposal would fail to conserve or enhance local landscape character and local distinctiveness.

As mentioned above this scheme proposed two dwellings be erected following the demolition of the existing cottage. A previous scheme was submitted at the site for the retention and extension of the existing Cottage and creation of two detached dwellings. The two detached dwellings were very similar in design and appearance to the design thrust proposed here. Whilst the mass of the proposed dwellings under this scheme is larger, the amount of built form and spread of built form was greater under the previous scheme given the retention of the cottage and the placement of the proposed dwellings. Additionally the proposed dwellings were similar in height if not taller. It is considered that the previous scheme was more conspicuous within wider views and would have been sited in a location even closer to the rural edge of the site. Under the previous scheme no objection was raised by the Council's landscape officer and the inspector concurred that the scheme was not harmful in terms of landscape matters, the appeal was dismissed but not on landscape grounds. Thus it follows that this on this scheme, which has a lesser impact on landscape than its predecessor, a landscape objection cannot therefore be sustained.

The development site's position on the edge of settlement means that the character of the area to its south is formed by the suburban residential townscape of the Fairfield area of Bath; while the character of the area to its north is formed by the rural pastoral landscape of the Lam Brook Valley. These markedly different characters are broadly reflected in landscape designations with the Green Belt, Cotswold AONB and locally designated landscape setting of the settlement of Bath boundaries running along the access road on the northern boundary of the site; and the Bath World Heritage Site and Conservation Area boundaries lying 250m to its north and 150m to its west respectively.

While the proposed development would be conspicuous from the Green Belt and AONB in some views it is considered that the development will be viewed in context with the surrounding cityscape and urban residential form. The landscaping within the site itself will clearly be reduced due to the built form increase, however there is proposed planting including trees and hedgerow (biodiversity gain is discussed further below). It is considered that conditions be applied regard to the submission, approval, implementation and maintenance of a detailed hard and soft landscape scheme.

Overall, the proposal is considered to comply with policy NE2 of the Local Plan Partial Update, policy NE2A of the Placemaking Plan and part 15 of the NPPF.

DESIGN, CHARACTER AND APPEARANCE:

Policy D1, D2, D3 and D5 of the Placemaking Plan have regard to the character and appearance of a development and its impact on the character and appearance of the host building and wider area. Development proposals will be supported, if amongst other things they contribute positively to and do not harm local character and distinctiveness. Development will only be supported where, amongst other things, it responds to the local context in terms of appearance, materials, siting, spacing and layout and the appearance of extensions respect and complement their host building.

The site is situated on the northern edge of the settlement of Bath on the rising eastern slope of Lansdown. The large inverted triangular plot in which the existing cottage is situated is of a generous size. It is bounded to the south west by Charlcombe Way, to the north by the access track to Charlcombe Pumping Station, and to the south east by the garden plots of Combe House

and 136 Fairfield Park Road. The site is steeply sloping, levels across the site rise from east (114m AOD) to west (126m AOD).

The scheme proposes the erection of two detached dwellings with associated works following the demolition of existing Waterworks Cottage and outbuilding. Revisions have been submitted during the course of this application. A previous scheme on the site involving the extension and alteration of Waterworks Cottage and creation of two detached dwellings was refused by committee and later dismissed at appeal. At appeal stage the inspector found that the proposal harmed the character and appearance of the area.

In describing the existing character and appearance of the area the inspector set out the following;

Various instances of residential development exist alongside the site and to the opposite side of Charlcombe Way (the road). Although a mix of property sizes, ages and styles are evident, the dwellings closest to the site tend to occupy often well-vegetated individual plots of generous size. Indeed, the site itself is particularly spacious and well-planted to its perimeter. When also factoring in the inherently rural composition of the neighbouring open lands to the north, the site and its immediate surroundings can be observed to exhibit a green and semi-rural character and appearance.

