

## **DELEGATED REPORT**

**Application No: 23/00893/FUL**

**Details of location and proposal and Relevant History:**

**Field On Corner With Ferndale Road, Deadmill Lane, Lower Swainswick, Bath, Bath And North East Somerset**

The application site relates to a parcel of land located on the corner of Ferndale Road and Deadmill Lane, within the Lambridge Ward of Bath. The site lies within the designated Green Belt, the World Heritage Site Boundary, and the designated landscape setting of the Settlement of Bath. The Bath Conservation Area borders the southern and eastern boundaries of the site, and the Cotswolds Area of Outstanding Natural Beauty borders its western boundary, on the opposite side of Deadmill Lane.

Planning permission is sought for the erection of two detached dwellinghouses.

Relevant Planning History:

96/00426/FUL

REFUSED - 13 December 1996

Erection of a village hall with associated car park and amenity area

98/00238/FUL

REFUSED - 8 July 1998

Erection of a dwelling after demolition of bakehouse/stable including improvements to road junction

01/02429/FUL

RF - 16 January 2002

Conversion of former bakehouse building to create a new dwellinghouse

20/00491/OUT

REFUSED - 9 April 2020

Erection of 18 dwellings.

DISMISSED AT APPEAL - 01 March 2021

21/04746/OUT

REFUSED - 15 February 2022

Outline application (with access and layout to be determined and all other matters reserved) for the development of 15 affordable dwellings.

22/01220/FUL

REFUSED - 21 July 2022

Erection of two detached dwellings.

**Summary of Consultation/Representations:**

Consultation Responses :

#### (FORMER) COUNCILLOR ROB APPLEYARD:

Given the high level of interest this plot of land is generating through a series of failed applications, should you be mindful, in this instance, to recommend in favour of the application can I ask it is placed before the committee so a wider discussion can take place, particularly around the environmental, green space and street scene, there may be a view around the proposed design

#### SWAINSWICK PARISH COUNCIL:

Swainswick Parish Council objects to this proposal. The access is not acceptable in its present form, for vehicles and also for pedestrians. A parent with a child in a pushchair would have to access onto Deadmill Lane. The Highways Officer has pointed this out in a previous application. B&NES Highways are fully aware of the serious traffic issues at this location. Details of this rat run are well known and the access to this proposed development would create additional serious safety issues. The building process would cause unimaginable issues at and around this confined location for a considerable time and there is no clarity as to how this would be managed. The land is on the edge of a significant ANOB region and is greenbelt land. There are many known springs at this location and the consequences of disturbing land for development is a cause for concern.

#### CHARLCOMBE PARISH COUNCIL:

Charlcombe Parish Council, once again, objects to development on this piece of land. Though not within our parish, we do neighbour this area and are affected by any development here. As we've stated before, this application would eat into valuable green belt and threaten the adjoining AONB. This new development does not resolve the highway safety issues which were part of the reason for previous applications to be refused and the risks to pedestrians also remain. A further consideration is the impact this development would have on wildlife habitat. All in all, the reasons stated in the appeal decision for refusing development on this site are still there. Charlcombe Parish Council objection to this development remains.

#### TRANSPORTATION AND HIGHWAYS:

17th April 2023 - Scope for Revision. Car parking provision at the site is an over provision in accordance with B&NES Transport and Developments SPD. In addition, further details are required in relation to visibility splays, swept path analysis and waste collection points.

#### ARBORICULTURE:

24th April 2023 - Scope for Revision.

#### FLOODING AND DRAINAGE:

27th April 2023 - Scope for Revision.

#### LANDSCAPE:

9th May 2023 - Object. The proposals would not conserve or enhance local landscape character and local distinctiveness and would be contrary to Policies D1, D2, D7, NE2 and NE2A.

#### CONSERVATION:

19th April 2023 - Object. The proposed scheme would, due to its siting, form and layout result in harm to the outstanding universal values City of Bath World Heritage Site (in particular its green setting of the City in a hollow in the hills) and the setting and significance of the non-designated heritage asset known as 'Dead Mill' (because the area of land that would be developed/become residential curtilage would inevitably take on a domestic character quite different from the open

semi rural character the land currently has), and, would fail to preserve or enhance the character or appearance of this part of the Bath Conservation Area (due to loss of the unspoilt, green open qualities of the area which would erode the pleasing contribution the site makes to the historic landscape setting of this part of the conservation area also, the proposal for two detached dwellings would not respond well to the character of the traditional terrace on the opposite side of Ferndale Road within the conservation area). As such, it is considered that the proposals are not consistent with the duties of the primary legislation, or the aims and objectives of planning policy and guidance as it relate to the historic environment.

#### Representations Received :

133 objections comments have been received from third-parties. All comments have been read by the case officer in full and have formed part of the planning assessment. Given the volume of comments, they have not been repeated verbatim, but a summary of the main points is instead presented below.

#### CAMPAIGN TO PROTECT RURAL ENGLAND (CPRE):

- Council has a 5-year housing land supply
- Previous reasons for refusal still apply
- Adverse effects on the Green Belt and local character and the landscape (contrary to CP8 and GB1)
- Harm to the setting of the World Heritage City (contrary to HE1 and B4)
- Harm to the setting of the nearby conservation area and the historic building of the mill (contrary to D1 and D2)
- Given the smaller number of dwellings, any claimed benefits to balance againsts the substantial harms are reduced

#### BATH PRESERVATION TRUST:

- BPT maintains an in-principle objection to the development of this site, where this would constitute inappropriate development of the Green Belt and continued harm to the setting of the conservation area and the World Heritage Site, as well as the historic setting of Deadmill Lane.
- Considering the continued, limited offer of two market-value houses on the site, we maintain that any consequential public benefit should be attributed very limited public benefit against the continued detrimental impact to the openness and character of the Green Belt.
- The planning decision taken in relation to the Bailbrook Lane site should not therefore be considered a precedent or comparative model in relation to the current scheme, where there is also a requirement to judge the application on its own merits.
- residential development along the western portion of Deadmill Lane is increasingly fragmented and interspersed by green planting or set back from the roadside. Development is an eclectic mix of later additions and is not considered to constitute a "unified architectural frontage", or a continuous line of development.
- It is also considered to be an example of "fingers of green countryside which stretch right into the city" (WHS Management Plan 2016-2022), acting as part of a green corridor between the Larkhall character area and its open landscape setting to the north.
- Development would instead fail to "[have] regard to the character and quality of the surrounding townscape" and would be contrary to the character of the area, and as such would be contrary to local Policy D7.
- Proposals are considered to be inappropriate development in the Green Belt, contrary to Section 13 of the NPPF.
- There is insufficient demonstration that development would result in "no net loss and appropriate net gain of biodiversity", contrary to Policies NE3 & NE3a.

