

# Development Control A Committee Agenda



**Date:** Wednesday, 9 August 2023

**Time:** 2.00 pm

**Venue:** The Council Chamber - City Hall, College Green, Bristol, BS1 5TR

Members of the public attending meetings or taking part in Public Forum are advised that all Development Control meetings are filmed for live or subsequent broadcast via the council's webcasting pages. The whole of the meeting is filmed (except where there are confidential or exempt items) and the footage will be available for two years.

If you ask a question or make a representation, then you are likely to be filmed and will be deemed to have given your consent to this. If you do not wish to be filmed you need to make yourself known to the webcasting staff. However, the Openness of Local Government Bodies Regulations 2014 now means that persons attending meetings may take photographs, film and audio record the proceedings and report on the meeting (Oral commentary is not permitted during the meeting as it would be disruptive). Members of the public should therefore be aware that they may be filmed by others attending and that is not within the council's control.

**Councillors:** Richard Eddy (Chair), John Geater, Fi Hance, Tom Hathway, Philippa Hulme, Farah Hussain, Chris Jackson, Ed Plowden and Andrew Varney

**Issued by:** Allison Taylor, Democratic Services

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**Date:** Tuesday, 1 August 2023



# Agenda

## 1. Welcome, Introductions and Safety Information

(Pages 5 - 8)

## 2. Apologies for Absence and Substitutions

## 3. Declarations of Interest

To note any interests relevant to the consideration of items on the agenda. Please note that any declarations of interest made at the meeting which are not on the register of interests should be notified to the Monitoring Officer for inclusion.

## 4. Minutes of the previous meeting

To agree the minutes of the last meeting as a correct record.

(Pages 9 - 17)

## 5. Action Sheet

The Committee is requested to note any outstanding actions listed on the rolling Action Sheet for DCA Committee.

(Page 18)

## 6. Appeals

To note appeals lodged, imminent public inquiries and appeals awaiting decision.

(Pages 19 - 28)

## 7. Enforcement

To note recent enforcement notices.

(Page 29)

## 8. Public Forum

Up to 30 minutes is allowed for this item

Any member of the public or Councillor may participate in Public Forum. The detailed arrangements for so doing are set out in the Public Information Sheet at the back of this agenda. Public Forum items should be emailed to



[democratic.services@bristol.gov.uk](mailto:democratic.services@bristol.gov.uk) and please note that the following deadlines will apply in relation to this meeting:-

Questions - Written questions must be received 3 clear working days prior to the meeting. For this meeting, this means that your question(s) must be received in this office at the latest by 5 pm on **3 August 2023**.

Petitions and Statements - Petitions and statements must be received on the working day prior to the meeting. For this meeting this means that your submission must be received in this office at the latest by 12.00 noon on **8 August 2023**.

**PLEASE NOTE THAT IF YOU WISH TO SPEAK AT THE COMMITTEE, YOU ARE REQUESTED TO INDICATE THIS WHEN SUBMITTING YOUR STATEMENT OR PETITION. ALL REQUESTS TO SPEAK MUST BE ACCOMPANIED BY A WRITTEN STATEMENT.**

In accordance with previous practice adopted for people wishing to speak at Development Control Committees, please note that you may only be allowed **1 minute** subject to the number of requests received for the meeting.

## 9. Planning and Development

- |   |                          |
|---|--------------------------|
|   | <b>(Page 30)</b>         |
| a) <b>22/01221/F - St Christophers School Westbury Park Bristol BS6 7JE</b>                     | <b>(Pages 31 - 129)</b>  |
| b) <b>22/05714/FB - South Bristol Crematorium And Cemetery Bridgwater Road Bristol BS13 7AS</b> | <b>(Pages 130 - 156)</b> |

## 10. Date of Next Meeting

20 September 2023 at 6pm.



# Public Information Sheet

## Inspection of Papers - Local Government (Access to Information) Act 1985

You can find papers for all our meetings on our website at [www.bristol.gov.uk](http://www.bristol.gov.uk).

## Public meetings

Public meetings including Cabinet, Full Council, regulatory meetings (where planning and licensing decisions are made) and scrutiny will now be held at City Hall.

Members of the press and public who plan to attend City Hall are advised that you may be asked to watch the meeting on a screen in another room should the numbers attending exceed the maximum occupancy of the meeting venue.

## COVID-19 Prevention Measures at City Hall (June 2022)

When attending a meeting at City Hall, the following COVID-19 prevention guidance is advised:

- promotion of good hand hygiene: washing and disinfecting hands frequently
- while face coverings are no longer mandatory, we will continue to recommend their use in venues and workplaces with limited ventilation or large groups of people.
- although legal restrictions have been removed, we should continue to be mindful of others as we navigate this next phase of the pandemic.

## COVID-19 Safety Measures for Attendance at Council Meetings (June 2022)

We request that no one attends a Council Meeting if they:

- are required to self-isolate from another country
- are suffering from symptoms of COVID-19 or
- have tested positive for COVID-19

## Other formats and languages and assistance for those with hearing impairment

You can get committee papers in other formats (e.g. large print, audio tape, braille etc) or in community languages by contacting the Democratic Services Officer. Please give as much notice as possible. We cannot guarantee re-formatting or translation of papers before the date of a particular meeting.

Committee rooms are fitted with induction loops to assist people with hearing impairment. If you require any assistance with this please speak to the Democratic Services Officer.



## Public Forum

Members of the public may make a written statement ask a question or present a petition to most meetings. Your statement or question will be sent to the Committee Members and will be published on the Council's website before the meeting. Please send it to [democratic.services@bristol.gov.uk](mailto:democratic.services@bristol.gov.uk).

The following requirements apply:

- The statement is received no later than **12.00 noon on the working day before the meeting** and is about a matter which is the responsibility of the committee concerned.
- The question is received no later than **5pm three clear working days before the meeting**.

Any statement submitted should be no longer than one side of A4 paper. If the statement is longer than this, then for reasons of cost, it may be that only the first sheet will be copied and made available at the meeting. For copyright reasons, we are unable to reproduce or publish newspaper or magazine articles that may be attached to statements.

By participating in public forum business, we will assume that you have consented to your name and the details of your submission being recorded and circulated to the Committee and published within the minutes. Your statement or question will also be made available to the public via publication on the Council's website and may be provided upon request in response to Freedom of Information Act requests in the future.

We will try to remove personal and identifiable information. However, because of time constraints we cannot guarantee this, and you may therefore wish to consider if your statement contains information that you would prefer not to be in the public domain. Other committee papers may be placed on the council's website and information within them may be searchable on the internet.

### During the meeting:

- Public Forum is normally one of the first items on the agenda, although statements and petitions that relate to specific items on the agenda may be taken just before the item concerned.
- There will be no debate on statements or petitions.
- The Chair will call each submission in turn. When you are invited to speak, please make sure that your presentation focuses on the key issues that you would like Members to consider. This will have the greatest impact.
- Your time allocation may have to be strictly limited if there are a lot of submissions. **This may be as short as one minute.**
- If there are a large number of submissions on one matter a representative may be requested to speak on the groups behalf.
- If you do not attend or speak at the meeting at which your public forum submission is being taken your statement will be noted by Members.
- Under our security arrangements, please note that members of the public (and bags) may be searched. This may apply in the interests of helping to ensure a safe meeting environment for all attending.



- As part of the drive to reduce single-use plastics in council-owned buildings, please bring your own water bottle in order to fill up from the water dispenser.

For further information about procedure rules please refer to our Constitution <https://www.bristol.gov.uk/how-council-decisions-are-made/constitution>

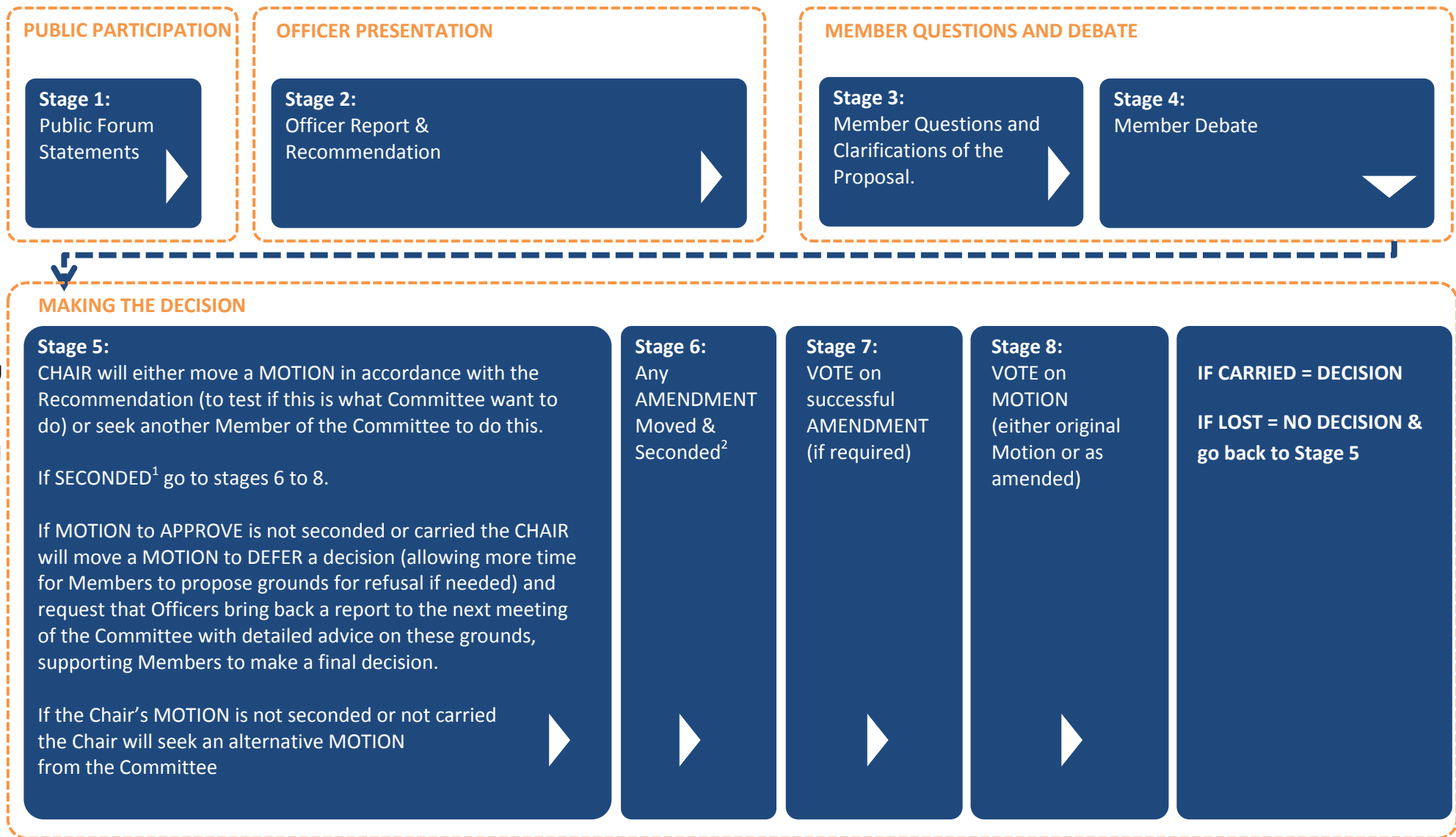
### Webcasting/ Recording of meetings

Members of the public attending meetings or taking part in Public forum are advised that all Full Council and Cabinet meetings and some other committee meetings are now filmed for live or subsequent broadcast via the council's [webcasting pages](#). The whole of the meeting is filmed (except where there are confidential or exempt items). If you ask a question or make a representation, then you are likely to be filmed and will be deemed to have given your consent to this. If you do not wish to be filmed you need to make yourself known to the webcasting staff. However, the Openness of Local Government Bodies Regulations 2014 now means that persons attending meetings may take photographs, film and audio record the proceedings and report on the meeting (Oral commentary is not permitted during the meeting as it would be disruptive). Members of the public should therefore be aware that they may be filmed by others attending and that is not within the council's control.

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# Development Control Committee Debate and Decision Process



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<sup>1</sup> A Motion must be Seconded in order to be formally accepted. If a Motion is not Seconded, the debate continues

<sup>2</sup> An Amendment can occur on any formally approved Motion (ie. one that has been Seconded) prior to Voting. An Amendment must itself be Seconded to be valid and cannot have the effect of negating the original Motion. If Vote carried at Stage7, then this becomes the Motion which is voted on at Stage 8



**Bristol City Council**  
**Minutes of the Development Control A**  
**Committee**



**31 May 2023 at 2.00 pm**

**Members Present:-**

**Councillors:** Richard Eddy (Chair), Philippa Hulme (Vice-Chair), John Geater, Fi Hance, Tom Hathway, Farah Hussain, Chris Jackson, Ed Plowden and Andrew Varney

**Officers in Attendance:-**

Philippa Howson, Jim Cliffe, Roy Pinney and Jeremy Livitt

**1 Welcome, Introductions and Safety Information**

The Committee noted the evacuation procedure in the event of an emergency.

They also noted that Planning Application Number 22/01221/F – St Christopher’s School, Westbury Park, Bristol BS6 7JE had been withdrawn from the agenda to be reconsidered at a future meeting with the agreement of the Lead Members of the Committee.

**2 Confirmation of Chair**

It was noted that Councillor Richard Eddy had been appointed as Chair of the DCA Committee for 2023/24 Municipal Year.

**3 Confirmation of Vice-Chair**

The Committee noted that Councillor Philippa Hulme had been appointed to act as Vice-Chair for the 2023/24 Municipal Year.

**4 Membership of Committee**

The Committee membership was noted as follows:

Councillor Richard Eddy (Chair)

Councillor Philippa Hulme (Vice-Chair)





Councillor John Geater  
Councillor Fi Hance  
Councillor Tom Hathway  
Councillor Farah Hussain  
Councillor Chris Jackson  
Councillor Ed Plowden  
Councillor Andrew Varney

The Committee noted that Councillor Sarah Classick and Councillor Steve Pearce had been incorrectly recorded as members on the Agenda Sheet.

## **5 Terms of Reference**

**RESOLVED – that the Terms of Reference for Development Control Committees be noted.**

## **6 Proposed Dates of Future Meetings**

The Committee noted the proposed dates of DCA Committee for the remainder of the 2023/24 Municipal Year as follows:

(all on Wednesdays alternating between 2pm and 6pm)

6pm on 5<sup>th</sup> July 2023 (replacing the date listed in the papers – 6pm on Wednesday 28<sup>th</sup> June 2023 – due to a potential clash with a PROWG Committee on 28<sup>th</sup> June)

2pm 9th August 2023

6pm 20th September 2023

2pm 1st November 2023

6pm 13th December 2023

2pm 24th January 2024

6pm 6th March 2024

2pm 24th April 2024

**RESOLVED – that the above dates be approved.**

## **7 Apologies for Absence and Substitutions**

There were no apologies for absence.

## **8 Declarations of Interest**

There were no Declarations of Interest.



## 9 Minutes of the previous meeting held on 26th April 2023

**RESOLVED – that the minutes of the above meeting be confirmed as a correct record and signed by Councillor Richard Eddy.**

## 10 Action Sheet

The Committee were advised that no update was yet available for the Wyevale Garden Centre Appeal but stated that he would advise the committee concerning progress as soon as practical.

It was noted that there were growing concerns in the community about this issue which needed to be addressed as soon as possible.

Action: Peter Westbury

## 11 Appeals

Item Number 45 - Land To Rear Of 44 & 46 Wrington Crescent Bristol BS13 7EP Appeal against non-determination: Construction of 2no. three bedroom semi-detached dwellings – appeal dismissed and costs awarded.

Councillor Eddy enquired into the circumstances of the appeal decision and in particular why the appeal was dismissed but costs still awarded against the Local Planning Authority. Officers undertook to inform him of this by e-mail.

**ACTION: Peter Westbury**

## 12 Enforcement

In responding to a member's question concerning an update on the situation concerning enforcement, it was noted that it had not been possible to obtain a comparator record at the present time.

Therefore, a written update would be provided by officers at a future meeting, as indicated in the action sheet.

## 13 Public Forum

Members of the Committee received Public Forum Statements in advance of the meeting.



The Statements were heard before the application they related to and were taken fully into consideration by the Committee prior to reaching a decision.

Councillor Eddy emphasized that Public Forum was limited to 30 minutes and one minute per speaker. Since the number of requests to speak had exceeded this limit, the speakers had been preselected to speak on a first come, first served basis.

The following supplementary questions were asked by David Redgewell in response to the formal questions that he had submitted concerning Planning Application Number 22/03476/F – The Vassal Centre, Gill Avenue, Fishponds:

**Supplementary Question 1: What progress has there been on a Section S106 Agreement for a public bus service to the centre of the city for a conference centre to enable disabled people to have a right of access and what discussions have taken place with WECA concerning this?**

Officer Response: David Redgewell was referred to the presentation that would shortly be provided on this Planning Application. He also stated that work on Section 106 will begin if members were minded to approve the application.

**Supplementary Question 2: As the adjacent Authority to South Gloucestershire, what discussions have taken place concerning a travel plan and access for disabled people for residents of both Local Authorities and also involving the West of England region (through WECA)?**

Officer Response: We will consult with colleagues at S Gloucestershire and WECA as required.

## 14 Planning and Development

The Committee considered the following Planning Applications:

### **a 22/03476/F - The Vassal Centre, Gill Avenue, Fishponds**

Officers introduced this report and made the following points during their presentation:

- The planning application was for a C2 residential development with 14 units for the elderly and some office facilities, together with uses for a nursery, creche or day centre, a café and landscaping
- The Committee was provided with information about Phases 1 and 2 of the development with primarily social housing
- A plan showing the development was shown
- 91 objections had been received to the application



- There were concerns related to overlooking at the site, the height of buildings, the fact that it was not in keeping with the street scene, parking and loss of community facilities, together with overlooking and overshadowing
- A study commissioned by the agent showed that most shadowing was along the boundary
- Concerns had been raised about the bus service and travel plans had been conditioned accordingly
- The site was considered to be in a sustainable centre and was in keeping with what was required. The Committee was advised that it met sustainability targets
- The benefits for the scheme were deemed to outweigh the negatives

The application was therefore deemed acceptable and recommended for approval.

In response to members' questions, officers made the following comments:

- The Construction Management Plan was the key to ensuring that the effects of construction traffic and disturbance arising from it would be kept to a minimum
- The travel plan would be conditioned to examine bus provision in liaison with South Gloucestershire and WECA as appropriate. There were Section 106 provisions available which could be used for this purpose
- There was a positive net gain for biodiversity and carbon reduction included a 20% saving which met policy standards
- The distance window to window from Willow Bed Close was around 30 metres which was deemed acceptable from a security point of view. In addition, the site would be floodlit. The main parts of the site will be public open space with passive surveillance from the staff office
- The issue of disabled parking spaces would be controlled through condition 33 which required a Car Park Management Plan. The design was a scale flat roof
- It would be possible within existing conditions to discuss usage with users and increase any blue badge facilities at that point. The Committee requested that officers ensure arrangements include sufficient provision for disabled parking on site **ACTION: Pip Howson**
- The lighting plan will include a limit to the amount of luminescence and lux. There would be visual landscaping around the boundary
- There would be a significant amount of tree planting and a landscape plan creating a green buffer with trees of differing heights

Councillors made the following comments:

- It was important that this site should continue to have a key role for people in community uses in the area
- Bristol charities should be congratulated for coming forward with an imaginative scheme which also provides social affordable housing.
- It was important that disabled parking is adequately protected
- The implementation of a travel plan by officers was important



- Any significant development in a residential area needs a Construction Management Plan to limit disturbance and noise.
- Issues such as shadowing and impact on residential amenity were of concern but did not appear to breach our policies
- The application should be supported subject to conditions being properly followed through to ensure adequate safeguarding of the community
- The benefits of the scheme outweighed the negatives
- Whilst there was sympathy for neighbours to the scheme, a three storey development is difficult in a neighbourhood. However, the benefits outweighed the concerns – it was a brown field site, it would improve community facilities, there was specialist elderly accommodation and there would be carbon reduction
- Although the concern of neighbours was noted, the Site Visit was reassuring that any potential issues would be addressed
- There needed to be an assessment of the required amount of parking and a transport plan together with the possibility of support through a Section 106 agreement for a bus service and adequate parking controls. On balance, the scheme should be supported
- Most of shadowing would be limited due to the building. If a Section 106 Agreement can be made to improve it, this would be helpful. On balance, this is a good development and should be supported

Councillor Richard Eddy moved, seconded by Councillor Andrew Varney and upon being put to the vote, it was

**RESOLVED: (unanimously) – that the application be approved subject to the conditions set out in the report.**

### **b 22/03924/P - Broadwalk Shopping Centre**

The Committee noted that it should only include issues that are germane to an outline planning application in its consideration of this item.

Officers introduced this report and made the following presentation:

- The scheme was for outline planning permission only with only access to the site being a key feature
- All matters related to scale, detail design and landscaping are reserved for subsequent approval
- The red line indicated those parts of the site not included in the proposed shopping centre
- The site would provide a mix of uses including up to a maximum of 800 homes with F2 community uses
- The indicative layout was set out. In principle the site could accommodate what was proposed
- The areas highlighted in green on the plan set out the areas given over to public space.



- The route through from Wells Road to Redcatch Park was set out, including details of height and planning permission
- Following a viability assessment, 80 affordable homes were proposed. Any buildings that were demolished would be subject to a Section 106 agreement, planning conditions and reserved matters and would not be cleared until some time in the future
- The site was within the Knowle/Broadwalk Town Centre and would result in a very small increase in shop frontage
- There would be an economic benefit of a £200 Million investment with up to 500 jobs, a new pedestrian route and new community facilities including a library. The development would be phased with an initial development of 30 commercial units
- The site was identified on the plan showing the area where height concentrated. The adopted policy says that new housing would be directed towards south Bristol with a staging post to establish if it could be accommodated in principle and how it would overlook the site

Officers recommended approval of the planning application subject to a legal agreement.