The existing Waterworks cottage is two storeys with a pitched roof, the dwelling is set down within the plot so that eaves of the property are roughly in line with street level. The dwelling is set back from the street and is not overly visible in the street scene until stood directly adjacent to the site. The existing dwelling is long and narrow, its scale and massing is modest and absorbed within the slope of the site.

It is noted that in dismissing the previous appeal the inspector found that 'Plot 2 would be a dwelling of considerable scale, bulk and footprint coverage is intended across three stories upon a somewhat tightly dimensioned individual plot... and would appear as a discordant, cramped and unduly urbanising addition to the street scene.' In the case of this scheme the proposed dwellings to replace Waterworks cottage would have a larger scale, bulk and massing than the dismissed plot two.

The proposal introduces two new dwellings in place of the existing cottage. The dwellings will be three storey. They will be set into the bank such that they appear single storey from the street, however this would still introduce a significantly greater level of built form where there is currently limited physical presence. Each of the dwellings have an L shape form to the footprint. The built form now spreads across the majority of the width of the site and engulfs a larger portion of the length of the site than the existing dwelling. Whilst there is a mix of property sizes in the area these would be the largest properties, located at what should be the rural transition from the edge of the city to the countryside beyond. The current dwelling on the site successfully maintains this transition.

The sections show that the land will be built up in some places to facilitate the development. The mass and bulk of the dwellings is considerably larger than that of the surrounding dwellings. The height is not considerably taller than the existing dwelling however due to the box, flat roof form of the development and its spread the overall mass experienced is significantly greater and more conspicuous at the proposed height.

The inspector previously found that this edge-of settlement site is not well suited to accommodating the quantum of development that is proposed. The level of development proposed on the site is still overly ambitious, whilst the overall number of dwellings has reduced from three to two the proposal still appears to result in overdevelopment.

The layout is such that the two dwellings will have substantial driveways both accessed off of Charcombe lane. The dwellings will appear single storey from Charcombe Way and will be more visible in the street scene than the current dwelling - as mentioned above. The inspector found the previous scheme layout resulted in visibility and an erosion of the area's semi-rural qualities, which was the inspector found was promoted by the level of the 'removal of vegetation necessitated by access being obtained directly from the road.' This scheme has not significantly improved on these aspects to address the inspectors concerns.

The dwellings, due to their scale, mass and bulk, and layout fail to address the inspectors previous concerns, and indeed this application would also lead to the erosion of the 'area's semi-rural qualities' and would be 'unduly urbanising', resulting in overdevelopment of the site.

The proposed materials are considered to be important in this location given the transition the site provides between the urban built form of the World Heritage Site and the rural countryside. The natural materials proposed including rubble stone, lime stone, timber cladding and glass. This palate of materials is considered acceptable.

The proposal takes a contemporary approach to both dwellings. The design of both is similar to Plot 2's design within the previously dismissed scheme. Given the varied style and modern nature of many of the surrounding dwellings the contemporary design approach itself is acceptable, whilst the overall design is not. It is noted that the inspector found the previous schemes contemporary approach acceptable.

Thus, whilst the proposal would not have an unduly adverse effect upon the wider landscape setting of the locality, it would, for the above reasons, cause harm to the character and appearance of the area. In the words of the inspector in assessing the previous scheme, this scheme would also no longer 'offer a gradual and harmonious transition between urban Bath and its picturesque rural surroundings'.

The proposal by reason of its design, siting, scale, massing and layout is unacceptable and fails to contribute and responds to the local context, thus failing to maintain the character and appearance of the surrounding area. The proposal fails to comply with policy CP6 of the Core Strategy and policies D1, D2, D3, D4 and D5 of the Placemaking Plan and part 12 of the NPPF.

HOUSING ACCESSIBILITY:

Local Plan Partial Update policy H7 requires 5.6% of dwellings to be built to Building Regulation M4(3)(2a) standard (wheelchair adaptable housing). this would not equate to a full dwelling in this case and is therefore not considered applicable.