- This application is contrary to Sections 12, 13, 15, and 16 of the NPPF, Policies DW1, B1, B4, BD1, CP6, D1, D2, D3, D4, D5, D6, HE1, NE2, NE2a, NE3, NE3a, CP8, GB1, and RA4 of the Core Strategy and Placemaking Plan, and Objective 2 of the Core Strategy, and should be refused. We continue to emphasise the unsuitability of the site for future residential use.

#### TRANSITION BATH:

- Proposal not compliant with policy SCR6
- SCC has not been completed with no stated compliance with < 30 kWh/m<sup>2</sup>/year heat loss, < 40 kWh/m<sup>2</sup>/year net energy use.
- Energy Summary Tool document largely blank
- Draft SAPS document: stated U values very poor so unlikely will ever be compliant with < 30 kWh/m<sup>2</sup>/year heat loss.
- Should be refused as not compliant with SCR6

#### Objection comments:

- Pedestrian safety concerns
- Virtual footway is insufficient and dangerous
- Highway safety concerns
- Increase in traffic
- Unsafe access
- Noise and disturbance during construction
- Ecological implications
- Detrimental impact to wildlife
- Negative impact to biodiversity
- Ecological appraisal references 15 dwellings
- Proposed wildflower meadow is inside residential curtilages and impossible to control
- Drainage and flooding proposals are inadequate
- Natural springs at the site
- Inappropriate development in the Green Belt
- Encroachment onto green field land
- Does not constitute infill
- No very special circumstances to outweigh Green Belt harm
- Not previously developed land
- Bakehouse last use as a pigsty
- No public benefit to outweigh the harm caused to the landscape and environment
- Detrimental impact to Area of Outstanding Natural Beauty
- Detrimental impact to World Heritage Site
- Detrimental impact to Conservation Area
- Detrimental visual impact to the area
- Unsympathetic to the vernacular style of Larkhall
- Reduces rural character
- Significant visual impact
- Impact upon Dead Mill which is a non-designated heritage asset
- Loss of agricultural land
- Site unsuitable for housing
- Risk of subsidence
- Policy SCR6 has not been covered in a meaningful way
- Maximum parking standards are exceeded
- No consultation with local community by developer
- LVIA follows incorrect methodology, against best practice guidance
- Errors within submission documents

## **Policies/Legislation:**

The Development Plan for Bath and North East Somerset comprises:

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

## **CORE STRATEGY:**

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

B4: The World Heritage Site and its Setting  
CP5: Flood Risk Management  
CP6: Environmental Quality  
CP8: Green Belt  
CP13: Infrastructure provision  
RA4: Rural exception sites  
SD1: Presumption in favour of sustainable development

## **PLACEMAKING PLAN:**

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

B1: Bath Spatial Strategy  
D1: General urban design principles  
D2: Local character and distinctiveness  
D3: Urban fabric  
D4: Streets and spaces  
D6: Amenity  
D7: Infill and backland development  
GB1: Visual amenities of the Green Belt  
HE1: Historic environment  
LCR9: Increasing the provision of local food growing  
NE2A: Landscape setting of settlements  
NE4: Ecosystem services  
RE5: Agricultural land  
SCR5: Water efficiency  
SU1: Sustainable drainage policy

## **LOCAL PLAN PARTIAL UPDATE:**

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

CP7: Green infrastructure  
D5: Building design

D8: Lighting  
H7: Housing accessibility  
NE1: Development and green infrastructure  
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  
PCS5: Contamination  
SCR6: Sustainable Construction Policy for New Build Residential Development  
ST1: Promoting Sustainable Travel  
ST7: Transport requirements for managing development

#### SUPPLEMENTARY PLANNING DOCUMENTS:

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

Sustainable Construction Checklist Supplementary Planning Document (January 2023)

Transport and Development Supplementary Planning Document (January 2023)

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

#### NATIONAL POLICY:

The National Planning Policy Framework (NPPF) was published in July 2021 and is a material consideration. Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

#### CONSERVATION AREAS:

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

#### **Officer Assessment:**

The main issues to consider are:

- Principle of development in the Green Belt
- Principle of the loss of agricultural land
- Landscape and World Heritage Site
- Conservation Area and non-designated heritage assets
- Residential amenity
- Highways
- Ecology
- Arboriculture
- Drainage
- Sustainable Construction

#### PRINCIPLE OF DEVELOPMENT:

Green Belt:

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

Policy B1, the Bath Spatial Strategy, states that subject to other material consideration, 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 is within the Green Belt, and therefore, in accordance with policy B1 cannot be considered to be within the urban area of Bath. In this regard the principle of residential development in this location is not supported.

Paragraph 149 of the National Planning Policy Framework (NPPF) states that the Local Planning Authority should regard the construction of new buildings in the Green Belt as inappropriate and that inappropriate development is, by definition, harmful. It goes on to list a number of exceptions which may be considered appropriate. Additional exceptions are listed in Paragraph 150.

The submitted Design and Access Statement considers that the proposal could be assessed against exception (g) of Paragraph 149 of the NPPF. The Council has previously considered and refused a development for two dwellings at the site under exception (e) of the same paragraph. Paragraph (e) allows for "limited infilling in villages". The application site is not considered to be located within a village. The site is directly adjacent to what can be considered the urban area of Bath, in accordance with policy B1. This proposal therefore cannot meet exception (e). None of the other exceptions apart from (g) could reasonably apply to the current scheme and therefore, the development has been assessed against this exception.