In response to members' questions, officers made the following comments:

- No detailed design was yet available. Whilst an initial assessment was that 420 dwellings could be achieved on site, this would be subject to a more detailed assessment including a financial feasibility study
- The application had been accompanied by a viability appraisal with information from Savills broadly in accordance with this. Bristol City Council will appoint its own consultant to assess if the scheme is viable or not – the main area of difference is in benchmark land value, with the amount expected to receive about £4 Million less than estimated by Savilles which amounted to approximately 50 to 80 affordable units.
- BCC's affordable policy has a target percentage (30%) to be sought through negotiation subject to scheme viability. Although BCC might approve 10/20% housing, this does not confirm if it is housing compliant. This is the maximum it can afford but it will be reassessed to see if can get to 30% target
- Since there is currently no detailed design, it was not yet possible to assess the accuracy of the energy design with conditions to be secured at a later date
- Officers noted some members' concern about the provision of information relating to this development on the site when the Committee was only being asked to confirm whether or not it agreed with outline planning permission
- If approved in principle it could deliver the amount of development set out. Whilst the application of numbers on the site for 850 units enabled an assessment of viability, it was not yet possible to assess further detail with the information available. Officers had assessed that it could be approved in principle
- The full application could not be considered until an outline application had been approved
- Viability had been assessed based on 817 units with floor space a key factor in this since this could affect the number of dwellings. Demolition costs were very high on the site with no tenders



known for this work at the moment. There was not enough detail to assess whether or not this was based on the cost of each individual unit or a 12 storey building

- Officers noted that the possibility of using Section 106 funding had not been assessed. The Committee was advised that when Bristol City Council became a CIL charging authority in 2013, this reduced the scope of the use of S106 Agreements. Since then, a Section 106 agreement had not been sought for parks which was a policy decision at the time. Under the current circumstances, the CIL levy would be a minimum of £4 Million and could be more with 15% of CIL going to Area Committees to decide. Bristol City councils could always allocate strategic CIL for parks
- Whilst no assessments had yet been made on the impact of size and density of the development on health, this would be addressed as the development had to comply with national space standards. The Health Impact Assessment Development would be used as a means of assessing this.
- Since the density was the worst case scenario taking into account the size of the site and likely numbers of dwelling, it was reasonable to assess this with some indicative information. However, any proposal would need to comply with the required policies
- Whilst it was likely that any proposed scheme would be large given the scale of the outline application, any development would be assessed against policy in the same way. Officers had balanced the benefits of the outline application against the impact and had concluded that it was achievable.
- Members' attention was drawn to Paragraph 9.58 of the report setting out details of the Vertical Sky Component assessment
- The Committee's concerns were noted about the existing supermarket, cinema provision and the role of Redcatch Park. However, officers pointed out that these were not part of the current application process
- Whilst affordable housing was a key material consideration, all developers were required to comply with a development plan proposal. The Committee were able to assess the design as well as amenity
- The issue of commercial space was a commercial issue for the developer and not within the planning remit
- It was usual practice for a builders plan to be prepared for schemes using the Building Cost Association Service (BCIS) which assesses this on the basis of pound per square metre. Following a request from BCC's affordable housing team, Housing Associations were approached to assess the base build costs. The estimated base build was greater than the BCIS medium but also greater than that estimated by the developer
- Any proposal for funding through a Section 106 scheme was not supported by planning policy and would be difficult to defend at appeal
- It was noted that there was reference in the report to developer's comments to the urban living document which stated that offsite provision for children's play can be provisioned if not provided on site. Officers pointed out that there was no mechanism to secure these funds
- The Committee was advised that Redcatch Park was not assessed as part of the development
- It was a planning obligation to provide a certain amount of affordable housing. However, the Planning Authority could not require a developer to pay funds before the scheme commenced and since it was not known when the scheme would start, it was not possible to require this to be carried out within a certain date.



Committee members made the following comments:

- It was important that Broadwalk should not end up like the scheme in St Catherine's Parade in Bedminster. Whilst there would be difficult decisions to be made in future, outline planning consent was required for the scheme to progress to the next stage and to signal a willingness to invest in Broadwalk and to provide certainty in allowing the required improvements to be made.
- Whilst there may be concerns about the level of affordable housing, schemes with zero affordable housing had been approved in the past
- Strategic CIL could be allocated to the park area and a marker for a residents parking scheme could be provided with approval of the scheme
- There were a number of elements of this scheme which had merit such as the regeneration of a very run down area, the arrangements for street scene, the proposals for recycled and embedded carbon and helping traders who were struggling in the area.
- Since the viability assessment could only contain what was included within the report, there was a lack of balance to aspects of the scheme. For example, it was argued that height, density and mass were well in excess of what had been recommended for national research. Further concerns related to the impact of such a potentially large development on health and the lack of sufficient affordable housing
- The application should be opposed. There were concerns relating to the lack of Section 106 agreement and the need for an assessment for a residents' parking zone
- The area is failing and there are merits to the scheme such as pedestrianisation, biodiversity net gain and the building of energy efficient buildings. However, the proposal for 850 units would lead to the buildings being excessively high up to 12 storeys (in a Victorian/Edwardian suburb). In addition, the buildings were far too dense and there was a lack of affordable housing. Therefore, the application should not be supported
- Whilst the need for development on this site was recognised, an outline development for such a dense development should not be supported

In accordance with convention, Councillor Richard Eddy asked for any Councillor to propose the officers' recommendation for approval but no Councillor moved it.

Councillor Fi Hance moved, seconded by Councillor Andrew Varney and it was

**RESOLVED: (unanimously) – that the Committee is minded to refuse the application on the grounds of the likely proposed density of housing per hectare and that the application is deferred to a future meeting including suggested reasons for refusal on this basis.**

### 15 Date of Next Meeting

Following the decision made under Minute Number 9, it was noted that the next meeting would be held at 6pm on Wednesday 5<sup>th</sup> July 2023 in the Council Chamber, City Hall, College Green, Bristol.

The meeting ended at 5.20 pm

**CHAIR** \_\_\_\_\_





## Action Sheet – Development Control Committee A

Date of Meeting	Item/report	Action	Responsible officer(s)/Councillor	Action taken / progress
21/12/22 and 31/05/23	Enforcement	Annual benchmarking report to DC comparing performance with other core cities would be useful. This was agreed.	Head of DM	Report to come to Committee in 2023/24 Municipal Year – officers to report on progress, an update to be provided – officers had previously indicated that comparators were not currently available
31/05/23	Appeals - Former Wyevale Garden Centre Application	To provide timeline for determination	Head of DM	Officers to report progress at 31 <sup>st</sup> May 2023 Meeting – No Progress Yet, an Update to be Provided to a future Committee
31/05/23	Appeals - Item 45 Land To Rear Of 44 & 46 Wrington Crescent Bristol BS13 7EP	Update Requested	Head of DM	Officers to report progress, an update to be provided to the Committee
05/07/23		No Actions		

## DEVELOPMENT CONTROL COMMITTEE A

9 August 2023

### REPORT OF THE DIRECTOR: DEVELOPMENT OF PLACE

#### LIST OF CURRENT APPEALS

##### Householder appeal

Item	Ward	Address, description and appeal type	Date lodged
1	Southmead	37 Ullswater Road Bristol BS10 6DH Single storey rear extension and enlarge the existing garden annex building to use as storage, office and WC space. Appeal against refusal Delegated decision	19/04/2023
2	Clifton	21 Constitution Hill Bristol BS8 1DG Mansard roof extension. Appeal against refusal Delegated decision	25/04/2023
3	Bishopsworth	45 Bridgwater Road Bristol BS13 7AX Rear and side dormer roof extensions. Appeal against refusal Delegated decision	05/06/2023
4	Eastville	Advertising Displays Bus Shelter (Ref. 1102-0009) In Front Of 567 Fishponds Road Fishponds Bristol BS16 3AF Replace existing double-sided internally illuminated 6-sheet bus shelter advertising displays with double-sided digital displays. Replacement digital displays will portray static advertising images that change every 10 seconds. Appeal against refusal Delegated decision	29/06/2023
5	Frome Vale	Advertising Displays Bus Shelter (1102-0538) Opposite Morrisons Fishponds Road Fishponds Bristol BS16 3UH Replace existing double-sided bus shelter advertising displays (comprising one digital display and one internally illuminated 6-sheet display) with double-sided digital displays. Replacement digital displays will portray static advertising images that change every 10 seconds. Appeal against refusal Delegated decision	29/06/2023

## Informal hearing

Item	Ward	Address, description and appeal type	Date of hearing
6	Easton	91 - 101 Church Road Redfield Bristol BS5 9JS Outline application for the demolition of buildings and erection of student accommodation, with access, with layout and scale to be considered. Appeal against non-determination	TBA

## Written representation

Item	Ward	Address, description and appeal type	Date lodged
7	Brislington West	Wyevale Garden Centre Plc Bath Road Brislington Bristol BS31 2AD Enforcement notice appeal for hardstanding. (C/22/3306445). Appeal against an enforcement notice	04/10/2022
8	Brislington West	Wyevale Garden Centre Plc Bath Road Brislington Bristol BS31 2AD Enforcement notice appeal for builders yard. (C/22/3306441). Appeal against an enforcement notice	04/10/2022
9	Brislington West	Wyevale Garden Centre Plc Bath Road Brislington Bristol BS31 2AD Enforcement notice appeal for bunds & portable buildings. (C/22/3306446). Appeal against an enforcement notice	04/10/2022
10	Brislington West	Wyevale Garden Centre Plc Bath Road Brislington Bristol BS31 2AD Enforcement notice appeal for plant equipment. (C/22/3306444). Appeal against an enforcement notice	04/10/2022
11	Lockleaze	36 Stothard Road Bristol BS7 9XL Enforcement Notice enforcement for the erection of detached building in garden without planning permission. Appeal against an enforcement notice	17/10/2022

12	Stoke Bishop	2 Bramble Drive Bristol BS9 1RE Enforcement notice appeal for front boundary not completed as per plans approved as part of planning permission 21/00431/H and additional planting. Appeal against an enforcement notice	22/11/2022
13	Cotham	71 Arley Hill Bristol BS6 5PJ Enforcement notice appeal for change of use of the building to large HMO with 8 bedrooms. Appeal against an enforcement notice	15/12/2022
14	Cotham	71 Arley Hill Bristol BS6 5PJ Change of use of the upper floors residential unit from small 6 bedroom HMO C4 to large HMO (Sui Generis Use) for 8 bedrooms (Retrospective). Appeal against refusal Delegated decision	15/12/2022
15	Southville	20 Mount Pleasant Terrace Bristol BS3 1LF Enforcement notice appeal for change of use to HMO (C4) without planning permission. Appeal against an enforcement notice	01/02/2023
16	Redland	186 Redland Road Bristol BS6 6YH Retention of stainless steel/glass balustrade, at roof level. Appeal against refusal Delegated decision	03/03/2023
17	Redland	186 Redland Road Bristol BS6 6YH Enforcement notice appeal for an installation of stainless steel/glass balustrade at roof level to form roof terrace without planning permission. Appeal against an enforcement notice	03/03/2023
18	Bedminster	149 West Street Bedminster Bristol BS3 3PN Part change of use from an office to a C3 dwelling unit. Appeal against refusal Delegated decision	31/03/2023
19	Central	2 Clare Street City Centre Bristol BS1 1XR Temporary Static, Illuminated Shroud Advertisement. Appeal against non-determination	04/04/2023

20	Ashley	Dainton Self Storage New Gatton Road Bristol BS2 9SH Proposed 1no. internally illuminated display signboard. Appeal against refusal Delegated decision	04/04/2023
21	Hotwells & Harbourside	2 - 10 Hanover Place Bristol BS1 6XT Window replacement works (all new windows to be uvpc). Appeal against refusal Delegated decision	06/04/2023
22	Westbury-on-Trym & Henleaze	29 Hobhouse Close Bristol BS9 4LZ Retrospective application for retention of dwelling. Appeal against non-determination Committee	06/04/2023
23	St George Central	20 Grantham Road Bristol BS15 1JR Conversion and extension of existing garage to rear garden to provide additional living accommodation associated to the main dwelling. Appeal against refusal Delegated decision	13/04/2023
24	Hengrove & Whitchurch Park	Bamfield Streetworks Bamfield Bristol BS14 0XD Application to determine if prior approval is required for a proposed telecommunications installation: Proposed 15.0m Phase 8 Monopole C/W wrapround cabinet at base and associated ancillary works. Appeal against refusal Delegated decision	13/04/2023
25	Knowle	318 Wells Road Knowle Bristol BS4 2QG Proposed kitchen extraction from A3 Unit below. Appeal against refusal Delegated decision	13/04/2023
26	Easton	1B & 1C Woodbine Road Bristol BS5 9AJ Change of use from 2 dwelling houses (C3a) to 2 small HMO for up to 6 people (C4). Appeal against non-determination	20/04/2023
27	Stoke Bishop	Telecoms Equipment Edge Of Green Shirehampton Road Sea Mills Bristol BS9 2EQ Application to determine if prior approval is required for a proposed telecommunications installation: Proposed 15.0m Phase 9 slimline Monopole and associated ancillary works. Appeal against refusal Delegated decision	21/04/2023

28	Stoke Bishop	The Helios Trust 17 Stoke Hill Bristol BS9 1JN Change of use from doctors surgery to specialist educational needs school for children and therapy centre, and land to residential garden adjacent 19a Pitch and Pay Lane. Appeal against non-determination	21/04/2023
29	Knowle	Land At Junction With Redcatch Road St Agnes Avenue Bristol BS4 2HQ Erection of dwelling (Renewal of planning permission granted on appeal ref APP/Z0116/W/18/3196399 - BCC 16/06418/F) - self build. Appeal against refusal Delegated decision	04/05/2023
30	Knowle	100 Redcatch Road Bristol BS4 2HQ Demolition and re-positioning of curtilage listed stone wall with brick capping. Appeal against refusal Delegated decision	04/05/2023
31	Ashley	6 Sussex Place Bristol BS2 9QW Conversion of this single dwelling into two flats and a maisonette, including provision of bin/cycle storage facilities and associated external alterations. Appeal against non-determination Delegated decision	10/05/2023
32	Hengrove & Whitchurch Park	127 East Dundry Road Bristol BS14 0LP Two storey rear and single storey side extension. Appeal against non-determination	15/05/2023
33	Knowle	100 Redcatch Road Bristol BS4 2HQ Erection of dwelling (Renewal of planning permission granted on appeal ref APP/Z0116/W/18/3196399 - BCC 16/06418/F) - self build. Appeal against non-determination	16/05/2023
34	Knowle	100 Redcatch Road Bristol BS4 2HQ Demolition and re-building of curtilage listed stone wall with brick capping in the same position as the existing wall. Appeal against non-determination	16/05/2023

35	Clifton Down	Redland Filling Station Hampton Road Bristol BS6 6JA Installation of vehicle charging points and associated electrical infrastructure and associated works. (Retrospective) Appeal against refusal Delegated decision	16/05/2023
36	Bishopston & Ashley Down	387 Gloucester Road Horfield Bristol BS7 8TS The retention of an Automated Teller Machine and associated signage. Appeal against refusal Delegated decision	16/05/2023
37	Cotham	Garage To Rear Of 3 Clyde Park Bristol BS6 6RR Demolition of garage and erection of dwellinghouse (Use Class C3). Appeal against non-determination	18/05/2023
38	Brislington West	21 Wick Crescent Bristol BS4 4HG Proposed development of two storey detached 2-bed dwelling, located within the rear garden. Appeal against non-determination Delegated decision	23/05/2023
39	Ashley	6 Sussex Place Bristol BS2 9QW Conversion of this single dwelling into two flats and a maisonette including the renovation of the property as a listed building. Appeal against non-determination	24/05/2023
40	Cotham	1 Eastfield Road Cotham Bristol BS6 6AA Proposed extension and alterations to existing end of terrace to form 7 no. 1 bedroom self-contained flats and 1 no. 2 bedroom self-contained flat over 4 floors. Appeal against refusal Delegated decision	21/06/2023
41	St George Central	The Mechanics Arms 123 Clouds Hill Road Bristol BS5 7LH Extension and change of use from public house to six apartments. Appeal against refusal Delegated decision	21/06/2023
42	St George Troopers Hill	106 Fir Tree Lane Bristol BS5 8BJ Demolition of dwellinghouse and erection of a three-storey building comprising 9no. self-contained flats with associated soft and hard landscaping. Appeal against non-determination	22/06/2023

43	Clifton Down	The Vincent Redland Hill Bristol BS6 6BJ Proposed retention of 2no. hoarding signs (temporary consent for 2 years). Appeal against refusal Delegated decision	23/06/2023
44	Henbury & Brentry	The Dower House Station Road Henbury Bristol BS10 7QJ Proposed 1no. detached 4 bedroom dwelling and garage with on-site parking and associated works. Appeal against non-determination	27/06/2023
45	St George West	Land At Junction Of Church Road And Chalks Road Bristol BS5 9EN Erection of a third floor to consented scheme 22/00111/X, to provide 1no. additional self-contained flat, including alterations to approved external appearance. Appeal against non-determination	28/06/2023
46	Knowle	Advertising Displays Bus Shelter (1102-0029) Front Of 427 Wells Road Knowle Bristol BS4 2QW Replace existing double-sided internally illuminated 6-sheet bus shelter advertising displays with double-sided digital displays. Replacement digital displays will portray static advertising images that change every 10 seconds. Appeal against refusal Delegated decision	29/06/2023
47	Central	Advertising Displays Bus Shelter (1102-0268) Outside Yeamans House Clarence Road Bristol BS1 6PZ Replace existing double-sided internally illuminated 6-sheet bus shelter advertising displays with double-sided digital displays. Replacement digital displays will portray static advertising images that change every 10 seconds. Appeal against refusal Delegated decision	29/06/2023
48	Clifton	22 Regent Street Bristol BS8 4HG First floor single storey flat with a green roof and courtyard area above the ground floor shop extension to the rear of No. 22 Regent Street. To create an additional bedroom to the existing attic flat with a matching tiled mansard roof between 22 and 24 Regent Street. To renovate and restore the old shopfront to new arched windows to match previous existing. Appeal against refusal Delegated decision	30/06/2023



49	Clifton	22 Regent Street Bristol BS8 4HG Additional first floor, single storey flat with a green roof and courtyard area above the ground floor shop extension to the rear of No. 22 Regent Street. To create an additional bedroom to the existing attic flat with a matching tiled mansard roof between 22 and 24 Regent Street. To renovate and restore the old shopfront to new arched windows to match previous existing. Appeal against refusal Delegated decision	30/06/2023
50	Ashley	23 Wathen Road Bristol BS6 5BY Appeal against enforcement notice for works to roof without planning permission. Appeal against an enforcement notice	12/07/2023
51	Clifton Down	11 Wellington Park Bristol BS8 2UR Appeal against a High Hedge. Appeal against high hedge	12/07/2023
52	Frome Vale	4 Grangewood Close Bristol BS16 2QN Erection of a detached two storey dwelling with parking facilities. Appeal against refusal Delegated decision	12/07/2023
53	Horfield	Beaufort Multi Storey Car Park Southmead Hospital Southmead Road Bristol BS10 5FN External alterations to the south-western and north-eastern elevations of the Car Park. Appeal against refusal Delegated decision	13/07/2023
54	Stoke Bishop	Pavement South Side Clifton Down South West Of Junction With The Avenue Bristol BS8 3GH Proposed 5G telecoms installation: H3G 17m street pole and additional equipment cabinets. (BRC25452) Appeal against refusal Delegated decision	18/07/2023
55	Bishopsworth	Highways Land Between Church Road And Whitchurch Road Bristol Application to determine if prior approval is required for a proposed: Streetpole style telecommunications mast. Appeal against refusal Delegated decision	19/07/2023

56	Cotham	65 Lower Redland Road Bristol BS6 6SR Application for a lawful development certificate for an existing use as a large HMO (Sui-generis). Appeal against refusal Delegated decision	21/07/2023
57	Stockwood	88 Stockwood Road Stockwood Bristol BS14 8JE Demolition of single storey side conservatory and construction of 2-storey, 2-bed dwelling together with associated works, including rear extension. Appeal against refusal Delegated decision	26/07/2023
58	Hotwells & Harbourside	133 Hotwell Road Bristol BS8 4RU Change of use from Use Class E(b) (Restaurant) to Use Class C3 (Residential : 1 No self-contained maisonette). Appeal against refusal Delegated decision	28/07/2023

#### List of appeal decisions

Item	Ward	Address, description and appeal type	Decision and date decided
59	Hillfields	11 The Greenway Bristol BS16 4EZ Erection of two storey, 2 bed detached dwellinghouse, with landscaping and parking. Appeal against non-determination	Appeal dismissed 12/07/2023
60	Bishopsworth	71 Dangerfield Avenue Bristol BS13 8DX Proposed new dwelling to side. Appeal against refusal Delegated decision	Appeal dismissed 12/07/2023
61	Westbury-on-Trym & Henleaze	Grass Verge Of Passage Road Junction With Greystoke Avenue Westbury Bristol BS9 3HR Application to determine if prior approval is required for a proposed upgrade of the existing installation, involving the installation of a 20 metre high monopole supporting antennas with a wraparound equipment cabinet at the base, the installation of 3 no. additional equipment cabinets, the removal of the existing 11.5 metre high monopole supporting antennas, the removal of 1 no. existing cabinet, and ancillary development thereto. Appeal against refusal Delegated decision	Appeal allowed 29/06/2023

62	St George Troopers Hill	St Aidans Church Fir Tree Lane Bristol BS5 8TZ The removal of 3 No. antennas and the upgrade of 3 No. antennas, the installation of 1 No. GPS node and associated ancillary development thereto. Appeal against refusal Delegated decision	Appeal dismissed 06/07/2023
63	Southville	Advertising Displays (1102-0543) Outside Asda (Opp. Philip Street) Bedminster Parade Bristol BS3 4HH Replace existing double-sided bus shelter advertising displays (comprising one digital display and one internally illuminated 6-sheet display) with double-sided digital displays. Replacement digital displays will portray static advertising images that change every 10 seconds. Appeal against refusal Delegated decision	Appeal allowed 26/07/2023
64	Westbury-on-Trym & Henleaze	146 Falcondale Road Bristol BS9 3JF Full width single storey rear extension. Appeal against non-determination	Appeal withdrawn 24/07/2023

**DEVELOPMENT CONTROL COMMITTEE A**

**9th August 2023**

**REPORT OF THE DIRECTOR: DEVELOPMENT OF PLACE**

LIST OF ENFORCEMENT NOTICES SERVED

No Enforcement Notices to report

## Development Control Committee A 9 August 2023

### Report of the Director: Economy of Place

#### Index

#### Planning Applications

Item	Ward	Officer Recommendation	Application No/Address/Description
1	Westbury-on-Trym & Henleaze	Refuse	22/01221/F - St Christophers School Westbury Park Bristol BS6 7JE Proposed development of the site including, internal and external alterations of Listed House building and conversion of lodges fronting Westbury Park; demolition of buildings and the erection of new buildings to provide an integrated Retirement Community (Class C2) for older people; together with landscaping, car parking, refuse and other associated works (major).
2	Bishopsworth	Grant	22/05714/FB - South Bristol Crematorium And Cemetery Bridgwater Road Bristol BS13 7AS Expansion of existing cemetery and crematorium to provide new burial and memorial plots with associated roads, footpaths, parking, drainage infrastructure, fencing, landscaping and furniture.