However the policy also states that 48% of the remainder of housing, after the M4(3)(2a) figure has been accounted for, must meet the M4(2) accessible and adaptable dwellings standard. Therefore, 1 of the 2 proposed dwellings must meet enhanced accessibility standards. In this case it is considered that this could have been conditioned.

RESIDENTIAL AMENITY:

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

The site is located on the edge of the built development; there are neighbouring properties to the south and west, with open fields and woodland to the north and the existing large garden of the cottage to the east.

The properties adjacent to the site on the west of Charlcombe Way sit high above the site given the sloping nature of this area, and are separated by the road. The proposed dwellings will appear single storey from the road therefore it is not considered that any impact to residential amenity of dwelling along western side of Charlcombe Way will occur as a result of the development.

Combe House is the immediate neighbour of the site to the south-east. Upon undertaking a site visit it is apparent that Combe House's principle elevation is essentially the north west elevation which faces towards the boundary with Waterworks cottage. Two of Combe Hay's primary windows at ground floor level face towards the site, along with bedroom windows at second floor. Plot one is to be located significantly closer than the existing cottage so that it will be approximately 5.7m from the north west elevation. The eaves of Combe Hay sit at 125.26 AOD whereas the eaves of the proposed plot one have an overall height of 129.55, therefore sitting 5m taller than Combe Hay overall and 3m taller at its closest point. The built form of plot one is of a similar length to Combe House (although it is appreciated that some of the bulk of this length is set further away). All of these factors contribute to an overbearing impact of the proposed plot one on the existing Combe Hay which is considered to be of a significant and unacceptable level.

At upper ground floor level the proposed car port and garage is located closest to Combe House, and although not internal living space, this elevated flat outdoor area will be in continual use and provided opportunities for overlooking Combe House. At lower ground floor level of plot one there will be glazed doors from the main habitable living space which will look towards Combe House. Additionally a large area of terrace is proposed, again which is located in a prominent position facing Combe House. This design result in increased significant opportunities for overlooking Combe House and its garden.

Given the design, scale, massing and siting of the proposed development the proposal would cause significant harm to the residential amenity of the occupiers of Combe House. The proposal therefore fails to accord with policy D6 of the Placemaking Plan for Bath and North East Somerset (2017) and part 7 of the NPPF.

HIGHWAYS SAFETY AND PARKING:

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

The highways Team have been consulted on this application and have raised no objection to the scheme subject to conditions.

Access:

The current development proposal is for two detached dwellings, and access would be taken directly from Charlcombe Way. It is noted that there is not currently a drop kerbed access into the site and in order for a new vehicular access to be created, HDM will require dropped kerb access and for the Applicant to apply for a Section 184 licence under the Highways Act 1980.

Submitted plan P03 indicates gates are proposed at the entrance to the proposed development that open away from the highway which appear to be set back circa 2m from the highway. HDM would usually request that any entrance gates erected are required to be set back a minimum distance of six metres from the back edge of the adopted public highway in order for vehicles to pull off the carriageway whilst waiting for the gates to be opened. However, Given the lightly trafficked nature of Charlcombe Lane combined with the slow speed at which motor vehicles travel along the lane, and the number of houses served beyond the proposed development, the severity

of impact of a vehicle waiting to turn into the driveway whilst the gates are opening is not deemed severe. As such, on this occasion HDM do not raise objection to the gates proposed.

There is a need to ensure that the vehicular access surface is a bound material and that no loose stones would be carried onto the public highway. This could be conditioned.

Parking:

Vehicle parking at all developments should be provided in accordance with adopted parking standards at the time of the application.

Previous adopted standards were outlined in Schedule 2 of the B&NES Placemaking Plan and required residential parking to be provided on the basis of at least three spaces per 4 bedroom + dwelling. The minimum number of car parking spaces required to be policy compliant under the C3 Residential Parking Standards for 5-bed dwellings would have been three car parking spaces. The proposed driveway and garage/ car port has sufficient space to accommodate 3 vehicles for each plot.