Exception (g) of paragraph 149 states that, as an exception, the following development can be considered appropriate in the Green Belt:

"limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development; or
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

The development would not contribute to meeting an identified affordable housing need within the area of the Local Planning Authority and therefore it is firstly necessary to establish whether the land can be considered to be "previously developed" and whether it has a greater impact upon the openness of the Green Belt than the existing development.

Annex 2 of the NPPF provides a glossary for some of the terms included within it. Of relevance is the definition of "previously developed land" (PDL) which is given as:

"Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole curtilage should be developed) and any associated fixed surface infrastructure). This excludes; land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill where provision has been made through development management procedures; land in built up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape."

The applicant draws the Council's attention to the historic context of the site and specifically application 98/00238/FUL which was a refused application for the demolition of an existing "Bakehouse" and the remains of stables on the land. The applicant contends that the Bakehouse

was once an active establishment under Class A or B use and that the site therefore constitutes PDL under the definition provided in the NPPF. Class A no longer exists, and would now be considered Class E.

The Bakehouse is a small building which is located adjacent to and forms part of the boundary wall at the corner of Deadmill Lane and Ferndale Road. The applicant has provided no evidence as to when the Bakehouse was last in operation as a Class E or B use and officers consider that the site has not been in use since at least the time of the referenced application (1998), some 25 years ago. The land field within which the building sits is considered to be in agricultural use and would not form part of its curtilage; this area of land cannot reasonably be considered previously developed. Third parties have raised that the building has been used since the Bakehouse use ceased for the keeping of pigs and therefore is actually likely to be in agricultural use. It would therefore follow that, using the definition provided by the framework, the area upon which the building sits would not be considered previously developed as it is occupied by agricultural buildings. No further evidence has been put forward by third parties, nor the applicant, in respect of this. The remains of the building can be said to have blended into the landscape. The building itself forms part of the boundary wall of the site. The site has become overgrown and by its nature, the structure is not an obvious feature within the site and does assimilate with the landscape within which it sits. The Council do not consider that sufficient evidence has been put forward to demonstrate that the site can be considered previously developed.

Notwithstanding the above, the Council has undertaken the openness assessment. Openness is based on a visual and spatial assessment. The "Bakehouse" building occupies a very small portion of the site, with the majority being an open green field. It is noted and accepted that the buildings are single storey, and this will have the benefit of reducing their impact upon openness when compared to the two storey properties which have previously been refused on site. Spatially, however, it cannot be denied that the proposed dwellinghouses will occupy a significantly larger portion of the site than the existing Bakehouse building due to their form and footprint. Visually, the applicant has attempted to minimise the visual impact upon the openness of the Green Belt through the inclusion of green roofs and the use of an eco-grid system for the access and parking to reduce the use of tarmac. However, the existing character of this site is that it is open and largely undeveloped, apart from the building (which, as above, is not considered to be PDL) on the corner of the Ferndale Road/Deadmill Lane junction. The siting of any built form will have a visual impact upon the openness of the Green Belt visually, even with proposed measures to mitigate this such as green roofs. Domestic paraphernalia such as bicycle and bin storage receptacles, garden furniture and vehicles parked on the site will introduce visual clutter where, as existing, there is none. The site is visible from both short-range and longer-range views and whilst the dwellings are to be sited at the lower parts of the site topographically, they will still have a visual presence within the currently open landscape. It is therefore clear that the development will have a greater impact both visually and spatially than the existing "development" which relates solely to the small building in the corner of the site. It is also noted by officers that the applicant has not provided any existing plans of the site which show the building.

The applicant has also stated that they believe that the site constitutes limited infilling in relation to exception (g). There is no definition of what constitutes "infilling" in the NPPF. However, the Bath and North East Somerset Placemaking Plan defines "infilling" as the "filling of small gaps within existing development e.g., the building of one or two houses on a small vacant plot in an otherwise extensively built-up frontage. The plot will generally be surrounded on at least three sides by developed sites or roads". Officers consider that, whilst the site is arguably surrounded by development on three sides (roads to the south and west, and dwellinghouses to the east), it does not form part of an extensively built-up frontage. The existing site is part of a wider green buffer, which frames the edge of the urban fringes of Bath. It is read as the transition between the urban area, into the countryside and is experienced as such on the ground. Officers therefore do not consider that this site represents infilling in the Green Belt.



Additionally, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The NPPF (paragraph 138) states that the Green Belt has 5 purposes. The three of most relevance to this case are as follows:

- a) to check the unrestricted sprawl of large built-up areas
- b) to assist in safeguarding the countryside from encroachment
- d) to preserve the setting and special character of historic towns

Officers consider that the erection of two new dwellings on this site would represent encroachment into the countryside and that the site would be experienced as such on the ground. The development would form an extension of the existing built form, encroaching into what is currently open countryside. On the ground, it is not experienced or read as an infill plot, nor one which is previously developed across the entirety of the red line. It would result in unrestricted sprawl of the built-up area of Bath into the Green Belt. Purpose (d) also seeks that the Green Belt will preserve the setting and special character of historic towns. Officers consider that this site is important in creating the gentle transition between the urban built form to the open countryside, which provides the landscape setting to the World Heritage of Bath. This will be expanded upon further in the Landscape section of this report, but the proposal is considered to be contrary to purpose (d).

The development therefore represents inappropriate development in the Green Belt. The NPPF states that inappropriate development in the Green Belt should not be permitted except in Very Special Circumstances (VSC). VSC will not exist unless the potential harm to the Green Belt (which must be given substantial weight) by reason of inappropriateness and any other harm arising from the proposal is clearly outweighed by other considerations. An assessment of this will be made in the Planning Balance section of this report.

Loss of agricultural land:

It has been raised by third parties that the proposal would result in the loss of agricultural land. Policy RE5 of the Bath and North East Somerset Placemaking Plan has regard to this. It directs development towards the worst and least versatile agricultural land. Development upon agricultural land which is the best and most versatile (Grades 1 and 2) will not be supported unless there are sustainability benefits to outweigh the loss. Having reviewed Council mapping, part of the site falls within Grade 3 and part falls outside of the grading system. It is not considered that the site represents the best and most versatile agricultural land which is sought to be protected by policy RE5 and there is no in principle objection to the loss of agricultural land in this location.