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**Development Control Committee A – 9 August 2023**

**ITEM NO. 1**

**WARD:** Westbury-on-Trym & Henleaze

**SITE ADDRESS:** St Christophers School Westbury Park Bristol BS6 7JE

**APPLICATION NO:** 22/01221/F Full Planning

**DETERMINATION DEADLINE:** 31 March 2023

**Proposed development of the site including, internal and external alterations of Listed House building and conversion of lodges fronting Westbury Park; demolition of buildings and the erection of new buildings to provide an integrated Retirement Community (Class C2) for older people; together with landscaping, car parking, refuse and other associated works (major).**

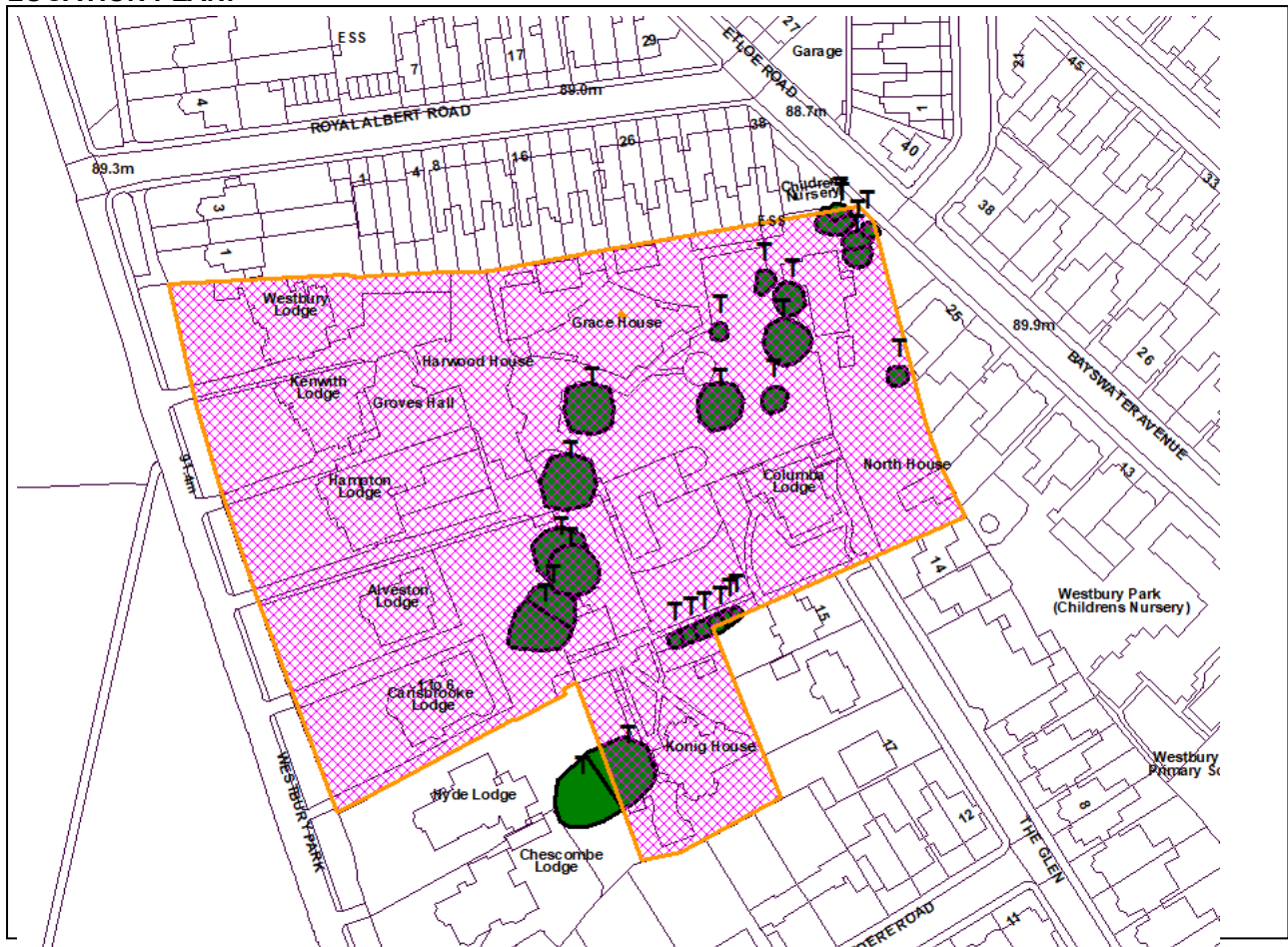
**RECOMMENDATION:** Refuse

**AGENT:** Pegasus Planning Group  
 First Floor South Wing  
 Equinox North  
 Great Park Road  
 Almondsbury  
 Bristol BS32 4QL

**APPLICANT:** St Christopher's Prop Co Ltd

*The following plan is for illustrative purposes only, and cannot be guaranteed to be up to date.*

**LOCATION PLAN:**



**Development Control Committee A – 9 August 2023****Application No. 22/01221/F : St Christophers School Westbury Park Bristol BS6 7JE****UPDATE FOLLOWING WITHDRAWAL FROM 31 MAY DEVELOPMENT CONTROL COMMITTEE 'A' MEETING****BACKGROUND**

1. This is an update to the Committee Report prepared for the Development Control Committee 'A' Meeting on 31<sup>st</sup> May 2023. This application was withdrawn from consideration at the Development Control Committee 'A' Meeting on the 31<sup>st</sup> May 2023 at the request of the Applicant. It was suggested by the Applicant that more time was required to allow for the consideration by the Local Planning Authority of a rebuttal to the Committee Report for 31<sup>st</sup> May 2023 Meeting (the May Committee Report) produced by the Applicant.
2. This updated report includes the relevant responses to the applicant's rebuttal (the Rebuttal). The Rebuttal is available on the website. The 'Amendment Sheet' for the Development Control Committee 'A' Meeting on 31<sup>st</sup> May 2023 would have provided a response to the Rebuttal which would have been made available to the Committee and interested parties the day prior to the Committee Meeting, however this was not published following the withdrawal.

**UPDATE SINCE THE MAY COMMITTEE REPORT**

3. No changes have been made to the proposed development; however, the applicant has provided an updated Thermal Comfort Overheating Analysis and a revised Drainage Strategy to address outstanding objections to the proposed development from the Sustainability officer and the Flood Risk officer respectively. These issues are covered in more detail within Key Issues H (Sustainability) and I (Flood Risk and Drainage) of this report. An update via the Amendment Sheet will be provided to Members with regards to the final positions of the Sustainability officer and the Flood Risk officer.
4. In addition to the above, two consultation responses have been updated based on final comments received and a correction as to the latest comment from Historic England on the application, in which they maintain their objection. These comments are available at the following paras. in the 'Publicity and Consultation' section of the report:
  - Historic England – paras. 77-79
  - Education – paras. 99-105
  - Transport Development Management – para. 109-110
5. Two responses to the Rebuttal have been received from St Christopher's Action Network (SCAN). Both responses are available on the website. Given the extent of discussions in relation to this application and the large number of representations received to this application since March 2022 this Committee Report is supported by a number of appendices:
  - Appendix A – Pre-Application Discussions
  - Appendix B – Further Details of Publicity and Consultation
  - Appendix C – Use Class Assessment Report

**Development Control Committee A – 9 August 2023**

**Application No. 22/01221/F : St Christophers School Westbury Park Bristol BS6 7JE**

6. A number of supporting documents are also provided to aid Members consideration of this application, which are listed below.
- The Committee Report Rebuttal (St Christopher’s Square, May 2023).
  - Existing Site Plan (PRP, February 2022)
  - Proposed Masterplan (PRP February 2022)
  - Proposed Site Sections (PRP February 2022)
  - Villa B Elevations (PRP, February 2022)
  - Villa C Elevations (PRP, February 2022)
  - Site Cross Sections (PRP, January 2023)
  - Tree Retention and Removal Plan (Barton Hyett Associates, April 2023)



**Development Control Committee A – 9 August 2023****Application No. 22/01221/F : St Christophers School Westbury Park Bristol BS6 7JE****CONSIDERATION OF THE REBUTTAL**

7. This section of the Committee Report covers the applicant team's rebuttal in response to the May Committee Report (the Rebuttal). This is available online and as outlined above forms one of the supporting documents to this report. The following section should be read alongside the 7-page Rebuttal.
8. The Rebuttal has been reviewed and considered in detail by officers; however, we do not consider anything in the Rebuttal would warrant a different recommendation to Committee. As per the May Committee Report, this application is recommended to Members for refusal.

**Benefits of the scheme**

9. The Rebuttal raises concerns that the Committee Report is unbalanced and that the report does not adequately consider the benefits of the scheme. The Rebuttal states that only two sentences consider the benefits of the scheme, however this is incorrect.
10. As Members will be aware, the May Committee Report set out that the principle of development is accepted and paras. 174-193 set out the benefits the scheme would have upon "*much-needed specialist housing.*" Para. 200 set out how the housing mix and type is appropriate and the benefits of "*freeing up family homes*" elsewhere in the area by allowing elderly people to downsize.
11. These benefits are undisputed, clearly set out in the Committee Report and have been given significant weight when providing the recommendation. The other benefits set out in the Rebuttal are either wholly or partly unagreed, or do not relate to policy requirements of the Local Plan. This Committee Report has been updated to include further details of the benefits associated with the community use of North House. For the avoidance of doubt, it should be noted that this is a benefit of the scheme and is considered to comply with Policy BCS12 in terms of location and integration in the development.
12. The benefits of opening up the site are set out in para. 216 of the Committee Report, however due to the contravention of other policies of the Local Plan, such as the loss of trees and scale and massing of the new build Villas, this benefit is considered to be reduced to a negligible one, which does not outweigh the less than substantial harm on the heritage asset.
13. The Rebuttal sets out that the developer intends for the proposed development to be 'Net Zero' carbon. This is not a Policy-requirement of the Local Plan, nor does it form a part of the National Planning Policy Framework or national Planning Practice Guidance. Whilst a benefit of the scheme, Officers have had to afford this issue limited weight in the preparation of the recommendation, however Members may wish to consider this as a benefit of the scheme in light of the Council's declared Climate Emergency. Of particular relevance are the sustainability measures proposed in the scheme which respond to adopted Policies BCS13, BCS14 and BCS15 Paras. This is set out in the Key Issue H of this Committee Report.
14. Benefits to wellbeing stated in the Rebuttal are considered to be limited given the poor quality living environment for future occupiers and the susceptibility to overheating as set out in Key Issues F (paras. 236-239) and H (paras. 258 to 269) of this Committee Report. It should be noted that the applicant is working with officers to address overheating issues.

**Development Control Committee A – 9 August 2023****Application No. 22/01221/F : St Christophers School Westbury Park Bristol BS6 7JE**

15. The applicant sets out that the economic benefits of the scheme have not been noted in the May Committee Report. This Committee Report has been updated to reflect the consideration as part of the recommendation, however the number of permanent jobs created has not been quantified by the applicant which makes it difficult to attach significant weight and the site would have previously supported employment through its use as a school. The Design and Access Statement sets out that 111 construction jobs would be created in Bristol, which would have a short-term positive effect on the economy in accordance with Policy BCS8. This is concluded to be a minor beneficial effect.

**Heritage and heritage balance**

16. Concerns have been raised in the Rebuttal that the Conservation officer comments suggest the consideration of alternatives. These comments are not included in either the May Committee Report or this Committee Report in full for this reason and officers remind Members that they must determine the scheme before them.
17. The Rebuttal also sets out that Historic England's comments refer to a six-storey villa. These were the original comments on the application. For the avoidance of doubt these comments have been added to the 'Publicity and Consultation' section of this Committee Report.

**Density**

18. Members will be aware that density is only one aspect of assessing whether a proposed development complies with the Local Plan policies in respect of design. This is a quantitative assessment which does not account for the fact that the application site is within a Conservation Area, the existing low level of development and the proximity to Grace House, the Listed building. Officers' consideration of these issues is set out in paras. 203 to 218 and are not repeated here.

**Highways**

19. For the avoidance of doubt, the lack of parking or the 'harm' arising from this, is not considered to weigh against the proposed development. This is because officers consider that an area-wide scheme of parking measures could address their concerns about overspill parking and a subsequent effect on highway safety. As this contribution would be necessary to make the proposal acceptable in planning terms it could not be seen as a specific benefit of the scheme.

**Sustainability**

20. The Rebuttal sets out almost 30 points in relation to sustainability. Whilst these are laudable objectives, very few of them represent firm commitments and only a handful respond to Policy requirements. Some of the commitments refer to complying with EU Regulations or not using materials banned by UK Government, which would be expected of all development proposals in Bristol and therefore should not be afforded weight in any decision.
21. Key Issue H set out the considerations of the scheme in relation to sustainability against the adopted Policies BCS13, BCS14 and BCS15 and the conclusions remain that the development complies with the heat hierarchy but has not provided details of carbon reduction for *residual emissions* as required by these policies.

**Development Control Committee A – 9 August 2023****Application No. 22/01221/F : St Christophers School Westbury Park Bristol BS6 7JE**

22. The applicant has provided an updated Thermal Comfort Overheating Analysis since issuing the Rebuttal and at the time of writing this is with officers for consideration. An update will be provided by way of the Amendment Sheet.

**Other Comments**

23. Article 18 of the Development Management Procedure Order 2015, sets out that: *“The local planning authority must, in determining the application, take into account any representations received from any consultee.”*
24. The Rebuttal appears to criticise officers for reporting in the May Committee Report on over 1,300 representations made during the determination of this application. Paragraph 30 which seems to be specifically criticised, is representative of many of the objections received by the LPA from interested parties.
25. The Rebuttal sets out that *“that perceptions on the consultation carried out is not relevant to the consideration of this planning application.”* However, the Statement of Community Involvement is a validation requirement and the LPA’s guidance on Community Involvement<sup>1</sup> sets out that statements on consultation for major developments should be *“signed off”* by community groups as an accurate representation.

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<sup>1</sup> Available: <https://www.bristol.gov.uk/residents/planning-and-building-regulations/planning-applications/get-advice-before-making-an-application/community-involvement-for-major-planning-developments>

## Development Control Committee A – 9 August 2023

Application No. 22/01221/F : St Christophers School Westbury Park Bristol BS6 7JE

## MAIN REPORT TO COMMITTEE

## SITE DESCRIPTION

26. The application site is located within the Westbury Park area of north Bristol and is 1.99 hectares in size. The site is bounded by the Westbury Park road to the west, Bayswater Avenue to the east and respective residential properties lining Royal Albert Road (to the north) and Belvedere Road / the Glen (to the south). The site directly adjoins the Redland Ward, which is located immediately to the south.
27. The site comprises the former St Christopher's School on Westbury Park, which was in use from 1945 until March 2020 as a residential specialist school for children and young people with Special Education Needs and Disabilities (SEND).
28. The site can be divided into three main constituent parts.
29. The first comprises 5no. large Victorian villa properties of mainly two-storeys in height, with some three-storey elements, which front onto Westbury Park Road. These buildings were constructed in the mid-19<sup>th</sup> century and are situated on generous plots with front gardens that line Westbury Park. Each of the buildings is constructed in Bath stone with similar front elevations. Two of the villas; Kenwith Lodge and Hampton Lodge have been subsequently extended and altered to the rear as part of works to expand the school.
30. Second is the Grade II Listed 'Grace House', which was constructed in 1966 and is designated on the basis of both its architectural interest and historic interest. The Historic England Listing states:
31. *"Grace House at St Christopher's School, Bristol, designed by Alec F French and Partners as a teaching block for disabled children, and built in 1966, is listed at Grade II for the following principal reasons:*

*Architectural interest:*

*\* as a one-off design for a Steiner teaching block specifically designed for disabled children; \* the physical expression of the school's educational philosophy and ethos as a Steiner school in its architectural form; \* for its meticulous planning as a series of geometric organic volumes added together in rhythmical way to create an image of ever-expanding growth that reflects Steiner's ideology; \* for its honest and expressive use of materials which infers the building with a strong aesthetic; \* for the quality of the craftsmanship and engineering of the building that is particular evident in features such as the folded-timber roof to the central circulation space and the pentagonal form of the structural concrete columns; \* the good level of survival both externally and internally retaining many of its original fixtures and fittings; \* as an architecturally outstanding schools of the 1960s, combining its warm and welcoming interior with bold, expressive external forms.*

*Historic interest:*

*\* as a rare example of a purpose-built post-war Steiner school for disabled children; \* for its educational interest as a building designed around the educational and architectural principles of Rudolf Steiner."*

**Development Control Committee A – 9 August 2023****Application No. 22/01221/F : St Christophers School Westbury Park Bristol BS6 7JE**

32. Finally, there are 11 further buildings that have been developed over time, comprise a mix of different designs and are in varying states of repair. These buildings are predominantly single-storey in height, with the exception of Harwood House, which is located to the rear of Kenwith Lodge and is up to three-storeys in height, and Columba Lodge, which is located to the north of the Glen, which is two-storeys. North House, in the eastern corner of the site, is two-storeys in height.
33. The overriding character of the site is one of a landscaped environment of gardens and mature trees. A total of 94 trees, groups of trees and hedgerows were identified within the applicant's Tree Survey (Barton Hyett, February 2022). There are a number of Tree Preservation Orders across the site and the area is identified as falling within the West of England Nature Recovery Network Woodland which means that the trees on site are part of an important ecological network. The latter is not a formal designation, but it indicates that the site provides some strategic significance in terms of green infrastructure and ecology.
34. The site is located within the Downs Conservation Area, opposite the Clifton and Durdham Downs, a large area of open space and parkland. The Downs is a Site of Nature Conservation Interest, Local Historic Park and Important Open Space.
35. Beyond the site to the north, east and south the area is characterised by semi-detached and terraced Victorian and Edwardian residential properties which are mainly two storeys in height, some with rooms in the roofspace. The Westbury Park Primary School, Harcourt Pre-School and Daisychain Children's Day Nursery are all located in close proximity to the site on Bayswater Avenue. Adjoining the site to the south west off Westbury Park are Hyde Lodge and Chesholme Lodge, both of which provide accommodation for adults with learning disabilities.
36. There is a small parade of shops situated on North View approximately 400m walking distance to the north of the site. There are bus stops on North View and Westbury Road providing public transport into the city centre and beyond.

**Development Control Committee A – 9 August 2023**

**Application No. 22/01221/F : St Christophers School Westbury Park Bristol BS6 7JE**

**RELEVANT HISTORY**

37. The site has an extensive history given its previous use as a school. Applications on the LPA system cover the development of additional buildings onsite from the 1980s through to 2013. None of these are considered to be relevant to the determination of this application and are not listed in detail here.
38. One application was determined in relation to a Request for a Screening Opinion made under the Environmental Impact Assessment Regulations 2017:  
  
22/01044/SCR - Request for a Screening Opinion as to whether an Environmental Impact Assessment is required for the redevelopment of the site for an Integrated Retirement Community. – DETERMINED EIA IS NOT REQUIRED.
39. A number of pre-application enquiries were made in advance of and alongside the submission of the applications considered in this report. These are detailed within **APPENDIX A** of this Report.

**Development Control Committee A – 9 August 2023****Application No. 22/01221/F : St Christophers School Westbury Park Bristol BS6 7JE****APPLICATION**

41. This application seeks full planning permission for the redevelopment of the application site for an integrated retirement community (Use Class C2). The application considered for determination consists of the following aspects:

The provision of 116no. extra care residential units, split as follows:

- 25no. apartments located within the retained and converted Victorian Villas fronting Westbury Park. 14no. would be two-bedroom and 11no. would be one-bedroom apartments.
  - 81no. two-bedroom apartments located in four, new-build development blocks or 'Villas' within the site. (These are referred to as Villa A, B, C and D throughout.)
  - 9no. new build, two-bedroom dwellings located within two terraces.
  - 1no. new build, one-bedroom detached dwelling.
42. The retention and conversion of the Grade II Listed Grace House to provide a 940sqm community hub to include:
- 'Wellbeing' facilities including hydro pool, exercise studio, gym, nutritionist and treatment room.
  - 'Belonging' facilities including café / bistro, cinema/activities room, art room and workshop.
43. The retention and conversion of the North House building to create an urban village hall that would be able to be used part time by the wider community (a minimum of 15 hours per week, has been specified in the applicant's Section 106 draft Heads of Terms).
44. New public realm and landscaping, including pedestrian permeability through the site and a range of outdoor facilities such as a village square, sensory garden, productive/allotment garden and activity garden.
45. 65no. car parking spaces, comprising:
- 48no. standard bays;
  - 6no. accessible bays;
  - 8no. EV bays;
  - 2no. car club bays; and
  - 1no. shuttle bus bay.
46. A minimum of 52no. cycle parking spaces (22 visitor spaces and 30 staff spaces) and buggy stores would also be provided.
47. The demolition of various buildings and structures within the site is proposed, including extensions adjoining the existing Victorian Villas fronting onto Westbury Park.