The LPPU has updated policy ST7 and parking standards can now be found in the Transport and Development Supplementary Planning Document. This sets out that within the Bath Outer Zone 1.5 spaces per three bed dwelling is required, the new standards are maximum standards. This figure could reasonably be rounded to 2 spaces for the proposed dwellings. However the proposal includes 3 spaces per dwelling. The SPD goes onto make clear Garages will not be counted as parking spaces for the purposes of deriving parking standards. In this case each dwelling has one space within a garage, one car port space and one driveway space. As the garage must be excluded the proposal is for 2 counted spaces per dwelling which complies with the updated parking standards.

Cycle parking is proposed within the garages of each site. Bicycle storage for at least four bicycles is required to be policy compliant under the C3 Residential Parking Standards within the updated SPD. The Highways Team consider that the proposed garage measures 3m x 6m which is acceptable to accommodate bicycle parking. It is noted that there is space within the rear gardens to also include cycle storage should future occupiers make use of the garage

Policy SCR9 of the LPPU requires that 'In the case of new development proposals, facilities for charging plug-in and other ultra-low emission vehicles will be sought where practicable'. This could be achieved via condition.

Refuse:

HDC officers acknowledge that occupiers of the proposed dwellings will be required to place all bins at the road/pavement edge on refuse collection day such that refuse can be collected from the roadside, which is acceptable.

The means of access and parking arrangements are acceptable and maintain highway safety standards. The proposal accords with policy ST7 and SCR9 of the Local Plan Partial Update, the Transport and Development Supplementary Planning Document, and part 9 of the NPPF.

DRAINAGE AND FLOODING:

Policy CP5 of the Core Strategy has regard to Flood Risk Management. It states that all development will be expected to incorporate sustainable drainage systems to reduce surface water run-off and minimise its contribution to flood risks elsewhere. All development should be informed by the information and recommendations of the B&NES Strategic Flood Risk Assessments and Flood Risk Management Strategy.

Policy SU1 states that for both major development ((as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015)) and for minor development in an area at risk of flooding (from any source up to and including the 1 in 100 year+ climate change event) Sustainable Urban Drainage Systems (SuDs) are to be employed for the management of water runoff.

The Drainage Team have been consulted on the scheme. It is noted that the Drainage Team did not raise an objection to the previous application dismissed at appeal. The application form indicates that soakaways will be used, however, they were not initially shown on the drawings. The Drainage Team asked for this information which has now been submitted.

The drawing indicates their potential locations, which will be subject to full design in conjunction with the necessary percolation tests, that would form part of the detailed design stage. At this stage the information submitted is satisfactory and full drainage details can be conditioned, as with the previous scheme.

As such, the proposed development is considered to comply with policy CP5 of the Core strategy in regard to flooding and drainage matters, as well as part 14 of the NPPF.

TREES:

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

The submitted Arboricultural Impact Assessment, Method Statement and Tree Protection Plan (Hillside Trees Ltd October 2020) identifies six trees on site and states that tree T6 will be removed and trees T1, T2, T3, T4 and T5 will be retained. However, it is noted that trees T1 and T2 are suffering the effects of Ash dieback.

Tree T6 is a lilac tree and is judged to be category. Where trees covered by categories A, B and C of BS 5837 (Trees in relation to construction) are removed as part of a development, and replacement planting is required on public land. As such there is no objection to its removal subject to appropriate replacement planting.

Overall, the proposal is considered to comply with policy NE6 of the Local Plan Partial Update regarding trees.

ECOLOGY:

Policy NE3 of the Local Plan Partial Update has regard to Sites, Species and Habitats and states that development which results in significant harm to biodiversity will not be permitted. For all developments, any harm to the nature conservation value of the site should be avoided where possible, before mitigation and/or compensation is considered. In addition, Policy NE3a of the Local Plan Partial Update relates to Biodiversity Net Gain (BNG). In the case of minor developments, development will only be permitted where no net loss and an appropriate net gain of biodiversity is secured using the latest DEFRA Small Sites Metric or agreed equivalent.