#### LANDSCAPE, WORLD HERITAGE SITE AND IMPACT TO RURAL CHARACTER:

The site lies within the Green Belt, Bath World Heritage Site and is adjacent to the Cotswold Area of Outstanding Natural Beauty, the boundary of which is located on the opposite side of Deadmill Lane. It marks the transition to a more rural character as one leaves the urban area of Larkhall and the built-up area of Bath. The site forms an intrinsic part of the countryside to the north and the west.

The site can be considered a "finger" of countryside that projects into the adjoining parts of the built-up area and as such, makes a valuable contribution to the local character of the built environment. The parcel of countryside is of elevated value as it is within the Green Belt and World Heritage Site and adjoins the Conservation Area and AONB. The Design and Access Statement submitted to support the application argues that the development should be considered as infill, under policy D7. Policy D7 states that infill development could be supported where it has regard to the character and quality of the surrounding townscape and reflects the form, grain and pattern of development. Policy D7 defines infilling as "the filling of a small gap in an otherwise built-up frontage, usually consisting of frontage plots only". For the reasons set out in the Green Belt section of this report, the Council do not consider the development to be infill. Additionally, the

proposal would result in development on an open parcel of land which makes a please contribution to the surrounding townscape and would be contrary to criterion (a) of policy D7. The siting of 2 detached dwellinghouses in this location, with little relation to the surrounding developments would also not be reflective of the existing pattern and grain. As such, the development would be contrary to criterion (b) of policy D7.

Policy NE2 requires the submission of a Landscape and Visual Impact Assessment (LVIA) for proposals with the potential to impact on the landscape/townscape character of an area or on views. A LVIA accompanies the submission (Rev B, Lingard-Farrow Styles, April 2023). The LVIA concludes (in paragraph 9.3.1) that there "no significant landscape or visual effects have been identified" but the LVIA makes no distinction between the assessment of significant for Environmental Impact Assessment (EIA) purposes and the assessment of significance for purposes of development management. There is a difference between these assessments. The LVIA points out (Appendix 1, Methodology, page 6) that even if some effects are found to be "significant" this does not necessarily constitute grounds for the refusal of planning permission. The LVIA fails to consider that the corollary is also true and that even if adverse effects are judged to be below a chosen threshold of significance (thresholds usually being chosen for EIA purposes), this does not mean that they cannot be material planning considerations in decision making. The current proposals are not an EIA development so judgements as to what level of adverse landscape and visual effects may or may not be "significant" should be directed to planning decision making rather than EIA regulations.

The LVIA identifies a number of adverse landscape effects, including some at the moderate advise level, but deems none to be significance. The LVIA also identifies a large number of adverse visual effects but deems them to be only "slight" and of no significance.

Throughout the LVIA the assessments of visual effects are coloured by references to the "strong context of the post-war housing" and "urban setting provides some context for residential development" and the assessed magnitude and significance of effects has been reduced accordingly. In respect of the effects on character, under Area 3, the LVIA suggests that the loss of a grass field is of little or no consequence because "this is not a key characteristic of the Character Area" and the "proposed car parking is in keeping with the residential area" and concludes that the change in character is of negligible magnitude, although it does concede that the overall effect on the character would be adverse.

The Planning Inspector's decision on application 21/04746/OUT stated very clearly that in his judgement, these fields provide "an open green extension of the countryside into the city" and that the undeveloped nature of the site...creates a sense of verdant rural tranquillity within the area" and that these qualities make a positive contribution to the significance of the World Heritage Site (WHS) and the setting of the Conservation Area. The LVIA does not appear to recognise this.

The magnitude of the effects and the level of the overall change in character has thus been underestimated in the LVIA. Whilst the presence of the post-war housing in the area is part of the context, it does not have a strongly determining influence as the LVIA suggests. The levels of adverse landscape and visual impacts have been underestimated in the LVIA and are far from "insignificant". They are material planning considerations that must weigh into the planning balance.

It is accepted that the degree of adverse landscape and visual effects resulting from the current proposals would be less than the previously refused scheme for two dwellings on the site (22/01220/FUL) but virtue in the reduction of the height of the dwellings. However, there would still be adverse and landscape and visual effects and this fact is acknowledged by the submitted LVIA.

A Landscape Mitigation Plan (drawing no. DMLB007, 9th February 2023) has been provided and could soften the impacts to some degree. However, as the Inspector noted in his decision on

21/04746/OUT "landscaping cannot be relied upon to screen development in perpetuity" and mitigation measures do not alter the fact that there would be a fundamental change in the appearance of the site from essentially rural to essentially urban. As already noted, the Inspector's view (as is the view of officers) is that it is the undeveloped nature of the site that gives it its rural character and value to the locality and to the heritage assets.

The requirement of Policy NE2, that development should conserve or enhance local landscape character, landscape features and local distinctiveness would not be met. The proposals are contrary to policy NE2A which states that development would result in adverse impact to the landscape setting of settlements that cannot be adequately mitigated would not be permitted. Additionally, the proposal would result in less than substantial harm to the Outstanding Universal Values of the Bath WHS; in particular its green setting of the City in a hollow in the hills, although to a lesser degree than the previously refused scheme.

Paragraph 199 of the NPPF explains that when considering the impact of a proposed development on the significance of a designated asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. The World Heritage Site therefore carries considerable weight in any planning balance. The level of harm to the World Heritage Site is considered to be towards the lower end of less than substantial. In accordance with Paragraph 202 of the NPPF, where a development leads to less than substantial harm to the significance of a designated heritage asset, this harm must be weighed against the public benefits of the proposal.

The proposal will provide two-market dwellings and this small contribution to housing delivery within the district can be afforded weight. However, the location of development is not supported in principle and the Council has a 5-year housing land supply. This public benefit is considered limited. The scheme would result in the creation of construction jobs, relative to the scale of development and again officers give this limited weight. It is not considered that the proposal would have public benefits which would outweigh the harm to the World Heritage Site which should be afforded great weight.

The proposal is therefore considered to be contrary to policies B1, B4, HE1, NE2A, D1, D2 and D7 of the Bath and North East Somerset Council Placemaking Plan and policy NE2 of the Local Plan Partial Update.