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48. The proposed new build villas would be three to five-storeys in height. The proposed two terraces would be two-storeys in height. The new build one-bedroom detached dwelling would be a single storey in height.
49. A separate Listed building consent (ref. 22/01028/LA) is also being sought for the internal and external alteration of the Grade II Listed 'Grace House' to provide office space, staff facilities and some of the 'belonging facilities' outline above, including kitchen facilities, a café/deli/bar, a dining area and a members' club.
50. The alterations include new stairs and a lift and the removal of an existing external fire escape.
51. The application as originally submitted included the extension of Grace House, but that was removed as part of the revised details submitted December 2022.



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53. The Statement of Community Involvement (SCI) submitted with the application states that the applicants undertook an extensive and robust programme of community engagement and community consultation prior to submitting the planning application.
54. The multi-phase consultation initially sought to provide information on the key principles behind the project and widen local knowledge on integrated retirement communities. Once an initial vision for the site had been established, near neighbours and local stakeholders were invited to discuss this and share their views. The SCI states that having taken on board the feedback received and amended the scheme where possible, a full public consultation programme took place with neighbours, local stakeholders and the communities surrounding the site. Across nine months prior to the submission of the application, the applicant sets out that it engaged with 30 different stakeholders and groups, more than 200 local residents in person and had nearly 4000 votes to an online poll from over 660 individual voters.
55. The Planning Statement comments that key changes were made in the evolution of the design in response to public feedback and these include:
- Reducing building heights close to site boundaries, with 2 storey cottages to the east and south boundaries.
  - The reduction in height of Villa A to 3 storeys to reduce the impact on neighbours and Grace House.
  - Reduction in hard landscaping, particularly around Grace House which has been softened.
  - Proposed cottages have been pulled further away from existing properties on Bayswater Avenue.
  - The proposed four Villa blocks have been re-orientated and separated to allow greater space between the villas.
  - There is a clear footpath route through the site with gates to help define public and private areas.
56. Many of the comments received from residents following public consultation on the planning application have expressed dissatisfaction with the quality of the community involvement undertaken and have felt misled. This is set out within the **PUBLICITY AND CONSULTATION** section of this report and **APPENDIX B**.

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## PUBLIC COMMENTS

57. Site notices were erected, and an advert placed in the local press. In addition, local addresses were notified of the proposals. Three rounds of publicity and consultation have been undertaken on iterations of the scheme.
58. In response to original application, 631 comments were received between March and July 2022. 610 of these were in objection, 13 were neutral and 8 were in support.
59. Following amendments made to the original submissions received on 1<sup>st</sup> December 2022, a second round of consultation commenced on 8<sup>th</sup> December 2022 targeted at previous respondents.
60. In response to revised application, 681 comments were received between December 2022 and early February 2023. 662 were in objection, 11 were in support and 6 of these were neutral. 6 of the comments from this second round of engagement were made by SCAN on various aspects of the application.
61. A final round of targeted consultation was undertaken with neighbouring residents and community groups on 23<sup>rd</sup> February 2023. In response to this round of consultation, a total of 23 representations have been received. 1 of these comments was in support of the application, with the remaining 22 comments in objection.
62. Since the withdrawal of the application from the Committee Meeting on 31<sup>st</sup> May 2023, two further public comments have been received. Both of these comments were in objection.
63. In summary, the following planning issues were raised in objection to the scheme:
  - Objection to the perceived over-development of the site which is out of scale and out of context with its surroundings.
  - Concerns that the proposal would harm the setting of the listed building, Grace House, and would harm the character of the Downs Conservation Area.
  - Concerns that inadequate parking is provided, increasing the demand for parking on surrounding streets. This demand is already very high as the site lies just outside the Residents' Parking Scheme and experiences high levels of commuter parking.
  - Concerns that additional traffic represents a risk to highway safety, in particular the local children attending nearby schools.
  - Concerns that the proposals would result in a loss of privacy and outlook for adjoining residents, the proposals would also be overbearing and cause a loss of sunlight / daylight.
  - Objection to an unacceptable loss of trees and natural habitat, causing an unacceptable environmental and aesthetic impact. Concerns that there could be a net loss of biodiversity.

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- Concerns about the loss of SEND facilities of which there is a shortage in Bristol.
- Objection to the fact that the proposals do not provide any affordable housing.
- Concerns about the lack of a mixed and balanced community and that this could create an adverse impact on the health and social care system from a concentration of elderly people at this location.
- Concerns that the quality of the living environment provided by the new accommodation would be poor.

64. The following reasons were raised in support:

- Support for the principle of development and the type of accommodation proposed to meet the need from an increasingly elderly population.
- Support for facilities being offered for use by the local community and potential use of the community space by nearby schools.
- Support for reopening the site and providing access links through the site.
- Support for an overall biodiversity gain, despite the loss of trees.
- The development would release houses elsewhere as new residents of the scheme 'downsize' from their existing homes.

65. Further details of the responses from community groups are included within **APPENDIX B**.

**MEMBER OF PARLIAMENT AND COUNCILLOR COMMENTS**

66. An objection to scheme as originally submitted received from Councillors (Cllr) Gollop, Smith and Scott (as Local Ward Members) and then reiterated via consultation in January 2023.
67. One objection has been received from Cllr Fodor as neighbouring Ward Member (Redland directly adjoins the site).
68. An objection has also received from Cllr Bailes as member of a scrutiny committee that looks at education including SEND based on the loss of education provision on site.
69. A comment was also received from Cllr Townsend in objection to the loss of education use / SEND provision on site and the lack of affordable housing.
70. Two objections have been received from MP Darren Jones. The first was received on the original application, with a second received in response to the December 2022 revised scheme.
71. Further details of the responses received from the MP and Cllrs are set out within **APPENDIX B**.

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## EXTERNAL CONSULTTEES

**Historic England – Objection**

72. The full comments from Historic England to both consultations are available on the website. The following objection was raised in response to the application as originally submitted.
73. “As the backland to the former villas has already undergone a significant amount of change over the last one hundred years, we do not object to the principle of redevelopment and a change of use of the site. As the former use of the site has come to an end, we support the principal of re-use of historic buildings and replacement buildings that make a meaningful and positive response to their context. The principal impacts are two-fold: the impact upon the setting of Grace House and the impact upon the character and appearance of the Conservation Area.
74. While we task your conservation specialist with fully assessing the impact of the proposed new buildings on the setting of the Grade II building, we consider that its present garden setting would be compromised, by virtue of eroding its primacy within the garden landscape, particularly by the massing and height of Villa B at 6 stories. The key views and vistas identified on p60 of the Design and Access Statement would not provide the unchallenged views of the southern aspect of Grace House as presently experienced. These views would only provide narrow, channelled glimpses with the dominant structures of the new buildings in the foreground. The garden setting and character of the site would undergo such a degree of change, which would counter the character of this part of the Conservation Area.
75. Regarding impacts from outside the site and particularly from the open area of The Downs, where the villas are best viewed as a group, these are demonstrated in the submitted verified views. Notably, viewpoints 3 and 6 confirm that the central 6 storey block would appear above existing buildings, drawing undue attention in an area of an established ambient building height. Viewpoint 6 is particularly telling in how the mansard roof over Villa B would appear visually heavy against the common roof forms of the area. We advise that a reduction of two stories from this block may reduce this impact to a more acceptable level.
76. This is a high-density scheme that we consider to be harmful to the character and appearance of the Conservation Area. We believe that the site is capable of being redeveloped in a manner that responds positively to the setting of Grace House, while delivering a layout, massing and design that is clearly more contextual than that currently proposed.”
77. The following comments were provided in December 2022 in response to the revised scheme, which maintains Historic England’s objection:
78. “Impact of the Proposed Development
- The revised scheme, in terms of the more substantive changes that would affect the character and appearance of the Conservation Area, has lowered the height of Villa B from six to five stories. The amended verified views indicate that the impact on view 6 from the Downs would be reduced from that of the previous iteration. However, five stories are still in excess of the ambient building height of the area and therefore the proposed taller elements will remain prominent within kinetic views within this part of the Conservation Area. We previously advised that the taller elements should be reduced to four stories, and the verified views showing the

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reduction to five stories would tend to suggest that the impact would be suitably reduced if a further storey were to be removed.

79. In regard to the setting of Grace House, while we have deferred consideration of these impacts to your conservation specialist, it would appear that the revised masterplan would not result in a meaningful reduction in the impact and harm caused to the setting of this listed building. Our concerns of the proposed development therefore remain.”

**Twentieth Century Society - Objection**

80. The full comments from the Twentieth Century Society are available on the website. In summary, the Society objects on the basis of the harm that would be caused to the Listed Grace House and due to the total demolition of buildings which the Society states should be considered Non-Designated Heritage Assets (NDHAs). These NDHAs include Harwood Lodge and Konig House.

**Crime Reduction Unit – Comment**

81. The supporting documents include a BREEAM non domestic refurbishment report. Under section HEA06, 'Safety and Security of the building', it states that the architect has responsibility for appointing an SQSS to provide a security needs assessment. My office has not been contacted with regard to provision of any crime figures or local Policing priorities nor to provide a Security Needs Assessment (SNA).
82. Provision of an SNA would assist us in our consideration of this development.
83. The application for a retirement community as presented is lacking in any detail which would enable my office to make an informed comment around the safety and security provision.
84. The minimum age for residence is 65 years old, the development will be open to the wider community during day time but there is a lack of information how this will be managed to ensure security is not unduly compromised.
85. It is noted that the vehicle parking provision is by way of small parking courts located in groups along the extremity of the development, generally with poor active surveillance from the building line.
86. The parking courts may be covered by CCTV however, this is the most prevalent crime type locally. There is neither a CCTV plan nor lighting plan provided within the supporting documents, nor detail of the boundary treatments or gating and access control provision on which to base an assessment. (DAS p114)
87. It is also noted that the proposal includes 24hr on site staffing, an accompanying management plan would have been useful.
88. Nationally we are seeing a sustained rise in cycle crime, this application includes 2 staff/resident external cycle stores but does not provide any details on security specification.
89. It is suggested that the two Sheffield stands nearest to Westbury Park and adjacent to Kenwith Lodge be moved closer to the building line where they will be less remote or viewed from the building line obscured by foliage.

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90. The cottage buggy storage provision creates alcoves along the building line which could be used for concealment and increase vulnerability.
91. Although we appreciate that the applicant has experience with this type of development the general lack of detail that safety and security has been robustly considered and the lack of consultation is concerning. Should this application be successful we would encourage the applicant to refer to Secured By Design Homes 2019 section 3 in order that an appropriate award may be considered.

**Avon Fire and Rescue – No objection**

92. Advised that four no. fire hydrants would be required within the site. The cost of these and maintenance would be secured via planning agreement.

**Bristol Waste – To be confirmed**

93. Awaiting final comments to confirm that the proposed development would conform with “Waste and Recycling Storage and Collection Facilities - Guidance for Developers of Residential, Commercial and Mixed-Use Properties”.

**Wessex Water – To be confirmed**

94. Discussions are ongoing at the time of writing as to whether the proposed discharge rates are acceptable to Wessex Water.

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## INTERNAL CONSULTEES

**Education officer – No objection subject to agreement of planning obligations**

95. In submitting their planning application, the applicants included a report entitled: “Review of Special Education Needs in Bristol” prepared by Educational Facilities Management (EFM) Ltd.
96. The executive summary contained the following text:
- “The report will find that while numbers of pupils with special education needs and disabilities (SEND) have risen in the recent past and are likely to continue to do so within the immediate future, there is a multiplicity of provision to meet their needs across the area and only a small proportion of children need a special school place. With two new state-funded special schools opened in the City since 2016 (Venturer’s Academy and Soundwell Academy) and a support facility in the pipeline, it is anticipated that sufficient spaces will be available into the future.”*
97. In response, the Education Department commented that there were a number of issues with the report as follows:
98. “There are a number of issues with the wording in section 4 and I feel the writer of the report has a limited understanding of SEND.
- There are serious errors in the data here. Section 5.3 states that 1,166 pupils attend a special school. Today we have 1,209 pupils in special schools in Bristol and 219 in resource bases. The report is distinguishing between special schools and specialist units attached to mainstream schools (resource bases). However, in reality the children accessing resource bases do have complex needs and so we need to be thinking about specialist provision in terms of special schools and resource bases, and not separately.
  - I would question section 5.4, the percentage of EHCP needs assessment requests is growing rapidly, with a 17% increase seen in the month of July alone. I believe the percentage of EHCPs to be growing more rapidly than is suggested in the report.
  - Section 5.5 – ‘Soundwell is in the process of filling up’ – There is currently a phased opening at Soundwell Academy. Bristol have a pre-agreed number of places and Other Local Authorities have the same. This academic year Bristol has 57 places at the school, all of which are full. Next year Bristol will have 78 places, again all have been filled already. *‘Consequently, there is a considerable number of surplus places apparent when known capacities are compared to the numbers on roll for the Bristol special schools’* – this statement is incorrect.
  - Table 2 is incorrect, there are a number of schools where the Number On Roll (NOR) is too low. Most notably Venturer’s Academy, which states there are 165 pupils on roll. In actual fact there are currently 220 pupils on roll. For Soundwell the table states 28 pupils on roll when there are actually 57 Bristol pupils on roll and additional Other Local Authority (OLA) pupils.
  - This leads on to section 5.6 which is completely incorrect, there are not 170 spare places in Bristol and this data is wholly inaccurate. Again sections 5.10,

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10.2 and 10.4 are incorrect as there is not a significant surplus of specialist provision places in Bristol.

- To give the writer of this report some context, Bristol is spending more than 10m on Independent Places for children and young people this academic year. This is a great drain on the High Needs Block and is massively contributing to the deficit which is a severe risk to the council as a whole. More local specialist provision is needed to reduce this reliance on the independent sector. As well as this, we are seeing a great increase in the number of EHCP needs assessment requests, with an average increase of 15% per year. There are predicted to be a total of 997 EHCNA requests by end of this year. If we assume only 20% of these children and young people (CYP) require a special school, then 200 CYP will need a special school by September 2022. There are currently already a high number of CYP who require a specialist provision place but do not have one. Even with the projects which Bristol are working on to increase specialist provision, we will still have a deficit in places due to the rapid rise in demand.”

99. It was agreed between Council officers that despite the concerns about the justification provided by the applicant, that the loss of SEND provision onsite could be accepted if a suitable contribution towards SEND places could be secured via planning agreement. The following paragraphs set out how the contribution has been determined.
100. The Consultee has identified an appropriate, reasonably related project of the Claremont Special School, which has planning permission to extend.
101. Over the last five years prior to the school closing, BCC commissioned an average of 7.25 places per annum.
102. The EBD OG in partnership with the DFE has published guidance on the cost of school places, which relies on a large sample for the benchmarking process. Report in the link below.
103. [F07125-National School Delivery Cost Benchmarking - Primary, Secondary and SEN Schools - July 2022 ver16 \(hants.gov.uk\)](#)
104. The SEN section is the pertinent one, whereby the average cost per pupil is assessed as being £74,920.
105. On this basis a contribution of £543,170.00 is sought to mitigate for the loss of places at St Christophers.

<b>Avg. no. of places</b>	<b>Cost per place</b>	<b>Total contribution</b>
7.25	£74,920	£543,170

**Transport Development Management – No objection subject to agreement of planning obligations**

106. The full comments from Transport Development Management (TDM) are available on the website. These raise an objection to the scheme on the basis that TDM considers the quantum of car parking proposed of 65 spaces to be insufficient based on the size of the scheme and the lack of capacity to accommodate overspill parking in the surrounding area.



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107. In response to Technical Note 4 from the Applicant (April 2023), TDM officers have explored the potential of a scheme of area-wide parking measures. This is something that the applicant has indicated it would be willing to contribute towards the implementation of.
108. The comments also raise concerns about emergency access from the Glen, however following the submission of Technical Note 4 and Drawing 1133-013, TDM withdraws its objection.
109. Final comments have been provided by the Transport Development Management officer and uploaded to the website (dated 25<sup>th</sup> May 2023).
110. The scope of the area-wide parking measures and the level of contribution would be determined as part of a planning agreement associated with any planning permission on the site.

**Urban Design and Landscape officers - Objection**

111. An objection has been maintained throughout the pre-application and application process from the Urban Design and Landscape officers. The full objection in response to the original submission is available on the website. There are concerns that the changes made during determination, which amount to a reduction in one storey of Villa from six to five storeys and some minor changes to the elevations, are not sufficient to overcome the objection.
112. The final comments below outline the main outstanding issues in relation to design.
113. The size and proximity of Villa B to Grace House affects the setting of the listed building. Villa B should be reduced to four storeys and the northwest corner of the building configured to create a better interface with Grace House. This could be achieved with an enhanced response both geometrically and architecturally to Grace House.
114. Similarly, Villa A should respond better to Grace House both geometrically and architecturally. The 'bold' architectural response the architect talked about at the meeting should be employed in these buildings to better address the architectural verticality of the existing Villas and Grace House.
115. The separation distances between Villas A, B, C, D and the existing, Victorian Villas combined with the building heights creates an uncomfortable public realm microclimate affecting liveability issues such as outlook, privacy and daylight/sunlight issues for the lower floors.
116. The distance between the Eastern elevation of Villa D and the Cottages is too close, and would affect the privacy of the Cottages and be overbearing. Particularly as the balcony would look directly into the cottages.
117. The distance between Villa C and B needs to be assessed to ensure the lower floors have sufficient daylight/sunlight and the garden between isn't overshadowed. [This is reported in Key Issue F in relation to Residential Amenity.]
118. Concern is raised that further boundaries between the Villas frontages would be undermined. This needs further assessment.

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119. The layout locates car parking along the frontage within the front gardens and removes the boundaries between all the existing Villas except between Hampton Lodge and Alveston Lodge. This replaces parts of the front gardens with hardscape areas and removes the plot definition between the lodges downgrading the character of the Villas and their landscape setting fronting the park.
120. While the proposed buildings have a window rhythm, the proportions of the windows need to reflect the existing Villas. Further, the elevational and roofscape treatment of the new blocks are generic and lack a positive relationship with the Villas and building aesthetic within the Conservation Area. Block A is particularly jarring directly adjacent to the fine architectural detailing of Grace House due to the proximity.
121. The mansard roof storey, projecting balconies and materiality to the apartment blocks particularly is considered incongruous to the area.
122. In conclusion, the harm to the setting of Grace House is 'less than substantial'. I would recommend revisions be made in response to the above comments for the removal of an Urban Design objection.

**Conservation officer – Objection**

123. The full objection from the Conservation officer is available on the website. A summary is provided below.
124. Proposals pose harm to the architectural and historic character of a rare and architecturally distinctive Listed building through a proposal that would damage its verdant park setting and be overbearing upon it by nature of scale and proximity. Development would fail to preserve or enhance the special character of the Conservation Area where the urban grain, scale and massing, loss of historic boundaries, visually invasive car parking, and uninspiring architectural character would be distinctly at odds with positive aspects of the Conservation Area and the traditional garden villa typology that's so strongly expressed to Durdham Downs. Heritage significance could not be sustained where overdevelopment of a site would result in erosion of character and setting.
125. This harm is "less than substantial" under the definitions of the National Planning Policy Framework (NPPF) but to a high to moderate degree if a sliding scale of impact is used. It remains, we are required to place "great weight" in the conservation of those assets and any harm must be justified clearly and convincingly. Where alternative forms of development and more appropriate architectural character may achieve a similar or proportionate package of public benefits, the high benchmark for justifying harm is not met.
126. Whilst a high degree of public benefit would arise from development, the harm that would occur is not outweighed where great weight is placed in the balance in favour of conservation.
127. We strongly recommend that this application is withdrawn by the applicant, or refused in line with national legislation, and national and local planning policies, designed to protect the historic environment. This includes, but is not limited to, The Planning (Listed Buildings and Conservation Areas) Act 1990, Section 16 of the National Planning Policy Framework, Bristol Core Strategy Policy BCS22, and Development Management Policy DM31.

**Arboriculture officer – Objection**

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128. The following comment was provided in response to the scheme as originally submitted:
129. "In general, it is clear to me that the design is generally sympathetic to significant, publicly prominent trees on the perimeter of the site. I believe the high number of dwellings proposed on site requires the removal of a number of several high quality trees including 6 category A and 3 category B trees. I consider this to be overdevelopment and the scale of the scheme should be reduced to reduce the impact of the proposed development on trees on site. The current scheme seeks to mitigate tree loss, in line with Policy DM17 – this requires a vast amount of tree planting on site, which may not be feasible considering the useable space.
130. The proposed roadside planting appears too close to the proposed building façade and the spacing of proposed garden trees appears too tightly packed. The reduction of tree removal will also reduce the burden of proposed planting. The arboricultural report is highly detailed and provided an excellent assessment of the impact of the proposals on the site. It also recommends technical foundations for several areas of the site which will allow the healthy retention of trees close to proposed buildings.
131. T65 and T52 are high quality trees with significant amenity and cultural value – I hold an objection to their removal.
132. T65 could be integrated into the proposed plans due to its proximity to an area of proposed hard landscaping.
133. Trees T09- T32 are found within a copse of trees which are important for their cohesion. The proposed buildings to the east could be reduced in scale and with technical foundations (e.g. pile and beam) buildings could be considered here. A small building to the west of this group (Grace House) is very close to several tall, mature trees. Although it may be technically possible to place a building here, the presence of habitable rooms close to these trees will add pressure for the nearby trees to be regularly pruned. This pruning pressure may cause damage to these trees over the long term.
134. Tree planting: Many of the trees proposed close to building facades appear to be <1m from the building façade – considering the height of the proposed buildings this is considered too close to be a feasible planting location. The trees should be placed farther from the building façade.
135. The proposed development is highly dense and places significant pressure on existing trees on site. These proposals require the removal of several very high quality trees and will exert pressure on the remaining retained trees on site. The arboricultural consultant has provided lots of detail regarding tree protection and technical solutions to minimise damage to retained trees, however the scale of the development appears too great for the usable space on site."
136. In response to the revised scheme, the officer maintained an objection on the basis of the loss of the two category A trees onsite, which are both subject to a Tree Protection Order and the overall loss of trees. Concerns were also raised about the feasibility of planting new trees onsite in accordance with the Bristol Tree Replacement Standard.
137. Concerns were also raised about the impact upon Tree T7, which is an oak tree with suspected veteran qualities. On the basis of the Biodiversity Net Gain metric (Version 3), Veteran trees can be classified if they have four out of the five following features:
1. Rot sites associated with wounds which are decaying >400cm<sup>2</sup>;

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2. Holes and water pockets in the trunk and mature crown >5cm diameter;
  3. Dead branches or stems >15cm diameter;
  4. Any hollowing in the trunk or major limbs;
  5. Fruit bodies of fungi known to cause wood decay.
138. The Arboriculture officer has determined that the tree has characteristics 1, 2, 4 and 5, and as such falls to be a veteran.
139. Following receipt of the final revised plans, the Arboriculture officer set out:
140. “The application still proposes to build in the Root Protection Area (RPA) of the Oak T7. As a veteran tree, then the applicant has to demonstrate that there will be no deterioration of the tree due to this process in accord with section 180 NPPF. I cannot see how they would be able to do this; as an irreplaceable habitat. If they cannot demonstrate the application should be refused.
141. Further to this, I object on the basis that the applicant is still looking to remove tree protected by TPO’s on site.”