This proposal is on the same site as previous application 20/04067/FUL for which Ecology advice was provided (copy appended for reference). The scheme now proposes 2 dwellings (reduced from the previous total of three). Ecology comments for the previous schemes here remain relevant. There was no ecological objection to the previous scheme and conditions were recommended.

The proposal is accompanied by an up to date ecological and bat survey and assessments, updated ecological mitigation and enhancement plan, and biodiversity net gain assessment. These are comprehensive and are accepted. Details of proposed wildlife protection measures during the construction phase, and a long term habitat management plan are also now included, and are considered appropriate.

The proposal includes a lighting strategy and the proposed buildings include design features such as overhanging roof / recessed glazing on the main / rear elevations, and more limited extents of glazing on the remaining elevations, such that it is considered that subject also to the standard lighting condition securing final details of lighting design and controls, the scheme is capable of avoiding excessive or ecologically harmful levels of light spill onto adjacent land and vegetation.

The current scheme is considered to represent an improvement for ecology compared with the previous scheme.

There is no objection on ecological grounds to this proposal subject to all the measures as detailed in the submitted reports being adhered to and secured by condition. A condition will also be required to secure a landscape scheme, which will need to be in accordance with the ecological measures and habitat provision as detailed in the submitted ecology and BNG reports. Continued adherence to the habitat management plan in the long term (i.e. retention of ecological features and habitats, and continuity of appropriate management, in perpetuity (or for the lifetime of the development) must also be secured by condition. Sensitive lighting design is also required and would have been requested by condition.

Overall, the proposal is considered to comply with policy NE3 and NE3a of the Local Plan Partial Update regarding ecology matters.

SUSTAINABLE CONSTRUCTION AND RENEWABLE ENERGY:

Policy SCR6 of the Local Plan Partial Update has regard to Sustainable Construction for New Build Residential Development. The policy requires new residential development to achieve zero operational emissions by reducing heat and power demand then supplying all energy demand through onsite renewables and that a sustainable construction checklist (SCC) is submitted with application evidencing that the prescribed standards have been met.

In this case the submitted SCC has regard to the old sustainable construction checklist associated with policy CP2 of the Core Strategy.

Therefore the information is not available to conclude that the development is compliant with Local Plan Partial Update policy SCR6 in this instance, as such the application will be refused on these grounds.

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

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

Policy LCR9 states that all residential development will be expected to incorporate opportunities for local food growing (e.g., border planting, window boxes, vertical planting, raised beds etc.). The proposed gardens will provide a proportionate level of opportunity.

POLLUTION:

Policies PCS1 and PCS2 have regard to pollution, noise, and nuisance. Third parties have raised concerns to all three elements. The proposal is not considered to result in risks of pollution being two dwellings (net gain of one). The impact of additional pollution from cars associated with the development is not considered grounds for refusal given that it meets the required parking standards as prescribed by the placemaking plan. Furthermore, future residents may have electric vehicles. The addition of dwellings in a residential area is not considered to result in noise pollution to existing residents, it is noted that the two plots will only be bound directly by neighbours to the south east, the road and countryside bounds the other sides. There may be some temporary noise during construction, but this could be strictly controlled by the construction management plan, and will be temporary. Light pollution levels are considered acceptable, and not beyond the normal for a standard house. The proposal complies with policy PCS1 and PCS2.

COMMUNITY INFRASTRUCTURE LEVY:

The site would generate additional residential floor space within the Bath city area and is subject to contributions via the infrastructure Levy in line with the Council's adopted Planning Obligations SPD.

PLANNING BALANCE:

As set out in the sections above, paragraph 203 of the NPPF states that, 'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset'. The harm resulting in the total loss of the NDHA and therefore its significance is considered to be substantial in the words of the NPPF.

The proposal site benefits from extant prior approval for the demolition of the cottage as set out in application 22/03249/DEM. The proposed demolition of Waterworks Cottage was found to be permitted development under the terms of Schedule 2, Part 11, Class B of The Town and Country Planning (General Permitted Development) (England) Order 2015.