#### CONSERVATION AREA AND NON-DESIGNATED HERITAGE ASSETS:

Policies D1-D5 have regard to urban design principles, including building design and the impact of development on the character and appearance of an area. Policy HE1 requires development that has an impact upon a heritage asset, whether designated or non-designated, will be expected to enhance or better reveal its significance and setting. The site is within the Bath Conservation Area and is in close proximity to Dead Mill, a non-designated heritage asset. 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.

The Larkhall Character Statement and Development Principles (1998) document is relevant to this application. The application site is bordered on the eastern and southern boundaries, by the Bath Conservation Area. On the opposite side of Deadmill Lane, to the west, is Dead Mill. Dead Mill is a former flour mill, which was rebuilt in 1901. There is history of a mill on this site dating back to the 14th century. It is considered to be a non-designated heritage asset.

The rural character of the area is noted on page 12 of the Larkhall Character Statement and Development Principles document. It states that Deal Mill is an important landmark and its dominance within the street scene is accentuated by the space surrounding it, as the urban area

ceases to the south. The transition to a rural character, as one leaves the urban area, is key to the setting of the mill itself. The same can also be said for the setting of the adjacent Conservation Area.

The wedge of open green space penetrates down into the more built-up area of Larkhall. The tip of the green area at the junction of Ferndale Road and Deadmill Lane, where the two properties are proposed to be constructed, figures prominently in views from the road to the south and creates the anticipation that one is moving away from the built-up area to something more open and rural.

Despite a reduction in the height of the dwellings and some increased emphasis on green landscaping, development of the site would still result in some loss of its green open qualities, which will erode the positive contribution that the site makes to the landscape setting of this part of the Bath. Additionally, as such, the proposal is considered to result in harm to the setting and significance of the Conservation Area; the level of harm is considered to be towards the lower end of less than substantial. The proposal is therefore contrary to policy HE1.

Creating a small, discreet entrance for just two dwellings is not considered to harm the setting and significance of Dead Mill. However, the large area of land which will be encompassed as domestic curtilage will inevitably take on a domestic character which is different from the open semi-rural character the site has. This will have some impact upon the setting of Dead Mill and whilst it is not considered this impact is so significant that a refusal reason would be warranted on this basis, the impact would contribute to the totality of harm caused by the development.

Furthermore, the proposed design of the dwellings would not respond well to the traditional Victorian terrace on the opposite side of Ferndale Road, within the Conservation Area. There is one single storey dwelling near to the junction with Deadmill Lane/Ferndale Road, but this has a traditional form with a pitched roof. The proposed dwellings will have flat roofs and be modern in appearance. They are considered to be a visually anomaly within the context and do not respond to the character of the locality. The positioning on a corner plot is considered to be awkward and the dwellings would relate poorly to Deadmill Lane in particular. The character, siting and design of the dwellings further amplifies the harm to the setting and significance of the Conservation Area.

Paragraph 199 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight must always be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset requires clear and convincing justification. Where the level of harm falls into the less than substantial category paragraph 202 of the Framework is engaged which states that less than substantial harm, should be weighed against the public benefits of the proposal, including securing its optimum viable use. Public benefits can be environmental, social or economic and should flow directly from the proposed development and be of a nature or scale to be of benefit to the public at large.

The public benefits of the scheme have been discussed in the previous section of this report. They are not considered to be sufficient to outweigh the less than substantial harm to the Conservation Area, which must be given great weight.

As such, the proposal is considered to be contrary to policy HE1 and part 16 of the NPPF.

#### RESIDENTIAL AMENITY:

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

The proposed dwellings will both have a single storey. Each primary living space will be afforded natural light through a window, and these are located so as not to result in overlooking between the dwellings, nor surrounding dwellings. Each dwelling will have a good amount of private outdoor amenity space.

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

#### HIGHWAYS SAFETY AND PARKING:

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

##### Access:

Vehicular access for the proposed dwelling is via a shared access point on Deadmill Lane. The submission sets out that the access will provide splays of 2.4m by 25m, which is considered to be an acceptable splay given the speed of the road and the fact that no accidents have been recorded over the previous 5-year period in the vicinity of the proposed access. The submitted Design and Access Statement states that the application is supported by a highways plan showing suitable visibility. However, it is not apparent that any plans have been submitted to demonstrate that visibility stated. Submitted plan DMLB002 shows partial visibility splays, however, the full extent does not appear to have been shown to the north. Visibility splays are not measured to the nearside kerb (with no explanation as to why this may be acceptable) and the shown southern visibility splay appears to be shown through a hedge. Again, no explanation is provided as to why this might be acceptable. It has therefore not been demonstrated on any plan that the stated splays can be achieved and therefore officers cannot conclude if the visibility splay which is actually being provided is acceptable from a highway safety perspective.

In terms of pedestrian access, a footpath will be provided which will adjoin an existing footpath which leads onto Ferndale Road. Given that the site will only be included two dwellinghouses, the principle of this is acceptable. However, the applicant does not own the land to which the proposed footpath will connect, and officers cannot be certain if this is a viable solution for pedestrians. The site is also sloped towards this path and the case officer also queries the likelihood of pedestrians using such a connection, particularly as the main access is onto Deadmill Lane. Insufficient information has been provided in order to fully ascertain whether this path connection is a viable pedestrian access option.

##### Parking:

Car parking standards are provided within the adopted Transport and Developments Supplementary Planning Document (SPD). The application site falls within Zone B of the parking standards and requires residential development to provide a maximum of 1.5 spaces per three-bedroom and greater, rounded down to the nearest whole number. Spaces are required to measure a minimum of 2.5x5m. The proposed parking area is located to the rear of the two proposed dwellinghouses and allows for 3 parking spaces per dwelling. As such, the proposal represents an over provision of car parking which is not in accordance with the Bath and North East Somerset Council standards. The development is contrary to policy ST7 in this regard.

The submitted Design and Access Statement states that the application is supported by plan demonstrating the turning area, within the site showing that large vehicles are able to enter and exit the site in forward gear without compromising highway safety. However, it is not apparent that

any such plans have been submitted. Swept path analysis is required to provide confidence that the proposed site access and car parking area can be entered and egressed in a forward gear. Such analysis has not been provided.

Dedicated cycle parking is proposed within a dedicated cycle store and although is not clear whether the proposed cycle parking is covered and secure. Details could be secured by condition if the development were being permitted.