**Nature Conservation officer – Objection**

142. Whilst the proposed development would provide a biodiversity net gain on site, this represents a quantitative assessment against Natural England’s Biodiversity Metric. The long-term management of the proposed habitats in the BNG assessment must be secured in a long-term management plan, but this could be conditioned.
143. I object on the basis that the amount of green infrastructure loss is however high, especially important existing trees and I echo the concerns around available space for the provision of new ones in accordance with Bristol Tree Replacement Standards. The scheme is not sufficiently sympathetic towards the existing ecological/arboricultural features on this site.
144. In respect to protected species on the site, a condition would need to be applied to any permission for the closure of setts present under a licence issued by Natural England and that all works are done under a precautionary method of working with regards to badgers and foxes on site.

**Pollution Control officer – No objection**

145. I have some concerns with the construction/demolition of the development, particularly with regards to piling to be carried out. The Construction Environmental Management Plan suitable covers most of my concerns however with regards to piling it states The current proposals are to install new piles foundations across the site for each of the new buildings. Noise and vibration will be key considerations when selecting the final pile solutions/ methods of installation.
146. I would therefore need to see further information, provided by condition, once the final pile solution has been chosen. The Plan states that a detail Arboricultural Method Statement will specify on-site monitoring of piling within the Root Protection Areas (RPAs) but I assume this will only cover the protection of trees but not the control of any disturbance to nearby residents. The development also includes wellbeing and belonging facilities which will have associated plant and equipment I would therefore

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need to ensure, by condition, that noise or odour from any plant or equipment will not cause harm to existing residents in the area or residents of parts of this development.

147. I would therefore ask for conditions to be applied should the application be approved for a Piling Method Statement, details of noise from plant & equipment affecting residential and details of kitchen extraction/ventilation system (café/restaurant/bistro only).

**Land contamination officer – No objection**

148. The 2020 Desk Study prepared by Clarke Bond has been reviewed and is generally acceptable. No reference is made to the 2002 site investigation that took place on site, which we presume was not available to them at the time of writing. This report could have been submitted with the pre-application for review though.
149. The Desk Study recommends further site investigation and if this has been prepared already, we do ask that it is made available to us to review prior to determination as the scale of the scheme is significant and will reduce delays further on in the development process.
150. The applicants are advised that they should consider commissioning a new radon risk assessment as UK radon changed the risk areas in December 2022.
151. Mention is made of risks from unexploded ordnance and a risk assessment is identified as required, if this is available, we do ask it is submitted prior to determination.
152. Conditions are recommended for any permission for the submission of further site investigation, submission of a remediation scheme, a radon assessment, and an unexploded ordnance risk assessment.

**Air Quality officer – No objection**

153. The revisions to the development proposals do not significantly change any of the considerations related to air pollution. As a result, the comments made in relation to air pollution for this application on the 18.07.22 are still valid. Management of emissions of dust during the demolition and construction phases will need to be carried out through a CEMP.

**Flood Risk manager – To be confirmed**

154. We object to this application as not enough information has been provided to fully assess this application. We note that some of our previous objections have been overcome through an email to the planning case officer (providing evidence that infiltration is/ is not suitable for the site) and require the applicants Drainage Strategy is updated to state that infiltration is not suitable for this site (including the geology mapping) and to remove reference to infiltration testing throughout the document. The applicant also stated that SuDS will be included such as Green Roofs, Ponds, Rain Gardens and Porous/Permeable Paving, all of these SuDS components are welcomed and the strategy should be updated to reflect the use of these SuDS components.
155. The applicant has changed their proposed discharge rate from 2l/s to 27.3l/s, the applicant has not provided evidence of existing runoff rates and that this new rate is as close to greenfield as possible or a minimum of 50% betterment on existing in accordance with BCC's updated Level 1 SFRA.

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156. This site has not adequately reduced run off rates in line with the updated requirements and as a result, we, as LLFA object to the proposals. By changing these runoff rates the applicant needs to get approval from Wessex Water that the new discharge rates are acceptable to them. The applicant should update their drainage strategy and calculations to reflect this.
157. A Revised Drainage Strategy was received from the Applicant on 27<sup>th</sup> July 2023 (two working days before the deadline for this Committee Report). This is currently with officers for consideration. An update with regards to Flood Risk will be provided to Members by way of the Amendment Sheet.

**Sustainability officer – To be confirmed**

158. The applicant has refused to consider the impacts of future climate change and demonstrate that the building includes measures to adapt to this as required by Policy BCS13. The applicant has noted compliance with Building Regulations, but the Council's Policy goes beyond the requirement of TM59 and part O. We do not generally support the use of curtains or blinds for this, instead any adaptation measures required should be integrated into the building design and not rely on user intervention.
159. The plans and elevations demonstrate a number factors, particularly in the apartments, that are known to increase risk of overheating, specifically - single aspect units, large areas of unshaded glazing to both bedrooms and living areas (excluding where balconies are proposed on southern elevations) which would likely result in overheating. The inclusion of openable ventilation panels is noted, but much of the glazing is unopenable, reducing natural ventilation. The current modelling results for the current climate are based on inclusion of blinds, which we do not support.
160. It is also noted that the proposal is for elderly people, who are more vulnerable to the risk of overheating.
161. Based on the above, the proposal does not demonstrate that the development meets the full requirements of BCS13: The proposal does not demonstrate that the development is adapted to and provides resilience to climate change - specifically higher projected temperatures - through its site layout nor through its approach to design and construction, whilst avoiding responses to climate impacts which lead to increases in energy use and carbon dioxide emissions.
162. As discussed, it may be possible to lift this reason for refusal through provision of an overheating risk assessment prior to a decision if this demonstrates that the current proposal is not at risk of overheating in current and future weather conditions, or through amendments to the design.
163. The applicant has provided an updated Thermal Comfort Overheating Analysis since the application was withdrawn from Committee on the 31<sup>st</sup> May 2023 and at the time of writing this is with officers for consideration. An update with regards to Sustainability will be provided to Members by way of the Amendment Sheet.

**Planning obligations manager – No objection**

164. A report has been prepared by Arup on behalf of BCC detailing the Use Class Assessment. This is available at **APPENDIX C** and detailed within Key Issue A.

**Development Control Committee A – 9 August 2023****Application No. 22/01221/F : St Christophers School Westbury Park Bristol BS6 7JE****KEY ISSUES****A. SHOULD THE APPLICATION BE CONSIDERED AS FALLING WITHIN USE CLASS C2 (RESIDENTIAL INSTITUTIONS) OR USE CLASS C3 (DWELLINGHOUSES)?**

165. The proposed development has been submitted to the Council as a C2 Application. It is for the Council to consider whether to determine the application as falling within Use Class C2 (residential institutions) or Use Class C3 (dwellinghouses).
166. Whilst there is no debate that a traditional care home would fall within Use Class C2, and a McCarthy & Stone / Churchill type development (which is only limited by an age restriction) would fall within Use Class C3; over the past decade or so there have been differing interpretations of the Use Class that Extra Care / Retirement communities should fall within. This has resulted in a large number of planning appeals across the country where the main focus has been the Use Class that such schemes should fall within. Unfortunately, the outcome of these planning appeals has resulted in seemingly similar cases being determined differently, with the determining factor being very slight differences in facilities provided, occupancy restrictions, the level of care available and scheme design.
167. From a Bristol City Council perspective, the implications around whether the scheme falls within Use Class C2 or Use Class C3 are very significant for the following reasons:
- If the application is determined as falling within Use Class C2, its CIL Liability will be £nil, whereas if it falls within Use Class C3, its CIL Liability will be more than £1.8 million; and
  - If the application is determined as falling within Use Class C2, the Council's planning policies (specifically the Planning Obligations Supplementary Planning Document) would not allow it to seek affordable housing from the scheme as this restricts affordable housing obligations to developments falling within Use Class C3. Clarification has been sought from the Council's solicitors on this matter and they have confirmed this to be the case.
168. The Council initially sought a QC (now KC) opinion as to "whether there is a line of argument that would support the use being classified as something other than C2".
169. In his summary, the QC (now KC) concluded the following:
- "In summary there is potentially a reasonably strong line of argument that the units are separate C3 dwellings as opposed to C2. This is based on the following factors.*
- i) The level of self-containment of the flats.*
  - ii) The limited amount of personal care that is provided and the scale of communal facilities provided.*
  - iii) It is supported by at least two recent appeal decisions.*
  - iv) It is reflective of the SPD in London that says that extra care accommodation is generally C3.*
- However, it should be noted that this is a judgment where Inspectors do not seem to take a completely consistent approach and there is a clearly a risk that a decision maker could take the view that it is C2."*

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170. Officers subsequently commissioned Arup to investigate the application in more detail and to advise as to whether in their opinion the scheme falls within Use Class C2 or Use Class C3. This advice took the form of a report comprising a detailed assessment of relevant planning appeal decisions, the legal advice provided for the Council, as well as a legal opinion submitted by the applicant that supported a C2 categorisation, occupancy restrictions, and detailed consideration of the level and type of facilities and care offered by the scheme. Their report is publicly available on the Council's website and is also included in **APPENDIX C**.

171. The following is an extract from the summary of the Arup Report.

*“The argument for categorising the proposed development as either Use Class C3 or Use Class C2 is considered very finely balanced. There are reasonable arguments for each position which can be supported within the context of national policy, legal opinion and recent appeal decisions. However, it is concluded on balance that the most appropriate Use Class for the proposed development would be Use Class C2 Residential Institutions. This conclusion is reached on the basis of two fundamental aspects of the proposed development which it is considered represent the strongest argument of differentiation from a C3 Use.*

*First, it is considered that the occupation restrictions secured through the S106 Agreement are strongly indicative of a residential institution as described in the Use Classes Order, in which personal care is provided to meet a need by reason of old age or disablement. It is recognised that the type of care provided as part of a minimum care package could be variable based on what the applicant describes in the draft HoT, such that at the lesser end of the scale the services or facilities provided may not constitute personal care at all. This therefore brings into doubt the ‘care’ aspect of a Use Class C2 classification. However, it is concluded that the intent and purpose of an extra care housing model must be given due consideration within this assessment, in which a minimal level of care at point of entry is expected to increase over time. This integral aspect of the extra care model is reflected in the PPG and is key to accommodating older persons long-term and bridging a gap between sheltered housing and nursing homes.*

*The second key factor in favour of a C2 classification is the extent to which it would operate as a single unit to create a communal and institutional setting for residents. It is recognised that physically, there are aspects of the proposed development which are no different from some forms of Use Class C3 development, in which there are communal facilities and residential management or security. To some extent, these may often even be more exclusive and with less public access than proposed in this development. It is also recognised that the individual dwellings would be self-contained and that there is potential for a resident to live entirely independently of the wider site. However, a realistic appraisal of how prospective residents would perceive and use the site has concluded that it would feel and operate as a singular operation seeking to provide facilities and services for older persons, to a varying extent constituting ‘care’. The provision of a wide range of social, health and wellbeing facilities – as well as site management and security – within the central Grace House ‘community hub’ is considered indicative of an institutional setting that is likely to be used regularly by residents and may be the site of delivery of some of their minimum care package (such as the wellbeing and belonging facilities). Whilst it is recognised that some residents – particularly those who are younger or have a lesser care need – may not use communal facilities or even contract care from the operator, it can be reasonably expected that this may change over time, with the on-site provision of services and facilities more important as a resident ages and their care needs*



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*increase. It is again considered that the intention of the extra care model should be taken into account, which does seek to enable older persons to retain independence for as long as they can, whilst also providing some elements of care and institutional support.*

*In summary, it is considered that BCC should determine the proposed development under Use Class C2. Whilst it is recognised that there are aspects of the development which could reasonably be argued to constitute a C3 classification, overall it is considered to be a finely balanced judgement which reflects the complexity of this issue at a national level and the inconsistency of decision-makers to date.”*

172. Officers consider the Arup Report to be a carefully researched, detailed and thorough assessment of the issues. Based on their advice, the application is considered to fall within Use Class C2, meaning that it will not be liable for CIL and will not have to provide affordable housing.
173. It is noted that the applicant submitted a Financial Viability Report as part of their application submission, and it is further noted that comments have been received on this Report from interested parties commenting on the application. However, as the application is considered to fall within Use Class C2, meaning that the Council's policies would not allow it to seek affordable housing from the scheme; an assessment of the scheme's viability has not been undertaken by officers. Consequently, the Financial Viability Report submitted by the applicant has been given no weight in considering the application.
174. Should members be minded to approve the application, it is recommended that appropriate conditions and planning obligations are used to secure matters such as enforceable occupancy restrictions and minimum care packages. This will ensure that the proposed scheme is restricted to delivering its stated intention and remain a use within Class C2. If any changes are subsequently proposed that would result in the scheme moving from Use Class C2 to Use Class C3, a new planning application would be required that would be considered on its merits.

**B. IS THE PROPOSED DEVELOPMENT ACCEPTABLE IN PRINCIPLE?**

175. Section 6 of the NPPF sets out the approach for 'Delivering a wide choice of high-quality homes'. It states that:
176. "Housing applications should be considered in the context of the presumption in favour of sustainable development."
177. Policy BCS5 sets out that the Core Strategy aims to deliver new homes within Bristol's existing built-up areas. Between 2006 and 2026, 30,600 new homes will be provided in Bristol.
178. Policy BCS11 states that planning obligations may be sought from any development, irrespective of size, that has an impact requiring mitigation.
179. Policy BCS12 sets out that existing community facilities should be retained, unless it can be demonstrated that there is no longer a need to retain the use or where alternative provision is made. Where community facilities are provided as an integral part of a development, they should wherever possible be within adaptable mixed-use buildings.

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180. Policy BCS20 states that development should maximise opportunities to re-use previously developed land.
181. Policy DM5 states that proposals involving the loss of community facilities land or buildings will not be permitted unless it is demonstrated the loss would not result in a shortfall of provision, the site is no longer suitable for the community use, or appropriate replacement community facilities are provided in a suitable alternative location.

Loss of education use / SEND provision

182. The site was in use from 1945 until March 2020 as a residential specialist school for children and young people with Special Education Needs and Disabilities (SEND). At the time of closing, the Aurora Group, which ran the school, advised that it provided up to 50 school places.
183. The Education projects lead has advised that whilst the school closed, there remains significant demand for SEND (special educational needs and disability) school places within Bristol. The consultee has advised that it recently gained consent (application ref. 21/05402/FB) for an extension to the Claremont Special School in the neighbouring Redland ward.
184. A contribution towards this project has been calculated on the basis of the quantum of school places commissioned by BCC over the last five years prior to the school closing, which is an average of 7.25 places per annum.
185. Costs for providing these places have been determined using Department for Education guidance “National School Delivery Cost Benchmarking, July 2022.” The average cost per pupil for SEND schools is £74,920.
186. On this basis it has been determined the following contribution of £543,170.00 towards mitigating the loss of school places is acceptable. This has been agreed with the applicant and would be secured by planning agreement, should permission be granted.
187. The proposed loss of education use on site is acceptable on the basis that suitable alternative provision can be made at the Claremont School extension. This would accord with Policies BCS12 and DM5 sets out that the loss of community facilities, such as education uses, can be accepted where alternative provision can be made.

Proposed older persons' housing

188. The proposed development would provide 116 new residential units, specified for use as ‘extra care’ (Use Class C2).
189. The proposed development would contribute towards the delivery of new homes on previously developed land in accordance with Policies BCS5 and Policy BCS20. Planning Practice Guidance “*Housing for older and disabled people*” sets out that nationally the elderly population is expected to double from 1.6 million to 3.2 million between 2016 and 2041. The proposed development would therefore provide much-needed specialist housing and would likely subsequently make ‘traditional’ C3 dwellinghouses available to others seeking housing.
190. Bristol's Five Year Housing Land Supply Assessment (June 2021) sets out that the Council can demonstrate only a 3.7 year supply of land for new homes, and not the 5 year land supply that paragraph 11(d) of National Planning Policy Framework requires

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be identified. As such, the 'Tilted Balance' is applied to this recommendation. Further information on the application of the 'Tilted Balance' is set out within the conclusion.

Other ancillary uses

191. The proposed development would provide new employment opportunities ancillary to the overarching residential use via the facilities proposed onsite. The number of permanent jobs that would be created have not been quantified by the applicant. There would also be a short-term benefit to the economy through the provision of construction jobs onsite.
192. The proposed 'wellbeing' and 'belonging' uses such as the proposed Spa and the re-use of Grace House are ancillary to the extra care use and given that they would not be available to the public would not weigh positively against the loss of the school in the context of Policy BCS12.
193. Whilst not a like for replacement in terms of use, the proposed community use of North House complies with Policy BCS12 in terms of location and integration in the development and would provide benefits to the proposed community onsite. The applicant has proposed that North House would be made available to other community groups external to the site.
194. It is concluded that, subject to planning obligations, the principle of the loss of educational use and the proposed extra care use is acceptable and in accordance with the Local Plan.

**C. WOULD THE PROPOSED DEVELOPMENT PROVIDE AN ACCEPTABLE MIX AND TYPE OF HOUSING?**

195. Policy BCS18 supports a neighbourhood with a mix of housing tenures, types and sizes to meet the changing needs and aspirations of its residents.
196. Policy DM2 of the Site Allocations and Development Management Policies sets out that a range of housing and care options that promote and maintain housing independence for older people will be encouraged. Older persons' housing schemes should be located close to shops, services, community facilities, open space, and good transport routes.
197. Policy DM2 requires that 20% of units designed to be wheelchair accessible, or easily adaptable for residents who are wheelchair users.
198. The proposed development would provide 116no. extra care dwellings, in a mixture of one-bedroom and two-bedroom houses and apartments. The proposed housing mix is:
  - 25no. apartments in the converted Victorian Villas.
  - 81no. apartments in new build blocks.
  - 10no. new build dwellings, including 9no. two-storey terraces and 1no. detached, single storey building.
199. There would be a total of 12no. one-bedroom dwellings and 104no. two-bedroom dwellings. All of the dwellings would be subject to an age restriction, needs based assessment and minimum care package for the development. This is proposed to be secured via planning agreement.

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200. The proposed development would result in a significant influx of elderly people to the local area. Concerns have been raised by interested parties about the impact of this on the balance of the community and the effect this would have on infrastructure and services. It is likely that some residents would move from within the area, and therefore the effect is expected it be less than at face value. The Council also collects Community Infrastructure Levy (albeit not for C2 uses) to allow for contributions towards social infrastructure. It is considered that whilst there would be a change to the balance of the community as a result of development, this is outweighed by the benefits of providing older persons' housing given the demand.
201. The proposed development would provide a mix of housing types and sizes, albeit only one-bedroom and two-bedroom types. It is considered that these smaller units are likely to be more appropriate given the end users and there would be a benefit to freeing up larger family homes by enabling elderly people to move to the proposed development. 2021 Census Data shows that Westbury Park has a roughly even split between apartments/flats (44% of housing stock) and houses (56% of housing stock). It is not considered that the development would unacceptably affect this balance.
202. In accordance with Policy DM2, 20% of units are proposed to be wheelchair accessible.
203. In conclusion, the proposed development would provide an acceptable mix of housing types and there would not be an unacceptable impact upon the balance of the community.

**D. WOULD THE PROPOSED DEVELOPMENT BE OUT OF SCALE OR CONTEXT WITH THE DOWNS CONSERVATION AREA AND THE GRADE II LISTED BUILDING?**

204. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that:
- “In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*
205. Section 72 of the Act requires that in respect of development within a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area
206. Policy BCS20 sets out that an appropriate density should be informed by the characteristics of the site and the local context.
207. Policy BCS21 advocates that new development should deliver high quality urban design that contributes positively to an area's character and identity, whilst safeguarding the amenity of existing development.
208. Policies BCS22 and DM31 expect that new development should either preserve or enhance the character of heritage assets, such as Listed buildings and Conservation Areas.
209. Policies DM26-29 (inclusive) of the Site Allocations & Development Management Policies require development to contribute to the character of an area through its layout, form, public realm and building design.

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210. The application site is located in the Downs Conservation Area and Grace House is a 1960s Grade II Listed building located on the site. The area is characterised by the large Victorian Villas fronting Westbury Park, two-storey Victoria terraces along Royal Albert Road and Bayswater Avenue, and Inter-War detached and semi-detached, two-storey houses on the Glen.
211. The proposed development would include the construction of four no. large block of flats, ranging from three to five-storeys in height, the construction of two new terraces of two-storey dwellings, a detached single-storey dwelling, and the construction of a single storey spa building.
212. Some of the existing buildings onsite would be re-purposed, including Grace House and the Victorian Villas. North House would also be refurbished. Harwood House, Konig House, Groves Hall, Columba Lodge and other ancillary buildings on the site are proposed for demolition.