Therefore, whilst the harm is considered to be substantial, it is harm that cannot be resisted. As such the loss of the cottage as an NDHA is considered acceptable.

Despite no requirement to consider public benefits in the NPPF, Policy HE1 of the Placemaking Plan goes further requiring that, even for non-designated heritage assets, public benefits are considered in the balance.

In this instance given the demolition cannot be resisted as described above the planning balance is a moot point. If the Council were in a position where all other policies requirements had been found to have been complied with the extant demolition prior approval would have been considered to be a material consideration to depart from policy HE1.

Other Matters:

Neighbours have raised concerns that plans do not accurately show neighbouring dwellings. Officers have undertaken a site visit and have made a thorough assessment based on all the gathered information.

Neighbours have raised concerns that revisions have been accepted. The council has a duty to work proactively with applicants as set out within the NPPF.

Neighbours have raised concerns with subsidence. There area is not designated as an area of known subsidence. A developer is responsible for safe development.

The application was called to committee by local ward councillors should the officer be minded to permit. Given the officer is minded to refuse, in line with the Council's Scheme of Delegation, the decision can be made under delegated authority.

CONCLUSION:

For the reasons set out above the proposal fails to accord with national and local policy and as such is recommended for refusal.

Recommendation:

REFUSE

1 The proposal by reason of its design, siting, scale, massing, and layout is unacceptable and fails to contribute and responds to the local context, thus failing to maintain the character and appearance of the surrounding area. The proposal fails to comply with policy CP6 of the Core Strategy and policies D1, D2, D3, D4 and D5 of the Placemaking Plan and part 12 of the NPPF.

2 Given the design, scale, massing and siting of the proposed development the proposal would cause significant harm to the residential amenity of the occupiers of Combe House. The proposal therefore fails to accord with policy D6 of the Placemaking Plan for Bath and North East Somerset (2017) and part 7 of the NPPF.

3 There is a lack of information to conclude that the development is compliant with the sustainable construction requirements within the development plan. As such the proposal fails to accord with Local Plan Partial Update policy SCR6 in this instance.

PLANS LIST:

This decision relates to the following plans:

11 Oct 2022	S05_	Existing Site Appraisal
11 Oct 2022	P00	Site Location Plan
05 Jan 2023	P02	Site Block Plan
05 Jan 2023	P04	Site Sections
05 Jan 2023	P05	Plot 1 Basement Plan
05 Jan 2023	P06	Plot 1 Lower Ground Floor Plan
05 Jan 2023	P07	Plot 1 Upper Ground Floor Plan
05 Jan 2023	P20	Street Elevation
10 Jan 2023	P01a	Proposed Site Plan
10 Jan 2023	P03a	Setting Out Site Plan
10 Jan 2023	P08a	Plot 1 South Elevation
10 Jan 2023	P09a	Plot 1 West Elevation
10 Jan 2023	P10a	Plot 1 North Elevation
10 Jan 2023	P11a	Plot 1 East Elevation

10 Jan 2023	P12a	Plot 2 Basement Plan
10 Jan 2023	P13a	Plot 2 Lower Ground Floor Plan
10 Jan 2023	P14a	Plot 2 Upper Ground Floor Plan
10 Jan 2023	P15a	Plot 2 North Elevation
10 Jan 2023	P16a	Plot 2 West Elevation
10 Jan 2023	P17a	Plot 2 South Elevation
10 Jan 2023	P18a	Plot 2 East Elevation
10 Jan 2023	P19a	Lighting Strategy
10 Jan 2023	P21a	Section Cc

In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework. Notwithstanding informal advice offered by the Local Planning Authority the submitted application was unacceptable for the stated reasons and the applicant was advised that the application was to be recommended for refusal. Despite this the applicant chose not to withdraw the application and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision. In considering whether to prepare a further application the applicant's attention is drawn to the original discussion/negotiation.

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

Case Officer:

Samantha Mason

Authorising Officer:

Chris Gomm