Waste management:

A waste management plan has been submitted which details the locations of the internal bin stores and the proposed location of the bin collection points. Insufficient information has been provided to demonstrate that the proposed location of the bin collection point is large enough to accommodate bins on collection day within interfering with the proposed access or movement along Deadmill Lane.

Overall, insufficient information has been provided to demonstrate that safe vehicular and pedestrian accesses to the site can be provided without causing a detrimental impact upon highway safety.

TREES:

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

The proximity between Plot 02 and the adjacent tree canopy is questionable as allowance has not been made for future tree growth. It should be reasonably foreseeable that the tree canopy will soon extend over the house and cause nuisances of leaf litter and debris which will be resented by occupants. This nuisance is likely to become a more serious issue if it creates personal safety fears re branch failure onto occupied houses. It is therefore considered that due consideration has been given to this matter and that sufficient clearance of this tree has not been presented. This is likely to cause pressure on the tree to be pruned. However, officers consider that a refusal on the basis of possible perception would be substantiated. It is therefore strongly encouraged that should the applicant wish to re-submit another application that this is given further consideration.

The Arboricultural Impact Assessment identifies that an offsite, B Grade tree has a 7.2m root protection area radius. It details that the 7.2m radius extends into the footprint of the proposed property and its immediate surroundings (a footpath and gardens). It details that a no-dig geotextile, cellular confinement system could be used to create the path adjacent to the house.

The default position of BS:5837 is that no development should occur within the RPA of a tree (this area is classed as the Construction Exclusion Zone). It should only be considered where there is an overriding justification and, in this case, technical solutions may be required to prevent damage to tree roots and ensure that existing trees remain viable.

Further information is therefore required, to include:

1. Whether engineered foundation needs are required within such proximity of the tree (that allows foundation construction without loss or harm to tree roots, that accommodates the

- future growth of the tree and that ensures tree roots/moisture extraction will not damage the proposed property in future
2. Ground protection needs in the RPA throughout construction activity (this could be secured via condition)
  3. Prevention of underground services being located within the RPA of the tree

The proposal has insufficient information at this time to demonstrate that there will not be any adverse impacts on trees of amenity value. The scheme fails to comply with policy NE6 of the Local Plan Partial Update.

#### ECOLOGY:

A Preliminary Ecological Appraisal Report (PEAR) produced by Rover Group (dated 12th September 2022) has been submitted in support of the application. The PEAR provides a baseline assessment for the site; however, the findings are heavily constrained since the site could not be accessed on foot due to the presence of a stone wall. Therefore, drone shots were taken to aid the assessment. The survey identifies that the site comprises dense scrub, hedgerows, stonewalls and two small buildings. There is potential for the site to support amphibians, foraging bats, nesting birds, reptile species, badger, and hedgehog. The site may also offer opportunities for roosting bats in buildings. Further surveys are recommended along with avoidance measures for amphibians, nesting birds, and hedgehog and an enhancement scheme to include provision of wildlife gaps, a reptile hibernaculum, native planting, bat and bird boxes and bee bricks. The survey area the report covers is for a wider area of land than the proposed development and therefore, the report needs to be modified to relate to the current application scheme.

In regard to reptiles, the Ecological Appraisal (Cherryfield Ecology, December 2019) report submitted with the previous application at the site (application reference 22/01220/FUL) recommended reptile surveys should be undertaken. The current PEAR does not specify this requirement, yet no justification has been provided as to why these surveys are no longer considered to be necessary. Either a robust justification should be provided as to why these surveys are not required, or presence/absence surveys should be completed between April to October inclusive, as the site has potential to support populations of reptile species. Additionally, there are records for reptiles within 400m. Ecological surveys are a material consideration in planning applications and should not be conditioned except in exceptional circumstances to meet ODPM Circular 06/2005 (paragraph 99), Natural England standing advice and Case Law. In this instance, the survey findings are required. If an off-site Receptor Location were required, this may need to be secured through a S106 or other legal agreement prior to determination.

The potential for foraging and commuting bats to be impacted by the proposal has not been fully considered. The site is located 2.1km from the nearest component unit (Combe Down and Bathampton Down SSSI) of the Bath and Bradford-on-Avon Special Area of Conservation (SAC), designated due to internationally important populations of Horseshoe and Bechstein's bats. Some of these species' feed over farmland and use dark linear corridors, such as the boundary with Deadmill Lane, to disperse across the landscape. There is insufficient information submitted with the application to determine whether SAC bat populations use the site and therefore, whether there are likely to be impacts as a result of the proposals. Compliance with the Habitats Regulations cannot be ascertained. If there is a risk of significant impacts on the SAC, a Habitats Regulations Assessment (HRA) will need to be completed by the Local Planning Authority. It is the duty of the applicant to provide sufficient information to guide the HRA. The following information is therefore required prior to determination:

1. Bat activity surveys completed during April to October in accordance with Bat Surveys for Professional Ecologists - Good Practice Guidelines 3rd Edition (Collins et al, 2016). Given the size of the site (approximately 0.13 hectares), a static detector survey may be sufficient.

2. An updated building inspection is required for buildings B2 and B3, due to access constraints associated with the presence of stone wall these buildings were not subject to survey (however surveys were undertaken in 2019). Whilst none of the buildings were found to support roosting bats in 2019, the results are now over 18 months old. A suitably qualified ecologist must have inspected the buildings within the past 18 months for the inspection to remain valid as bats frequently colonise buildings and move between roosts over time. Buildings can also deteriorate in condition and become more suitable for roosting bats;
3. Confirmation of whether buildings on site are suitable to provide night roosting/feeding perches for horseshoe bat species; and
4. If SAC bat populations are using the site, an indicative mitigation strategy demonstrating retention of dispersal corridors, mitigation for loss foraging habitat and an indicative lighting strategy would need to be provided. The lighting strategy would need to demonstrate that light spill of less than 0.5 lux onto retained, created and adjacent Horseshoe bat habitats can be achieved.

The site meets Natural England's Impact Risk Zone criteria in relation to the bat SAC/SSSI. If revised information in regard to the above had been submitted, Natural England would have been consulted.