Height, Scale and Massing

213. Objections have been provided in response to the application from the Historic England and Council's Urban Design and Conservation officers. A significant number of public objections have raised concerns about the design of the proposed development, and in particular the impact upon the Downs Conservation Area and upon Grace House. Throughout the final pre-application on this scheme, the Design West Panel Review and the determination of this application, the advice from officers has been that the scale of the new build Villas is not appropriate.
214. It is considered that the proposed development would be unacceptable by nature of its height, scale and massing. Villa B and C would be five storeys in height, which is significantly above the prevailing heights of two-storeys on surrounding streets and three-storeys in respect of the existing Victorian Villas. This is particularly concerning given the site's nature as a backland site. This would detract from the setting of the Conservation Area by crowding and overbearing the existing Victorian Villas.
215. It is the conclusion of officers that the proposed development would fail to preserve and enhance the character of the Listed building. Presently, Grace House benefits from a generous, verdant setting, punctuated by a number of mature trees. The proposed development would crowd and overbear Grace House and detract from its setting by nature of its scale and massing, proximity and the loss of green infrastructure. Further commentary on the loss of green infrastructure is included in Key Issue G.
216. The proposed terraces and detached dwelling are considered to be of an appropriate height, scale and massing, which is subservient to Grace House, the Victorian Villas and consistent with a backland site of this nature.

Appearance and Form

217. Concerns have also been raised by the Urban Design officer in relation to the appearance of the proposed villas. While the proposed buildings have a window rhythm, the proportions of the windows do not correspond with either the existing Victorian Villas or Grace House. The elevational and roofscape treatment of the new blocks are out of context with the site and the Conservation Area. It is considered that Villa A and Villa B are particularly jarring directly adjacent to the fine architectural detailing of Grace House due to the proximity. The applicant has attempted to add visual interest in the latest iteration of the designs by trimming the edge off Villa A and by adding an oriel window

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to Villa B, but officers consider that these do not reflect the form of the Listed building nor do they relieve the sense of crowding.

Heritage Benefits and Balance

218. It is concluded that the harm to the Listed building and the Conservation Area is 'less than substantial'. In accordance with para. 202 of the National Planning Policy Framework, it is then necessary to consider the public benefits of the scheme and weigh this against the harm.
219. The proposed development would open up this backland site and allow greater visibility of the Listed building and there are benefits of securing the future use of Grace House. This is however weighed against the loss of the open, landscaped setting of the Listed building and the overbearing nature of the new build proposals. This would reduce any benefit gained from reopening the site to a negligible effect.
220. It is concluded that the proposed development would fail to preserve or enhance the setting of the Listed Building and the Conservation Area contrary to section 66 and section 72 of the Listed Buildings and Conservation Areas Act 1990 and Policies BCS22 and DM31.

Conclusions

221. The proposed height and massing of the new build Villas would be out of character with surrounding area. This would fail to retain or enhance important views from the Downs Conservation Area contrary to Policies BCS22 and DM31, and would result in a development that fails to respond appropriately to the height, scale, massing, shape, form and proportion of existing buildings, contrary to Policy BCS21, Policy DM26 and Policy DM27.

**E. WOULD THE IMPACT OF THE PROPOSED DEVELOPMENT UPON TRANSPORT AND HIGHWAYS ACCEPTABLE?**

222. Policy BCS10 states that developments should be designed and located to ensure the provision of safe streets. Development should create places and streets where traffic and other activities are integrated and where buildings, spaces and the needs of people shape the area.
223. Policy DM23 outlines that development should not give rise to unacceptable traffic conditions and will be expected to provide safe and adequate access onto the highway network. Development Proposals should provide an appropriate level of safe, secure, accessible and usable parking and provide appropriate servicing and loading facilities.
224. The application site is located within a sustainable location, with bus stops located 200m south east of the site on Westbury Road and 300 metres to the north on North Road. Shops are within walking distance at the North View (Westbury Park) District Centre, which is located 300 metres to the north of the site. The Coldharbour Road Local Centre is located 500 metres from the eastern part of the site.
225. The proposed development would provide 65no. car parking spaces for the 116no. dwellings. This would include 6no. accessible bays, 8no. EV bays; 2no. car club bays; and 1no. shuttle bus bay, with the remainder being 'standard' bays. 52no. cycle parking spaces (22 visitor spaces and 30 staff spaces) would also be provided.

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226. Significant concerns have been raised by interested parties and Transport Development Management (TDM's) in relation to the level of parking proposed compared to the number of residential units proposed. It is TDM's view based on similar developments nearby, such as the Vincent (ref. 15/01681/F), that there would be an amount of overspill parking arising from the development. The Vincent provides parking levels of approximately 1 car parking space for each dwelling, equivalent to 66 spaces for 65 flats.
227. The area immediately surrounding the application site suffers from parking stress, particularly given the location on the edge of Bristol Residential Parking Scheme. Recent appeal decisions for a care home on Belvedere Road, which assessed parking demands on surrounding streets such as Belvedere Road and the Glen (refs. APP/Z0116/W/20/3263935 and APP/Z0116/W/22/3299847), demonstrate highway safety concerns in respect of parking. The Planning Inspector's comments from the site visit for one of these appeals, sum up the assessment of the current situation; *"As I saw several times on my site visit, the parking situation results in vehicles often having to park in the middle road. This causes congestion and conflict which is exacerbated by two-way working and creates a hazard for all road users."*
228. As a result, it is TDM's position that the surrounding area would not be able to cope with any overspill parking and the application must be refused unless a scheme of area-wide parking measures can be implemented to ensure that residents, staff and visitors of the proposed development would not be eligible to park on surrounding streets. The applicant has indicated that they would be willing to contribute towards the implementation of such a scheme, however the extent of this scheme and the cost would require additional work from officers.
229. It is therefore requested that if Members were minded to approve this application, that this is delegated to officers to determine an appropriate scheme of area-wide parking measures and a report brought back to Committee to demonstrate that officers are satisfied that there would be no unacceptable impacts upon highway safety due to overspill parking.
230. The application sets out the intention to open the site to the public during daytime hours, with the site closed at night for security reasons. This would support permeability through the area.
231. TDM is satisfied with the outcomes of a Road Safety Audit which identified seven issues with the proposed internal layout and the proposed accesses. It is satisfied that these could be sufficiently mitigated to ensure the proposed development would not result in harm to highway safety and are acceptable in principle, subject to further approvals being required by the Highway Authority.
232. In respect of servicing for waste collection, Bristol Waste has not provided comments on the latest Technical Notes provided by the applicant which set out that there is accordance with its guidance "Waste and Recycling Storage and Collection Facilities - Guidance for Developers of Residential, Commercial and Mixed-Use Properties". It is expected that confirmation would be required of the removal of their objection prior to any decision being issued, or an appropriate condition be applied should Members be minded to grant planning permission.
233. It is concluded that, subject to the agreement of the area-wide parking measures, the definition of a suitable scheme of highway mitigation and planning conditions, that the development would not result in an unacceptable impact upon transport and highways.

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234. Policy BCS21 outlines that development in Bristol is expected to safeguard the amenity of existing development and create a high-quality environment for future occupiers.
235. Policy DM29 sets out that new buildings will be expected to ensure that existing and proposed development achieves appropriate levels of privacy, outlook and daylight.
236. The application has been accompanied by a Daylight and Sunlight Assessment (Waldrams, November 2022). This includes an assessment of the impact upon living conditions for existing, adjacent dwellings as well as future residents.

Existing neighbours

237. All of the neighbouring windows that have been assessed as part of the Daylight and Sunlight Assessment meet the criteria contained in the Building Research Establishment's Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (2022). These are referred to herein as 'the BRE Guidelines'.
238. The Daylight and Sunlight Assessment sets out that one room in an adjacent property (15 the Glen) fails to meet the BRE guidance for daylight distribution. Given the size of the development and the number of windows assessed, this is not considered sufficient to warrant refusal.
239. The relationship between the proposed Cottages H02 and 25 and 23 Bayswater Avenue is unacceptably close and has resulted in the inclusion of oriel windows. This would not constitute high quality urban design as required by Policy BCS21 and is particularly disappointing given that this is not a tight site and is symptomatic of overdevelopment. This was also raised by Design West Panel at pre-app stage.

Future occupiers

240. Overall, a high proportion of units (88%) meet the daylight requirements set out in BRE Guidelines and a reasonable proportion meet requirements for sunlight (70%).
241. Concerns are raised in relation to the living environment in the proposed Cottages (H2). Only 11 of the 20 rooms in this block meet the BRE Guidelines for target illuminance. This is likely to be as a result of the proximity of Villa D, which is to be located approximately 10 metres to the south west. This would likely result in overshadowing and create a sense of overbearing. The windows in the eastern elevation of the Villa D would also directly overlook the H2 Cottages.
242. There are also concerns about the proximity of Villa C to Villa D, where there would be direct overlooking between the two buildings. The concerns about overbearing and overshadowing are less pronounced due to relationship between the buildings, where they are off set from one another.
243. Finally, the relationship between the proposed Villa A with Kenwith Lodge is considered to be unacceptable. The distance between the three storey Victorian Villa and three-storey proposed new build Villa A is 9 metres. This is less than the 12 metre 'rule of thumb' and the east-facing apartment at ground floor level of Kenwith Lodge will have a limited outlook.



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244. Overall, the applicant has set out that 86% of the proposed dwellings have a dual aspect. There are concerns that the proximity of the new-build Villas to one another and to the Victorian Villas means that many of the 'dual aspect' apartments have at least one aspect that suffers from overbearing.
245. The Daylight and Sunlight Assessment sets out that the majority of proposed open spaces will receive acceptable levels of daylight. The only area of concern is immediately to the north of Villa C, where a large area receives less than 0.5 hours of sun, but on balance the sunlight and daylighting of proposed open spaces is considered generally acceptable.

Conclusion

246. It is considered that the proposed development, by nature of the proximity of Villa A to Kenwith Lodge, the interrelationship between Villa C and Villa D, and the relationship between Cottages H2 and existing properties on Bayswater Avenue would result in an unacceptable living environment for future occupiers.

**G. WOULD THE PROPOSED DEVELOPMENT RESULT IN ANY UNACCEPTABLE IMPACTS UPON BIODIVERSITY OR GREEN INFRASTRUCTURE?**

247. Paragraph 174 of the National Planning Policy Framework (NPPF) states that planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.
248. Paragraph 180 of the NPPF states that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.
249. Policy BCS9 states that individual green assets should be retained wherever possible and integrated into new development.
250. Policy DM15 sets out that new green infrastructure assets will be expected to be designed and located to maximise the range of green infrastructure functions and benefits achieved, wherever practicable and viable. The provision of additional and/or improved management of existing trees will be expected as part of the landscape treatment of new development.
251. Policy DM17 sets out that where tree loss or damage is essential to allow for appropriate development, replacement trees of an appropriate species should be provided, in accordance with the tree compensation standard.
252. The proposed development would provide a biodiversity net-gain of 56% on the basis of the Natural England Biodiversity Metric (version 3.0), however it should be noted that this is a quantitative approach and that there are a number of significant concerns in relation to loss of green infrastructure.
253. In respect to protected species on the site, a condition would need to be applied to any permission for the closure of setts present under a licence issued by Natural England and that all works are done under a precautionary method of working with regards to badgers and foxes on site.
254. The proposed development would result in the loss of 38 trees on site including two Category A trees (T52 and T65). Whilst some loss as part of a redevelopment would be

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likely be acceptable, the loss of Category A trees that are subject to a Tree Protection Order (TPO) is not and indicates that the proposed development has not been designed in an arboriculturally-led manner and is a symptom of overdevelopment. This would be contrary to Policies DM17 and BCS9.

255. The Arboriculture officer has also raised concerns about the impact of proposed development on tree T7, which has been classified in the applicant's tree report as a Category A tree and is considered by the Arboriculture officer to be a Veteran Tree. The applicant has provided a rebuttal to this assessment (Barton Hyett, March 2023). The Council has sought third party advice from an external Chartered Arboriculturist, who has used the Biodiversity Net Gain metric (Version 3.0) to determine whether T7 is a Veteran. The metric states that Veteran trees can be classified if they have four out of the five following features:
1. Rot sites associated with wounds which are decaying >400cm<sup>2</sup>;
  2. Holes and water pockets in the trunk and mature crown >5cm diameter;
  3. Dead branches or stems >15cm diameter;
  4. Any hollowing in the trunk or major limbs;
  5. Fruit bodies of fungi known to cause wood decay.
256. The Arboriculture officer has determined that the tree has characteristics 1, 2, 4 and 5, and as such falls to be a veteran. In April 2023, the applicant's Arboriculturist updated the Rebuttal to refute this assessment and the applicant does not consider the tree to be of Veteran status.
257. The assessment of non-veteran status by the applicant rests on insufficient stem diameter and a lack of crown retrenchment. However, the external Chartered Arboriculturist has set out that both deficiencies are explained by the tree's history as a pollard. This will have reduced stem increment and thus the stem diameter does not in this case reflect the tree's age; equally, the crown of today is younger than the tree and hence has no chance to develop retrenchment. It is concluded that the tree does have well-developed veteran features.
258. In response to this assessment, the latest version of the application shows an altered footprint of the proposed spa building. This would avoid the complete loss of the suspected Veteran tree but would still result in construction within the Root Protection Area (RPA) of T7. Works within the RPA are likely to result in the deterioration of the Veteran tree, contrary to para. 180 of the NPPF.
259. The applicant has again responded to this assessment to state that there would be a minor incursion into the RPA of 5.2% of the tree and that this would have a low to negligible impact on the tree. Officers disagree with this assessment based on para. 180c) of the National Planning Policy Framework which sets out that *"development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons<sup>2</sup>."* Officers consider that this includes any risk to deterioration which would be

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<sup>2</sup> For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat.

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posed by the proposed development and the development should be refused on this basis.

260. The application proposes the planting of 98 new trees onsite in accordance with the Bristol Tree Replacement Standard. The planting locations set out in the Landscape Addendum have been reviewed by the Arboriculture officer and it is considered that, many of these trees would be planted too close together or to proposed buildings onsite to be effective. It is concluded that, due the overdevelopment of the site, there is insufficient space onsite to provide replacement trees in accordance with the Bristol Tree Replacement Standard.
261. It is concluded that the proposed development has not been arboriculturally led and insufficient consideration has been given to minimising tree loss and retaining high value and TPO'd trees. The resultant tree loss of important existing trees and potential deterioration of a Veteran tree means that the proposed development is contrary to the aims of the NPPF and Policies BCS9 and DM17.

**H. DOES THE PROPOSED DEVELOPMENT GIVE SUFFICIENT CONSIDERATION OF CLIMATE CHANGE AND SUSTAINABLE DESIGN AND CONSTRUCTION?**

262. Policy BCS13 sets out that development should contribute to both mitigating and adapting to climate change, and to meeting targets to reduce carbon dioxide emissions.
263. Policy BCS14 sets out that development in Bristol should include measures to reduce carbon dioxide emissions from energy use by minimising energy requirements, incorporating renewable energy sources and low-energy carbon sources. Development will be expected to provide sufficient renewable energy generation to reduce carbon dioxide emissions from residual energy use in the buildings by at least 20%.
264. Policy BCS15 sets out that sustainable design and construction should be integral to new development in Bristol. Consideration of energy efficiency, recycling, flood adaption, material consumption and biodiversity should be included as part of a sustainability or energy statement.
265. The proposed development would include a heating strategy which utilises water source and air source heat pumps. This would include an 'ambient loop' which would be distributed across the development to serve the new build elements.
266. The proposed strategy would accord with the heating hierarchy set out in Policy BCS14 by including a mixture of communal and individual renewable energy sources.
267. The applicant has not demonstrated that the proposed development would reduce carbon dioxide emissions from residual energy use in the buildings by at least 20%, and instead provided figures against Target Emission Rate (TER) as set out in Building Regulations. If Members were minded to approve this application, a pre-commencement condition should be applied for the provision of residual energy use reductions in an updated Energy Statement.
268. The applicant has set out within the Rebuttal to the May Committee Report that it is intended for the development to be 'Net-Zero' carbon. This is not a Policy-requirement of the Local Plan, nor does it form a part of the National Planning Policy Framework or national Planning Practice Guidance. As such, Officers have given this benefit limited weight in the preparation of the recommendation, however Members may wish to consider this as a benefit of the scheme in light of the Council's declared Climate Emergency.

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269. The May Committee Report set out that in respect of the requirements of Policy BCS13, the applicant has suggested that the risk of overheating in future climate scenarios will be assessed post-planning. This was not an acceptable approach as Policy BCS13 requires development to demonstrate that it is resilient to climate change and that measures to ensure this are integrated into the design.
270. The applicant has provided an example from an appeal case (ref. 22/01878/P and APP/Z0116/W/22/3308537) whereby overheating assessment has been conditioned by the Inspector, in agreement with BCC. It should be noted that the appeal case referred to was for outline planning permission, whereby the scale, massing and appearance were reserved matters. As such, it was not possible to determine layouts of apartments and locations of windows and doors to determine susceptibility of overheating and the assessment had to be deferred to a later stage. This is not considered an acceptable approach for applications for full planning permission.
271. The current design raises a number of concerns from an overheating perspective, including single aspect units, large areas of unshaded glazing to both bedrooms and living areas and unopenable glazing. Despite requests from officers to demonstrate that the building is adapted to future climate impacts in accordance with Policy BCS13, modelling of future heat scenarios has not been completed and the modelling for current climate scenarios includes an assumption that blinds would be closed which is also not supported.
272. In response, the applicant has provided a Thermal Comfort Overheating Analysis, which is with officers for review and assessment. The information provided shows that there is an overheating risk present when the scheme is assessed against the 2050 weather file (covering from 2041-2070) and beyond. It recommends that mitigation is provided however the applicant has not clarified what mitigation will be put in place. Officers are currently working with the applicant to close out this issue.
273. The proposed development would accord with Policy BCS14 by providing heat hierarchy compliant sustainable energy and reducing carbon emissions. At the time of writing, the proposed development has not demonstrated that it meets the requirements of Policy BCS13 by being adapted to and resilient to climate change, specifically in relation to overheating, through either its approach to design or construction. It is hoped that this can be addressed by way of the Amendment Sheet.

**I. DOES THE PROPOSED DEVELOPMENT GIVE SUFFICIENT CONSIDERATION OF FLOOD RISK, DRAINAGE AND CONTAMINATION?**

274. Policy BCS16 requires that all development incorporates water management measures to reduce surface water run-off and ensure that it does not increase flood risks elsewhere. This should include the use of sustainable drainage systems (SUDS).
275. Policy BCS23 sets out that development should be sited and designed to avoid creating exposure to contaminated land.
276. Policy DM34 sets out that development should demonstrate that any existing contamination of the land will be addressed by appropriate mitigation measures.

Flood Risk

277. The original Drainage Strategy lacked confirmation of specific measures to mimic natural drainage patterns and reduce surface run-off. It set out that a number of

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measures are considered such as living roofs, rain gardens and infiltration testing, but does not confirm which are feasible and where they would be located.

278. The applicant has confirmed that infiltration is/ is not suitable for the site via email. In the email, the applicant also stated that SuDS will be included such as Green Roofs, Ponds, Rain Gardens and Porous/Permeable Paving and two days prior to the deadline for this Committee Report, an updated drainage strategy has been provided by the applicant. This is with the Flood Risk Manager for review and an update will be provided via the Amendment Sheet.
279. In absence of an agreed Drainage Strategy, the LLFA had objected to this application as not enough information has been provided to fully assess whether the approaches would sufficiently address issues of drainage and flood risk. It is hoped that this can be agreed in time for recording via the Amendment Sheet.
280. The latest information from the applicant sets out that proposed run-off rate for the site would be 27.3l/s, however no evidence of existing run-off rates has been provided to compare this to. The expectation from the LLFA is that this new rate should be as close to greenfield as possible or demonstrate a minimum of 50% betterment on existing in accordance with BCC's updated Level 1 Strategic Flood Risk Assessment.
281. The run-off rate needs approval from Wessex Water as this would affect their infrastructure and a response to agree this should be secured.
282. If Members were minded to approve this application, it is recommended that a pre-commencement condition would be attached to any decision for the provision, approval and then implementation of this updated Drainage Strategy.

**Contamination**

283. The application includes a Desk Study which recommends further site investigations are undertaken to determine whether the proposed development would be exposed to land contamination. Further assessments and necessary remediation would need to be undertaken and secured via condition including site investigations; unexploded ordnance; remediation scheme, and the implementation and verification of any remediation.
284. Subject to these conditions being applied, there is no objection on the basis of land contamination.

**J. EQUALITIES ASSESSMENT**

285. The public sector equalities duty is a material planning consideration as the duty is engaged through the public body decision making process.
286. "S149 of the Equalities Act 2010 provides that a public authority must in the exercise of its functions have due regard to: -
- (a) eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Act
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it

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(c) foster good relationships between persons who share a relevant characteristic and those who do not share it.”

287. During the determination of this application due regard has been given to the impact of the scheme upon people who share the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
288. The proposed development would provide extra care housing to meet the needs of an aging population that would require support at home. The proposed development would not provide any affordable housing, however this is not required by the Council's policies for Use Class C2.
289. The proposed development would not provide a high-quality living environment for future residents based on the concerns about overheating, adaptation to climate change, lack of outlook and potential overshadowing. This would be exacerbated due to the elderly nature of the residents and to the detriment of the quality of life for future occupiers.
290. Subject to conditions and obligations, the approach to transport and highways has ensured that access and internal layout of the proposed development is sufficient for all road users. If area-wide parking measures are not agreed, there are concerns about parking which would have a detrimental impact on existing residents who may need to park close to their homes.
291. It is considered that there would be a neutral impact on equalities based on the benefits of providing much-needed accommodation for the elderly but that officers consider the accommodation to not accord with the policies of the development plan.

**PLANNING AGREEMENT**

292. Several consultees have requested financial contributions towards mitigation and/or improvements associated with the proposed development. If Members were minded to approve this application, delegated authority would need to be sought to agree a planning agreement for:
- A contribution towards the Claremont SEND School project.
  - The restriction of the use of the development to Use Class C2 and restriction upon the occupancy of units to ensure a minimum level of care provision.
  - A contribution towards the feasibility, design and implementation of a scheme of area-wide parking measures.
  - A contribution towards provision and maintenance of fire hydrants on the site.
293. This list is not exhaustive and there would likely be other contributions towards mitigation which would need to be defined. It is recommended that if Members were minded to approve the application, then an update report could be provided to Committee to ensure mitigation is satisfactory.

**CONCLUSION**

294. The proposed loss of educational use is considered to be acceptable in principle, following the agreement of a contribution towards SEND provision. This would ensure

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that alternate provision can be made in accordance with Policy BCS12. The proposed delivery of much-needed elderly person's housing and community uses on site would support the delivery of Policies BCS5 and BCS12 respectively.

295. The lack of affordable housing is accepted on the basis that the development is, on balance, likely to fall within Use Class C2, meaning that the Council's policies would not allow it to seek affordable housing from the scheme.
296. There are a number of objections from statutory and internal consultees and two key issues (Flood Risk and Drainage and Sustainability) which have not been thoroughly resolved at the time of writing this report.
297. The proposed development is considered to be unacceptable in terms of design, in particular in relation to its height, scale and massing given the context of the Conservation Area and the Grade II Listed building, Grace House, on the site. The proposed new build 'Villas', which are blocks of flats ranging between three- and five-storeys in height, would be above the prevailing height of existing retained buildings on the site and in the surrounding area. This is contrary to Policies BCS21, BCS22, DM26, DM27 and DM31.
298. Concerns have been raised by local residents and Councillors about the impact the proposed development would have on transport and highways, and in particular on parking. Transport Development Management determines that there would likely be overspill parking on surrounding streets, where there is significant oversubscription of on-street parking that already leads to highway safety issues. It has been agreed that the implementation of an area-wide set of parking restrictions could stop any overspill parking from the development. The scope and extent of these measures are yet to be defined, but officers are satisfied that this would be secured via planning agreement.
299. There are also concerns raised by officers and an objection from the Sustainability officer on the basis of the quality of living environment for future occupiers. Thermal Comfort analysis has been provided which shows a risk of overheating in future. At this stage, there is insufficient information to determine whether the apartments would be adapted to future climate impacts in accordance with Policy BCS13.
300. The new build Villas would likely create a sense of overbearing for new occupiers on lower levels based on the proximity which is often below the 12 metre rule set out in BRE Guidance and there would be unacceptable relationship between the proposed cottages and buildings on Bayswater Avenue.
301. The proposed development would also result in the loss of 38 trees on site, including two Category A trees that are subject to a TPO and would likely result in the deterioration of a suspected Veteran Tree. The site currently exhibits a verdant, landscaped character and this would be significantly reduced due to the overdevelopment of the site.
302. Other issues, such as drainage, contamination and highway mitigation could be controlled through conditions and obligations.
303. The scheme provides a number of benefits, including the provision of much-needed housing for older persons, particularly when the Council cannot demonstrate a five-year supply of land for housing. Other benefits include the reopening of the site to the public and increased visibility of the Listed building (although this is reduced by the proximity and size of the new build elements), the enhanced permeability and the sustainable location of the site.

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304. It is considered that the adverse impacts arising from the overdevelopment of the site, the less-than-substantial harm to heritage assets, the loss of green infrastructure and the lack of resilience to climate change demonstrably outweigh the benefits of the scheme. Officers therefore consider full planning permission should be refused, even when the tilted balance, as prescribed by Paragraph 11(d) of the NPPF, is applied.

**RECOMMENDED REFUSE**

The following reason(s) for refusal are associated with this decision:

1. The proposed development would be out of scale and context with the Downs Conservation Area and the Grade II Listed building 'Grace House'. The quantum and massing of development would result in a loss of the site's verdant character and would crowd and overbear existing buildings and create a harmful relationship between proposed buildings. This would fail to preserve or enhance the designated heritage assets on site contrary to Policies BCS22 and DM31, fail to contribute positively to the area's character and identity, contrary to Policies BCS21, DM26 and DM27 and fail to provide a high-quality living environment for future occupiers contrary to Policy BCS21.
2. The proposed development would fail to integrate important existing trees by causing the loss of T52 and T65 and would likely cause T7 to deteriorate by undertaking works within the Root Protection Area. This would be contrary to Paragraph 180 of the NPPF and Policy DM17.

The following reason for refusal is subject to review:

3. The application has not demonstrated that the development would be adapted to and provide resilience to climate change through its site layout nor through its approach to design and construction. This would be contrary to Policy BCS13.



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305. Three pre applications were submitted prior to the submission of the current application to obtain advice on the emerging proposals for the site, as follows:

20/03227/PREAPP

306. This pre application presented three options: Option 1: a hybrid scheme comprising a traditional care home and private housing by conversion and new build. Option 2: a retirement care community comprising specialist elderly living accommodation and provision of care and communal facilities, by conversion and new build. Option 3: private housing by conversion and new build.

307. In summary, the advice given was that the principle of the site's redevelopment for private housing or older person's housing could be supported, provided that the loss of the community asset could be justified. A planning application would need to demonstrate how the scheme would meet the policy criteria of Policy BCS12 and Policy DM5.

308. All three options were unsupported in design terms due to the heritage impact given the site's location within the Downs Conservation Area and the presence of the listed Grace House. Further consideration of the site layout, scale and massing was required to ensure that Grace House remained the landmark building in the backland area. A careful and considered balance had also to be achieved to prevent the site's overdevelopment and ensure that its verdant character was retained which is a feature of the Conservation Area.

21/03970/PREAPP

309. This pre application was submitted in August 2021. The advice given was that the Council supports the principle of redeveloping the site, and to optimize density in accordance with the Urban Living Supplementary Planning Document (SPD).

310. To fully realise the potential of the site, the applicants were advised that proposals should come forward with a landscape-led design strategy to ensure the informal wooded rear area of the site and leafy Westbury Park frontage character was retained.

311. Other key points made were that:

- The demolition of the back land buildings required justification from both a heritage and sustainability point of view. Further rationalisation of the car parking, movement and connectivity to the surroundings was required, with clear definition between the public and semi-private realm.
- The scale and massing of the proposals should be respectful to the setting of Grace House. The proposed buildings should not cause harm through detracting from the significance of the designated heritage asset and retain its role as a primary focal building within the site. The rationale for scale, massing, design and detailing needs to be clearly evolved and presented.
- The proposed new buildings should be no taller than the existing frontage villas along Westbury Park.
- The spaces between the buildings are sufficient to deliver positive amenity spaces that are not overshadowed, and the daylight/sunlight to the lower floors must meet the Building Research Establishment (BRE) guidelines.
- There is a need within Bristol for extra care accommodation.

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- As the site was formerly in educational use, it would be essential to fully explore the potential for Special Educational Needs and Disabilities provision in the proposals.

21/06886/PREAPP

312. A second pre application was received in January 2022, and a response sent on 18<sup>th</sup> February 2022, which unfortunately left little time for its contents to be considered before the application was submitted on 1<sup>st</sup> March 2022.
313. The proposals set out in the second pre application were different to those presented in the first pre application, and were essentially the same as those subsequently submitted in the planning application. The second pre application was a limited response due to the overlap that took place with the submission of the planning application, and sought to clarify a number of points as follows:
- Principle of Development: It was reiterated that there was no issue with the principle of redevelopment, and it was emphasised that the wording “... to *optimise density in accordance with the Urban Living SPD*” (a phrase used in the first pre application response) meant that the density will be determined by a development scheme that is appropriate in urban design terms, taking full account of its context, and the constraints and opportunities presented by the site.
  - ‘Backland’ Development: The response advised that while the site is considerably larger than the majority of ‘backland’ sites, it is nevertheless, a ‘backland’ site as it did not have a road frontage onto Westbury Park given the presence of the large villas to be converted. The proposed new built form would be to the rear of these villas in what is therefore a ‘backland’ setting. The existing access point from Bayswater Avenue was not considered a road frontage.
  - It was added that the large size of the ‘backland’ site and the distances involved from existing development allowed scope for the new built form to be equal in height to that of the properties fronting Westbury Park, but it was advised that this should not be exceeded.
  - Use Class: It was agreed that the Use Class of the proposed development was C2. (There was subsequently further research and consideration of this point and whether the proposal should be considered as Use Class C3. The final decision was that this was a C2 proposal.)

#### DESIGN WEST REVIEW PANEL

314. There was an opportunity for the proposed design submitted in the second pre application to be considered by the Design West Review Panel, an independent, not-for-profit organisation who provide professional advice on the design aspects of planning applications in the south-west of England. This organisation is served by many architects and designers who give their time to prepare reports assessing significant planning applications in the region.
315. The Design West Review Panel meeting took place on 30<sup>th</sup> November 2021 and their comments, dated 20<sup>th</sup> December 2021, can be summarised as follows:
- The effect of new buildings on each other, as well as the existing villas fronting Westbury Park and surrounding housing, is crucial in terms of massing and proximity, the overwhelming of external space as well as restriction of daylight and sunlight. This needs further consideration.
  - The relationship to Grace House should be improved. The proposed Villa B intrudes insensitively, intruding into the hint of a space suggested by the siting of blocks A & D. The layout of access ways and landscape tend to minimise rather than enhance

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the importance of Grace House. The preservation of a suitable setting for Grace House is an important aspect of working with listed buildings.

- It is not clear that the design had followed a landscape-led approach. The proposed layout suggests an arrangement that where possible trees have been retained and a pedestrian access inserted to suit the favoured block layout, rather than landscape character and access requirements being seen as the main driver of the form of the development.
- The combination of height and bulk suggest an over intensive exploitation of the site. Whilst the internal plan layouts are generous and work well, the outlook will be compromised for a number of units. This is particularly evident at the interface between villas B, C & D. There appears to be little consideration of orientation with a number of north facing units. Combined with the heights of the villas there will be considerable periods of shading at ground level.
- The relationship of gardens and green spaces to the villa blocks, privacy and access needs further thought. The long-term success of the proposed growing areas should be reflected in their positioning within the landscape scheme.
- The proposed pedestrian link which passes Grace House, is a rather twisting route that weaves between buildings and is confused as to whether it is public or private. There is a need for a single, clearly identifiable East-West public route through site, which would form a basis for the overall landscape strategy.
- The Panel would not support an overly engineered highways design for roads and streets through the site.
- The distances shown between the proposals and existing surrounding housing are generally attached to the inward rear wall on Royal Albert Road and Bayswater Avenue. This gives a slightly misleading impression of the real distance between the dwellings. The four block of cottages facing Bayswater Road would be very close to the rear of existing houses with possible living and bedroom overlooking.
- The suitability of the mansard roof arrangement was questioned as it did not to reflect the gabled and hipped roofs on the Westbury Park villas.

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316. This section provides a summary of the responses received as part of the consultation undertaken on the application. Full versions of the representations are available on the website.

**COUNCILLORS AND MEMBER OF PARLIAMENT****Councillors Geoff Gallop, Steve Smith and Sharon Scott - Objection**

317. "We have attended meetings with the developers, Westbury Park Community Association, St Christopher's Action Network (SCAN) as well as a number of public consultations, We object to the planning application submitted on the grounds of mass and the overall height of the tallest building. In addition we have significant concerns about the usage of the Downs which requires separate approval in addition to the planning process, and parking and traffic issues, in an area that is already dangerously congested.
318. Most local residents would like to see the old St Christopher's site developed, but have expressed concerns over the scale of the development and it being out of keeping with the surrounding properties. We share those concerns. Whilst recognising that the site will be developed, we believe it is important that any proposal is appropriate to both the Downs environs and the existing buildings within Westbury Park and we do not believe the current application recognises either of those aspects."
319. In response to the revised plans, concerns were raised that the proposals reflect only minor changes and the mass of the building and its impact on neighbouring residents remains unacceptable. Their position remains as recorded above.

**Councillor Kerry Bailes - Objection**

320. "I am a Bristol City Councillor, I currently sit on a scrutiny committee that looks at education including SEND. I am also a parent and advocate for my son who is autistic.
321. I am objecting to this planning application because there are simply not enough Specialist school places to meet demand in Bristol and many children are without a school placement at all. Not having the required Specialist school placement affects the educational opportunity for some of the most vulnerable children with complex needs that cannot be met in a mainstream school, and the consequences of those children's needs not being met are incalculable. Millions of pounds of public money is being spent on Alternative Providers of education instead of specialist schools, this can't go on, children with disabilities desperately need financial investment in specialist schools including residential placements for the children with severe or complex needs otherwise they end up in hospitals that aren't adequately equipped and with staff that aren't trained to educate them.
322. Education is a right not a privilege, a right that has already been stolen from so many children with additional needs in Bristol. Building homes on this site is not the answer, there are many other sites more suited for this development. Building housing will only widen the gap in Bristol's SEN provision and the ever increasing inequality children with SEND face, the families of these children already battling the local authority will be financially penalised through court action fighting for a specialist school placement that currently doesn't exist."

**Councillor Sylvia Townsend - Objection**

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323. "This site has been specialist education provision for children and young people with SEND for decades. The proposals from this developer tell us that this legacy is currently 'ongoing to investigate the feasibility to make the space within the Urban Village Hall available for the provision of SEND spaces, or, if that is not possible, a proportional financial contribution for SEND places in North Bristol, secured via a S106 Agreement'
324. SEND provision is, by definition, in need of being fully understood by the designers in order to meet the needs of those attending. The statement, apparently updated, does not provide me with confidence that the needs of the children are being considered as central to the proposals. SEND provision can only be effective when these needs are central, this is further backed up in the statement involving S106 funds for off-site provision - this developer is not interested in providing SEND provision.
325. SEND is this council's largest budget deficit year on year with much caused by the need for out-of-area provision - our children need more specialist provision, not less. If SEND provision is lost from this geographical location now it will never return. Children and their families need local provision in their communities not somewhere in 'North Bristol' as the developer states. I refer the committee to the comments made by the Education officer that describes the claims made by the developer as demonstrating a 'limited understanding of SEND' that there are 'serious errors in the data' used by the developer in relation to SEND needs of Bristol's children that the developer makes 'incorrect statements', that 'Table 2 is incorrect', that whole sections of the report are 'wholly inaccurate' and 'incorrect'.
326. I also object to the 0% of affordable housing proposed. This developer quotes an apparent letter from the council agreeing that 0% is needed. As a member of that council I disagree that any development can be permissible without affordable housing to at least that required in policy."

**Councillor Martin Fodor - Objection**

327. "Local residents are clearly immensely concerned about this proposal. The site shares a boundary and an access gate with the ward I represent and there have been a great many objections.
328. I've met with developers and residents and weighed up the need to redevelop the site with the impacts of what's proposed. Wider issues as well as local worries have to be taken into account. There are some aspects that are quite positive including access to community facilities. However, the overall impact of this project is substantial, and I think more needs to be done to shape the proposals and manage these impacts better. The site needs sensitive, sustainable development and at present the proposals seem to be too ambitious. This includes large scale impacts from large and tall development blocks, impacts on heritage and nature, loss of trees, and traffic concerns. I'd like to see a more sensitive approach and have tried to make this clear when meeting the proponents. I think there's more to be done before it gets approval."

**Darren Jones MP - Objection**

329. The following comment was provided in response to the original application:
330. "I'm writing to share my constituents' reservations about plans to build a luxury retirement community at the St Christopher's School site in Henleaze in my constituency. Local residents have noted the risk of environmental damage, lack of affordable housing and lack of SEN provision as concerns about this development.

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331. I note that over 300 objections to this proposal have been submitted. While residents do not oppose developing this land with sustainable and affordable housing, I understand that this development is a high-density, luxury and car-centric development.
332. Current plans allocate only 65 parking spaces for over 240 permanent residents and additional care staff and visitors. This area has limited public transport connectivity and constituents are concerned that the lack of on-site parking in the proposals will worsen traffic, air pollution and pedestrian safety in the narrow neighbourhood streets surrounding the development. I hope that appropriate consideration is given to the concerns raised by my constituents on this issue.”
333. In response to the revised plans, the MP stated:
334. “I am writing to you again following the publication of revised plans in December. Constituents have contacted me to say the revised plans do not go far enough to address their concerns. For example, the number of apartments has only been reduced by 5%, meaning there would still be 116 households on the grounds.
335. I hope that appropriate consideration is given to the concerns raised by my constituents on this issue.”

**COMMUNITY GROUPS**

**Westbury Park Community Association - Objection**

336. Full comments from the Westbury Park Community Association are available on the website. In summary, an objection to the scheme was raised on the basis of:
- The level of parking demand generated from the development, how this has been calculated by the applicant and the capacity of adjoining roads to accommodate overspill parking.
  - Concerns about the lack of travel plan measures and lack of accordance with BCC’s guidance.
  - Objection to the traffic generated by the development and concerns about how this has been assessed by the applicant.
  - Objections relating to the scale, height, mass and positioning of the buildings proposed as a ‘backland’ site, and the effect this has on the Listed building.
  - Concerns about a loss of privacy as a result of the proposed development and the effect of it upon the outlook of neighbouring houses.
  - Objection to the loss of trees.
  - Insufficient public engagement undertaken by the applicant.
337. Further responses to the revised consultations were submitted, reiterating the objections above.

**St Christopher’s Action Network (SCAN) - Objection**

338. A number of submissions have been made by SCAN, all of which are available on the website. In summary, an objection to the scheme was raised on the basis of:

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- Concerns about overdevelopment in a conservation area. The proposed scale, mass and bulk are inappropriate within the sensitive heritage context of Westbury Park and the listed Grace House, and the scheme would give rise to unacceptable impacts on the townscape.
  - Concerns about damage to the environment and that too many trees would be lost and a detrimental impact on nature & wildlife, losing high quality specimens that make a valued contribution to the character and appearance of the Conservation Area.
  - Road Safety, Traffic & Parking: The proposal is not appropriate in transport and highway terms, owing to insufficient on-site parking provision and inappropriate access/egress arrangements, which will increase the road safety risks in an area where this is already a significant concern. SCAN is providing its own research and analysis to show that on-site parking will be insufficient, with no capacity for overspill in surrounding roads.
  - Lack of Affordable Housing: The proposal includes no affordable housing and is not supported by any evidence to justify such a lack of provision.
  - Loss of SEND provision: In the context of an increasing need for SEND accommodation in Bristol, the developers have failed to comply with council policies that seek to safeguard community facilities.
  - Insufficient public engagement undertaken by the applicant.
339. Further responses to the revised consultations were submitted, reiterating the objections above.

**Bristol Civic Society - Objection**

340. An objection was provided in response to the application, which is available in full on the website. In summary, objections were raised to:
- Redevelopment which must be fully justified having regard to its impact on carbon emissions
  - Failure to relate sensitively to the Grade II listed Grace House and would harm the character and appearance of the Downs Conservation Area. Concerns about proposed massing and height of the flat block.
  - The proposal which, in combination with the flat block, risk adversely dominating the street scene and existing residential amenity.
  - More attention should be given to biodiversity and to reducing the proposal's impact.

**Conservation Advisory Panel - Objection**

341. The following comments were provided in response to the original application:
342. "There would be significant damage to the setting of the listed Grace House and the unlisted buildings facing Westbury Park. The scale and height of the new buildings would be too great. The proposed mansards and flared dormers would be very prominent and overbearing and Block B would be actually a 6 storey flat roofed building.
343. The arrangement of the new buildings would not refer to the setting and symmetry of the listed building in any way. Any new buildings must be subservient to the listed

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building and more restrained in appearance. Further details of the works to the villas, which should be classified as Unlisted Buildings of Merit in the Conservation Area, such as replacement of plastic windows, should be provided.

344. The loss of existing trees, some Grade A and some subject to TPOs, would change the character of the site and was not acceptable. The proposed planting should be more substantial with larger trees.”

**Henleaze Society - Objection**

345. The Henleaze Society provided the following objection to the planning application:

- The proposed St Christopher's School development ignores the character of the surrounding Westbury Park Area.
- The proposed development is over-development, because of the number of proposed buildings, their scale, mass and height.
- No shadow diagrams were submitted as part of the original application.
- The proposed development would result in a loss of green space.
- Provision should be made for on-site parking for residents and visitors so that on-street parking in nearby streets will not be necessary.

**Friends of the Downs and Avon Gorge (FODAG) - Objection**

346. An objection was received which, in summary, raised the following concerns:

- Change to the visual scenery of the current lodges alongside the Westbury Park frontage.
- This is a loss to the biodiversity of the Downs conservation area from the loss of trees proposed.
- Objection to a new footpath to the site from Westbury Park Road across the 'Granny Downs' and the impact upon trees.
- Objection to signage proposed in the Design and Access Statement.
- Concerns about the lack of engagement by the applicant.

**Downs Committee**

347. A comment has been received from the Downs Committee, which is a custodian of the land immediately adjoining the site, and because small elements of the development (such as proposed new footpaths) cross land which is managed by the committee. The following issues were raised:

- Objection to the height of the proposed development and the impact on existing views from the Downs.
- Support for the creation of a new footpath across the "Granny Downs", but would wish to be consulted over the detailed design, materials etc before this element goes ahead.

**Bristol Tree Forum:**



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348. An objection was received from the Bristol Tree Forum. The following issues were raised in summary:

- Objection to the loss of green infrastructure, and consideration that the development fails to avoid or minimise tree loss and retain green assets contrary to BCS9. Concerns that DM15: Green Infrastructure Provision has not been considered.
- Concerns that the loss of trees has given no consideration of climate change by using green infrastructure to minimise and mitigate the heating of the urban environment.
- Criticism of the applicant's Biodiversity Net Gain calculations, which does not give sufficient weight to the existing tree habitat.

**OTHER PARTIES**

**Associated Retirement Community Operators Ltd. (ARCO) - Support**

349. ARCO is the trade body for private and not for profit providers of housing with care developments in the UK – Amicala (the proposed operator of the site) is part of ARCO's Accelerator Programme. In summary, the following comments were provided in support. The full comments are available on the website.