The Lam Brook SNCI is located 35m from the site and there is potential surface-water discharge into it. Therefore, an assessment of the presence/absence of any species such as otter, water vole, and white-clawed crayfish in areas of the Brook which could be impacted would need to be provided. If consent were being granted, a Construction Environmental Management Plan would need to be secured by condition to ensure no run-off of sediment or pollution into the brook during construction.

Badger surveys need to be completed as recommended by the Ecologist's report (Rovar Group, September 2022). There are records of badger in the vicinity of the site. The site could not be access due to the stone wall. Whilst no badger evidence was found in 2019, this survey is now over two years old, and badgers are a highly mobile species who can excavate new setts in short periods of time. The badger survey may require scrub tunnelling to facilitate access. Ecological are a material consideration in planning applications and should not be conditioned except in exceptional circumstances to meet ODPM Circular 06/2005 (paragraph 99), Natural England standing advice and Case Law. In this instance, the survey findings are required. Compliance with the Badger Act cannot be ascertained.

The nesting bird strategy requires modification. If tree works cannot be timed to avoid the nesting season, then works would need to be preceded by a pre-commencement check. Should nesting birds be present, then the nest would need to be appropriately buffered and remain undisturbed until the young have fledged.

Minor developments are required by policies NE3 and NE3a to achieve no "net loss" in biodiversity and an appropriate net gain. Habitats on site comprise improved grassland and dense scrub bounded by hedgerows. Hedgerows are listed under Section 41 of the NERC Act 2006 as a Habitat of Principal Important (HPI). All HPIs should be retained and protected in the first instance, with compensatory habitat creation only considered as a last resort. The Biodiversity Plan indicates some hedgerow loss which does not comply with the mitigation hierarchy.

The submission of the latest Defra Small Sites Metric is required to be submitted by policy NE3a to demonstrate a measurable biodiversity net gain (BNG). The commitment to species-rich hedging, wildflower meadows, tree planting, a living driveway and living roof is welcomed but this should not preclude retention of existing habitats at ground level. For hedgerows to be classified as species rich, they should incorporate at least five native woody species. It will also be challenging to create wildflower grassland on occupiers' lawns given that these will be inside of individual curtilages. It is



considered that in practice, it would be difficult to secure the appropriate management and retention in perpetuity of such measures. For this reason, compliance with policy NE3a has not been satisfactorily demonstrated.

The scheme is not considered to comply with the Badgers Act 1992, the Conservation of Habitats and Species Regulations 2019 and the Wildlife and Countryside Act 1981, nor policies NE3, NE3a of the Local Plan Partial Update.

#### HOUSING ACCESSIBILITY:

Policy H7 states that 48% of housing, for this scale of development, must meet the M4(2) accessible and adaptable dwellings standard. Therefore, 1 of the 2 proposed dwellings must meet enhanced accessibility standards. This could be secured by condition should the development be approved.

#### DRAINAGE AND FLOODING:

Policy CP5 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.

The submission states on the application that the site will drain via a sustainable drainage system and the mains sewer. There is no surface water sewer within the vicinity of the site. Connection to highway drainage will not be permitted, nor will connection to the foul sewer.

The Design and Access Statement references the possibility for a condition relating to the management of surface water. However, the lack of a convincing option for draining the site means that in this case, officers do not consider it reasonable to request this information by condition and it would fail the six tests for including conditions as required by the NPPF. Evidence of a viable solution, or infiltration tests showing acceptable rates for the use of soakaways would be required to overcome this matter. However, such information has not been submitted.

As such, the proposal fails to comply with policy CP5 of the Core Strategy.

#### SUSTAINABLE CONSTRUCTION AND RENEWABLE ENERGY:

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

The applicant has submitted a previous iteration of the Sustainable Construction Checklist which shows a 25% reduction in carbon dioxide reduction measures. However, this SCC has now been superseded by the newest version which was adopted in January 2023. This has been submitted but has not been completed. An energy summary tool has also been submitted, as required by the SCC Supplementary Planning Document but has not been completed.

Policy SCR6 requires that new residents' development demonstrates a space heating demand of less than 30kWh/m<sup>2</sup>/annum, a total energy use of less than 40kWh/m<sup>2</sup>/annum and onsite renewable energy generation matches the total energy use, with a preference for roof mounted solar PV.

The submission states that solar PV slates will be utilised on the southern roof slopes. However, there is no demonstration that policy SCR6 has been complied with and there is little confidence that the proposed dwellings could achieve the required space heating demand and energy usage,

given the figures provided within the superseded SCC which has been submitted with the application.

As such, the scheme is not compliance with policy SCR6.

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 be secured by condition if the scheme were being recommended for permission.

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). This could be secured by condition if the scheme were being recommended for permission.

#### PLANNING BALANCE:

As indicated in the report above, the proposal is inappropriate development in the Green Belt and in accordance with the NPPF should only be approved if very special circumstances exist. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.' The NPPF says at paragraph 148 that 'when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt.' The harms identified by the proposal are as follows:

- Harm to the Green Belt by reason of being considered, by definition, inappropriate development in the Green Belt and is contrary to Part 13 of the NPPF and policy CP8 of the Bath and North East Somerset Core Strategy
- Harm to the openness of the Green Belt. Again, the proposal fails to comply with Part 13 of the NPPF and policy CP8 of the Bath and North East Somerset Core Strategy
- Less than substantial harm to the World Heritage Site, Conservation Area and setting of Dead Mill, contrary to policies B1, B4 and HE1
- Harm to the landscape and rural character of the locality, contrary to NE2 and NE2A.
- Insufficient information to demonstrate compliance with the Badgers Act 1992, the Conservation of Habitats and Species Regulations 2019 and the Wildlife and Countryside Act 1981, nor policies NE3, NE3a of the Local Plan Partial Update.
- Insufficient information to demonstrate a safe and suitable pedestrian/vehicular access (harm to highway safety) contrary to policy ST7
- Non-compliance with the adopted vehicular parking standards, contrary to policy ST7
- Insufficient information to conclude that there will be no increased risk of flooding, contrary to policy CP5
- Non-compliance with policy SCR6

There are several matters which weigh in favour of the application which must be considered in the balance. There are considered to be:

- Contribution towards housing supply within the district
- Job creation during construction
- CIL contributions

It is considered that the proposal will result in the addition of two new market dwellings within the B&NES district. However, officers would afford this benefit limited weight because the Council has a 5-year housing land supply, and the location of development is contrary to the Bath Spatial Strategy. Additionally, the creation of jobs during construction can be given weight as a benefit of the scheme. The development is relatively small and therefore this contribution will be limited; this benefit if afforded limited weight. Finally, the application would result in the payment of CIL which would be used to benefit B&NES residents. This contribution would again be reflective of the scale

of the development and can therefore be afforded limited weight. Overall, it is not considered that these benefits would outweigh the harm to the Green Belt, which is given substantial weight, coupled with the large number of other harms arising from the development. As such, very special circumstances are not considered to exist, and the development is contrary to national and local Green Belt policy.

## **CONCLUSION:**

The application is considered to be contrary to national and local planning policies and is therefore recommended for refusal.

## **Recommendation:**

### **REFUSE**

1 The proposed development would result in inappropriate development in the Green Belt and would, by definition, be harmful to it. The proposal would harm the openness of the Green Belt by introducing built form upon open land within it and represents the encroachment of built form into the countryside. The development is contrary to the purposes of including land within the Green Belt. The harm is not outweighed by very special circumstances in this case, and therefore the development is contrary to policy CP8 of the Bath and North East Somerset Core Strategy, policy B1 of the Bath and North East Somerset Placemaking Plan and part 13 of the National Planning Policy Framework.

2 The proposal would harm the local landscape character, features, distinctiveness and views. The proposal will result in the erosion of an important open green space as a result of the proposed layout and is considered to result in unacceptable harm to the local landscape and the Bath World Heritage Site. Any harm to the Outstanding Universal Values of the World Heritage Site and its setting are considered to be less than substantial harm. However, the harm is not considered to be outweighed by the public benefits of the proposal. The proposal is therefore contrary to policies B4 and CP6 of the Bath and North East Somerset Core Strategy, policy GB1, NE2A and HE1 of the Bath and North East Somerset Placemaking Plan and policy NE2 of the Bath and North East Somerset Local Plan Partial Update.

3 As a result of the proposed design, siting and layout, the proposal is considered to have a detrimental impact upon the setting of the adjacent Conservation Area and the non-designated heritage asset "Dead Mill". The impact to the setting of "Dead Mill" is considered to add to the totality of heritage harm. The harm to the setting of the Conservation Area is considered to be less than substantial and there are insufficient public benefits which would outweigh this harm. As such, the proposal is contrary to policies B4 and CP6 of the Bath and North East Somerset Core Strategy and policies D1, D2, D3, D7 and HE1 of the Bath and North East Somerset Placemaking Plan and policy D5 of the Bath and North East Somerset Council Local Plan Partial Update.

4 The proposal fails to demonstrate that a suitable vehicular access and turning area, which does not prejudice highway safety, can be achieved. It does not sufficiently demonstrate that a safe, viable and convenient pedestrian access can be provided. The development would therefore prejudice highway safety. As such, development is considered to be contrary to the Development Plan, in particular policies ST1 and ST7 of the Bath and North East Somerset Local Plan Partial Update, policies D1 and D3 of the Bath and North East Somerset Placemaking Plan and the Transport and Development Supplementary Planning Document (2023).

5 Insufficient information in relation to bat populations and reptile species to demonstrate compliance with the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 and the Wildlife and Countryside Act 1981 (as amended) has been provided. There is the

potential for a net loss of biodiversity including Habitats of Principal Importance. No Defra Small Sites Metric accompanies the application, and it has not been demonstrated that biodiversity net gain could be satisfactorily secured long-term. The development is therefore contrary to the NERC Act 2006, the NPPF, and policies NE3, NE3a and D5e of the Bath and North East Somerset Local Plan Partial Update.

6 A suitable method of Surface Water Drainage has not been provided and no evidence has been submitted which demonstrates that such a method of drainage can reasonably be achieved on the site. The proposal is considered to be contrary to policy CP5 of the Bath and North East Somerset Core Strategy.

7 The proposal has not demonstrated that the scheme can achieve a space heating demand of less than 30kWh/m<sup>2</sup>/annum nor a total energy use of less than 40 kWh/m<sup>2</sup>/annum. Additionally, there is insufficient information to ascertain whether the onsite renewable energy generation matches the total energy use as the submitted Sustainable Construction Checklist and Energy Summary Tool have not been completed. The application fails to comply with policy SCR6 of the Bath and North East Somerset Local Plan Partial Update and the Sustainable Construction Checklist Supplementary Planning Document (2023).

8 Insufficient information has been submitted to demonstrate that the proposal can avoid adverse impacts to trees of wildlife, landscape, historic, amenity, productive or cultural value and the submitted information does not comply with British Standard: 5837. The proposal is therefore contrary to policy NE6 of the Bath and North East Somerset Local Plan Partial Update.

#### **PLANS LIST:**

This decision relates to the following plans:

Elevations and Floor Plans. KG EL 001. Received 7th March 2023  
Plot 2 Elevations and Floor Plans. KG EL 002. Received 7th March 2023  
TPP AIA. DMLB004. Received 24th March 2023  
Biodiversity Plan. DMLB006. Received 24th March 2023  
Block Plan. DMLB001. Received 24th March 2023  
Landscape Mitigation Plan. DMLB007. Received 24th March 2023  
Site Layout Plan. DMLB002. Received 24th March 2023  
Site Sections. DMLB005. Received 24th March 2023  
Waste Management Plan. DMLB008. Received 24th March 2023  
Location Plan. DMLB003. Received 24th March 2023

In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework. The Local Planning Authority acknowledges the approach outlined in paragraphs 39-43 in favour of front loading and operates a pre-application advice service. The applicant did not seek to enter into pre-application with the Local Planning Authority. The proposal is unacceptable for the reasons given and additional information in respect to some of the issues was sought. Revised information was not forthcoming, and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision.

#### **Responding to Climate Change (Informative):**

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

#### **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](http://www.bathnes.gov.uk/cil)

**Case Officer:**

Isabel Daone

**Authorising Officer:**

Sarah James