- Highlight that expanding preventative choices that sit between care homes, and care at home, are now a key part of the government's commitment to meet the health and social care needs of our ageing population.
- Outlines the options for old persons housing as set out by the Neighbourhood Planning Act 2017.
- Sets out that the Government has recently reaffirmed its commitment to expanding provision of wider housing options for older people in the White Paper, People at the Heart of Care, published on 1 December 2021 and in letters from the Housing Minister.

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**APPENDIX C – USE CLASS ASSESSMENT REPORT**

Advice provided to Bristol City Council

## Former St Christopher's School, Westbury Park

Assessment of Use Class for Proposed Development at Former St Christopher's School (22/01221/F)

Issue | 10 October 2022



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This report takes into account the particular instructions and requirements of our client. It is not intended for and should not be relied upon by any third party and no responsibility is undertaken to any third party.

Job number 257851-20

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# 1. Introduction

## 1.1 Background

Ove Arup & Partners Ltd ('Arup') has been commissioned by Bristol City Council ('BCC') to undertake an assessment relating to the Use Class of the proposed development of a retirement community at the Former St. Christopher's School on Westbury Park in Bristol, under planning application reference 22/01221/F. The development description of that application ('the proposed development') is:

*“Proposed development of the site including, internal and external alterations of Listed House building and conversion of lodges fronting Westbury Park; demolition of buildings and the erection of new buildings to provide an integrated Retirement Community (Class C2) for older people; together with landscaping, car parking, refuse and other associated works (major).”*

BCC, as the Local Planning Authority ('LPA') determining this application, wishes to form a view as to whether the application should be determined as falling within Use Class C2 Residential Institutions or Use Class C3 Dwellinghouses of the Town and Country Planning (Use Classes) Order 1987 (as amended) ('the Use Classes Order'). BCC and the applicant, St Christopher's Prop Co Ltd., have had discussions regarding this matter and have not yet reached agreement. The difference of opinion in this case reflects an ambiguity nationally within the definition of the Use Classes Order that has also impacted other developers and LPAs, resulting in the Use Class of similar types of development generally being determined on a case-by-case basis, with no nationally consistent approach.

BCC is therefore seeking an independent assessment of the appropriate Use Class for the proposed development in order to enable the Council to determine the planning application appropriately. This includes ensuring that it applies the relevant Community Infrastructure Levy ('CIL') Charge and to establish whether the development should be providing affordable housing in accordance with the policies of the adopted Local Plan.

## 1.2 Purpose of this report

This report provides an assessment of whether the proposed development under application reference 22/01221/F should be determined by BCC as falling within Use Class C2 or Use Class C3 of the Use Classes Order. The assessment is undertaken having regard to a detailed analysis of the specific nature and circumstances of the proposed development, as well as a review of precedent through similar or comparative cases determined at appeal by the Planning Inspectorate. The approach to this assessment is also informed by legal opinions sought by both BCC and the applicant in relation to this case, and any relevant guidance or policy within both the national and local decision-making framework. This report concludes with an independent recommendation to BCC regarding the most appropriate Use Class to be applied in the determination of this application.

## 1.3 Structure of this report

This report is structured as follows:

- Section 1 - Introduction: this section, providing an overview of the report's background, purpose and structure.
- Section 2 - The Proposed Development: provides a summary of the planning application being assessed within this report.
- Section 3 – Policy and Legal Context: sets out the national and local planning policy and legislation relevant to the assessment of the appropriate Use Class for this development, as well as analysis of legal opinions obtained by the applicant and BCC and their implications for the assessment.
- Section 4 – Review of Appeal Decisions: a review of relevant appeal decisions that consider similar or comparative development and their Use Class, identifying any key messages relevant to the assessment of the proposed development.

- Section 5 - Assessment of Use Class: informed by the preceding sections, a detailed assessment of the application is undertaken in order to form a conclusion on the most appropriate Use Class for determination.
- Section 6 – Summary: provides a summary of the report and its conclusions.

## 2. The Proposed Development

### 2.1 Site location and context

The site comprises the former St Christopher's school on Westbury Park in Bristol, approximately 2.5 km to the north-east of the city centre. The site is 1.99ha in area and it is located in Westbury-on-Trym & Henleaze ward. The site comprises of 5no. Victorian villa properties which front onto Westbury Park road, as well as further buildings to the rear of the villas, including the Grade II Listed Grace House. The site is opposite the Clifton and Durdham Downs, a large area of open space and parkland and it is also located within The Downs Conservation Area.

The location of the proposed development is provided in Figure 1.

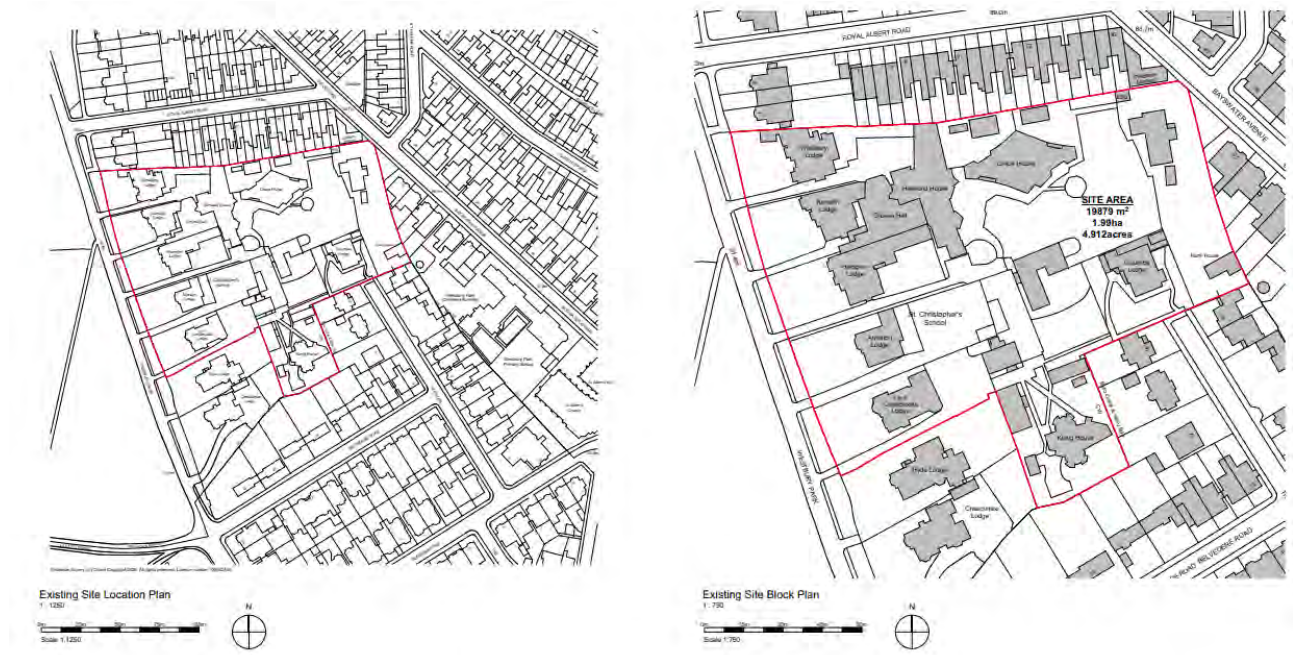


Figure 1 Site location and existing site block plan as submitted by applicant under application reference 22/01221/F

The site was in use from 1945 until March 2020 as a residential specialist school for children and young people with Special Education Needs and Disabilities (SEND).

### 2.2 Description of development

The application made under reference 22/01221/F seeks consent for development under the following description:

*“Proposed development of the site including, internal and external alterations of Listed House building and conversion of lodges fronting Westbury Park; demolition of buildings and the erection of new buildings to provide an integrated Retirement Community (Class C2) for older people; together with landscaping, car parking, refuse and other associated works (major).”*

The Planning Statement and Design and Access Statement submitted with the application provide further detail on the proposals, which can be summarised as comprising:

- The provision of 122no. self-contained extra care residential units split as follows:
  - 25no. apartments located within the retained and converted villas fronting Westbury Park;
  - 86no. apartments located in new build development blocks within the site; and
  - 11no. new build cottages located to the east and south of the site.

- The retention and conversion of the Grade II Listed Grace House to provide a 940sqm community hub to include:
  - ‘Wellbeing’ facilities including hydro pool, exercise studio, gym, nutritionist and treatment room.
  - ‘Belonging’ facilities including café / bistro, cinema/activities room, art room and workshop.
- The retention and conversion of the North House building to create an urban village hall that would be able to be used part time by the wider community (a minimum of 15 hours per week, as specified in the draft Heads of Terms).
- New public realm and landscaping, including pedestrian permeability through the site and a range of outdoor facilities such as a village square, sensory garden, productive/allotment garden and activity garden.
- 65no. car parking spaces, comprising:
  - 48no. standard bays;
  - 6no. accessible bays;
  - 8no. EV bays;
  - 2no. car club bays; and
  - 1no. shuttle bus bay.
- A minimum of 52no. cycle parking spaces (22 visitor spaces and 30 staff spaces).
- Buggy stores.
- The demolition of various modern buildings and structures within the site, including extensions adjoining the villas fronting onto Westbury Park.

It is intended that parts of the site would be open to public access, whilst other areas would be private or semi-private.

## 2.3 Proposed model of care provision

The Planning Statement submitted with the application sets out how care would be delivered within the proposed development. It states that a fully qualified nurse would act as manager, with a 24-hour presence of trained care and security staff on site. There would be monitored care buzzers and security cameras covering communal areas, and a registered nurse on call service for emergency support. Residents may also choose to have night service or care companions on a temporary or permanent basis.

The Section 106 Agreement (‘S106 Agreement’) would secure an age restriction, needs based assessment and minimum care package for the development, which the applicant considers ensures the scheme would properly operate under Use Class C2. These features are described as follows in the draft Heads of Terms submitted with the application:

### ***“Age Restricted***

*The Integrated Retirement Community will be age restricted, with a minimum age of 65 for lead residents; although experience confirms the average age of residents at the point of entry will be late 70’s and on a needs basis.*

### ***Needs Based Occupancy***

*To allow residents to occupy the development, all residents must be in receipt of a Minimum Care Package. To ensure that prospective residents are in need of the Minimum Care Package, they must under-go a Qualifying Persons Assessment.*

### ***Minimum Care Package***

*Residents must have a minimum package of 2 hours support per week in the form of care services.*

*Any personal care must be delivered under the provision of a formally assessed care plan, approved by the Clinical Manager. Staff who deliver the care plan will be trained and confirmed as competent and capable to deliver such care.”*



The Qualifying Persons Assessment will be undertaken of prospective residents to ensure they are a suitability Qualifying Person (i.e. over 65 with an identified need for the minimum care package). The draft Heads of Terms also states that this assessment will be undertaken periodically during occupation to ensure the level of care being provided is suitable. It further clarifies that a cohabitee, spouse or dependent of a Qualifying Person may continue to occupy the property following the death of the Qualifying Person, irrespective of their age.

The personal care and support activities that may constitute the Minimum Care Package are specified in the draft Heads of Terms and considered in more detail in Section 5 of this report.

## **2.4 Status of the application**

The applicant submitted two pre-application enquiries regarding the proposed development prior to its formal submission. The first of these, made in July 2021, received a response from BCC which stated the Council's view that the proposals would fall within Use Class C3. In the second pre-application enquiry made by the applicant in December 2021, the applicant reasserted their position that the proposal would constitute Use Class C2. In response to this second enquiry, BCC informed the applicant that it was seeking legal opinion on the appropriate Use Class and had not yet reached a clear position on the matter.

The application for the proposed development was submitted in March 2022 and is currently pending consideration (as of October 2022).

## 3. Policy and Legal Context

### 3.1 Use Classes Order

The Use Classes Order classifies the use of land and buildings and the proposed Use Class of a development (and the overall change of use) can determine whether a planning application is required, which planning policies apply and whether obligations such as CIL are applicable.

#### 3.1.1 Use Class C2 Residential Institutions

The Use Classes Order provides the following definition of Use Class C2 Residential Institutions under Part C of Schedule 1:

*“Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).*

*Use as a hospital or nursing home.*

*Use as a residential school, college or training centre.”*

Article 2 of the Use Classes Order defines ‘care’ as:

*“personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder, and in class C2 also includes the personal care of children and medical care and treatment”*

Personal care is not further defined, but it is one of the categories of registration by the Care Quality Commission (CQC): providers of personal care must by law be registered by the CQC.

#### 3.1.2 Use Class C3 Dwellinghouses

Part C of Schedule 1 of the Use Classes Order defines Use Class C3 Dwellinghouses as follows:

*“Use as a dwellinghouse (whether or not as a sole or main residence) by—*

*(a) a single person or by people to be regarded as forming a single household;*

*(b) not more than six residents living together as a single household where care is provided for residents; or*

*(c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).”*

#### 3.1.3 Commentary

The Use Classes Order identifies two classes of building/land use applicable to care provided in a residential setting. However, they are also defined as mutually exclusive such that a use is either C2 or C3. This is specified through the stipulation in Use Class C2 which states that it is a residential institution if residential accommodation and care is being provided other than a use within Use Class C3.

Traditional models of residential care for the elderly are often a comfortable fit with the Use Classes Order<sup>1</sup>. It is generally accepted that a care home would be constitute Use Class C2, comprising of a residential institution in which residents have their own bedroom (and possibly a bathroom) but in which all other facilities are communal and personal care is provided in-house. Other established forms of more independent accommodation for the elderly, without direct care provision, such as sheltered housing, has generally been accepted as Use Class C3. However, increasingly there are new models of residential care provision for older

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<sup>1</sup> Housing Learning and Improvement Network (LIN) (2011) Planning Use Classes and Extra Care Housing, available at [Planning Use Classes and Extra Care Housing \(housinglin.org.uk\)](https://www.housinglin.org.uk)

persons – often referred to as ‘extra care’ housing - for which the application of the Use Classes Order is ambiguous, due to providing both independent or self-contained living accommodation and on-site care and support services. Reaching a conclusive categorisation of the extra care format is further complicated by the differences between schemes, with individual extra care housing developments comprising of varying levels of care provision and independent living. As a result of the ambiguity around Use Class, a number of planning appeals relating to extra care housing have considered this specific issue, as discussed in Section 4 of this report.

In relation to the proposed development, the question of Use Class has significant implications in relation to its CIL liability. Bristol City Council CIL Charging Schedule specifies that residential and non-residential institutions (Use Classes C2, C2A, D1) are not liable for CIL charging, whilst residential development (Use Class C3) is. Within the Inner Zone of Bristol, which includes Westbury-on-Trym ward where the site is located, the CIL rate for Use Class C3 is charged at £70 per square metre (sqm). Given the size of the site, the CIL liability would be substantial if the proposed development is determined to be Use Class C3, compared to £0 if found to be Use Class C2. It is therefore of utmost importance to both BCC and the applicant that thorough consideration is given to this matter.

## 3.2 National planning policy

### 3.2.1 National Planning Policy Framework

The National Planning Policy Framework (July 2021) (NPPF) does not set out policy which is specific to the determination of housing for older people. Annex 2: Glossary of the NPPF does however offer a definition of ‘older people’ which reflects the significant variations amongst the older population in terms of care and housing needs:

*“Older people: People over or approaching retirement age, including the active, newly-retired through to the very frail elderly; and whose housing needs can encompass accessible, adaptable general needs housing through to the full range of retirement and specialised housing for those with support or care needs.”*

Paragraph 62 of the NPPF also requires planning policies to reflect the range of housing needs within a community, including older people. Paragraph 65 of the NPPF defines exemptions to the requirement for at least 10% affordable housing in major residential development, which includes ‘specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students)’.

### 3.2.2 Planning Practice Guidance

The Planning Practice Guidance (PPG) includes specific guidance on housing for older and disabled people. Paragraph 010 provides a definition of different types of specialist housing for older people:

- **“Age-restricted general market housing:** *This type of housing is generally for people aged 55 and over and the active elderly. It may include some shared amenities such as communal gardens, but does not include support or care services.*
- **Retirement living or sheltered housing:** *This usually consists of purpose-built flats or bungalows with limited communal facilities such as a lounge, laundry room and guest room. It does not generally provide care services, but provides some support to enable residents to live independently. This can include 24 hour on-site assistance (alarm) and a warden or house manager.*
- **Extra care housing or housing-with-care:** *This usually consists of purpose-built or adapted flats or bungalows with a medium to high level of care available if required, through an onsite care agency registered through the Care Quality Commission (CQC). Residents are able to live independently with 24-hour access to support services and staff, and meals are also available. There are often extensive communal areas, such as space to socialise or a wellbeing centre. In some cases, these developments are known as retirement communities or villages - the intention is for residents to benefit from varying levels of care as time progresses.*
- **Residential care homes and nursing homes:** *These have individual rooms within a residential building and provide a high level of care meeting all activities of daily living. They do not usually*

*include support services for independent living. This type of housing can also include dementia care homes.”*

Paragraph 010 of the PPG recognises the diversity of provision for older people and therefore highlights that the above categories are not definitive. It states that a single development may contain a range of different types of specialist housing. Whilst these categories are not linked to specific Use Classes, Paragraph 014 of the PPG specifically considers the issue of applying the Use Classes Order to specialist housing for older people. It states:

*“It is for a local planning authority to consider into which use class a particular development may fall. When determining whether a development for specialist housing for older people falls within C2 (Residential Institutions) or C3 (Dwellinghouse) of the Use Classes Order, consideration could, for example, be given to the level of care and scale of communal facilities provided.”*

### 3.2.3 Commentary

In summary, the diversity of both care needs and housing provision amongst older people is recognised in national policy and it does not therefore offer clear direction on appropriate Use Class application. It does however explicitly direct that LPAs have individual discretion on determining the appropriate Use Class on a case-by-case basis and are recommend to take into account the **level of care and scale of communal facilities provided** amongst other unspecified considerations.

## 3.3 Local planning policy

### 3.3.1 Relevant local policies

The Planning Statement submitted by the applicant summarises the key Local Plan policies and supplementary guidance of relevance to the scheme and this is therefore not replicated in this report. However, the following Local Plan policies are of particular relevance to this assessment:

- Core Strategy (2011) Policy BCS11 sets out that CIL contributions will be sought in accordance with appropriate regulations, in addition to planning obligations which may be sought where any development has an impact requiring mitigation.
- Core Strategy Policy BCS17 sets a requirement for 40% affordable housing on all developments of 15 dwellings or more within the Bristol Inner West area. It confirms that where scheme viability may be affected, developers will be expected to provide full development appraisals to demonstrate an alternative affordable housing provision.
- Site Allocations and Development Management Policies (SADMP) (2014) Policy DM2 provides specific policy on the provision of older persons housing. It states that:

*"A range of housing and care options that promote and maintain housing independence for older people will be encouraged. Older persons' housing schemes should aim to meet the following criteria:*

*i. Located close to shops, services, community facilities and open space appropriate to the needs of the intended occupiers or provided on-site; and ii. Located close to good public transport routes; and*

*iii. Provision of level access; and*

*iv. All units built to the Lifetime Homes standard; and*

*v. 20% of units designed to be wheelchair accessible, or easily adaptable for residents who are wheelchair users".*

The supporting text to Policy DM2 states that it applies to all forms of purpose-built residential accommodation for older people that fall within Use Classes C2 and C3.

The applicant has highlighted in its pre-application correspondence that the Space Standards Practice Note (March 2021) refers to older persons' housing – both self-contained and non self-contained – as being a 'residential development not in Use Class C3'.

### 3.3.2 Commentary

Adopted BCC policy sets out the planning obligations that may be sought in relation to development, including CIL, S106 Agreement and affordable housing provision. Policy DM2 provides guidance on the development of older persons' housing and recognises that such development may fall within Use Class C2 or Use Class C3, however it does not offer any specific direction as to how the Use Class will be determined. Whilst it is recognised that the applicant considers the Space Standards Practice Note to clarify that older persons' housing is not within Use Class C3, it is not considered that this represents BCC's definitive position on older persons' housing. Rather, the Practice Note seeks to provide clarity on how space standards are to be applied in circumstances where one of the many forms of older persons' housing has been determined as Use Class C2. In summary, local policy does not set out any further detail beyond that of the PPG in relation to how Use Class should be determined in proposals for older persons' housing.

### 3.4 Case law: *Rectory Homes Ltd v SSCLG [2020] EWHC 2098 (Admin)*

Currently, case law is not determinative in directing how Use Classes should be applied to extra care housing. However, the *Rectory Homes* judgment is relevant to the proposed development in a broader context, as it dealt specifically with the question of whether units within an extra care housing scheme can constitute 'dwellings' whilst remaining in Use Class C2 and in doing so, provides some direction on how a C2 Use can be differentiated from C3.

*Rectory Homes* appealed against South Oxfordshire District Council's decision to refuse consent for the development of 78 units in a "housing with care" scheme. In this case, both the applicant and the LPA were in agreement that the scheme would constitute a C2 use. However, the Council's affordable housing policy applied to sites with a net gain of three or more dwellings, with *Rectory Homes* stating that 'dwellings' would mean Use Class C3 and therefore not be applicable to an agreed Use Class C2 scheme. Ultimately, the court determined that dwellings could be provided within Use Class C2 and therefore affordable housing policy could be applied.

In reaching this conclusion, the judgement does specifically explore the scope of Use Class C2. Paragraph 60 of the judgement directs that the meaning of 'institution' under Use Class C2 must be broad and may include an 'organisation' managing a whole development to ensure the needs of residential occupants for care are delivered. The judgement finds that this aligns with the model of the extra care housing proposed in the case and the S106 Agreement which secures that model of operation.

Paragraph 61 of the judgement considers the explicit exclusion of Use Class C3 from residential institutions under Use Class C2, as drafted in the Use Classes Order. The judgement determines that this specific exclusion is necessary because C2 accommodation can include units with the physical characteristics of dwellings and which provide a private or independent domestic existence, however it is the use of the dwellings which is the key differentiating factor. It states that the dwellings fall within Use Class C2 if care is provided for an occupant in each dwelling, who is in need of such care.

Paragraph 63 of the judgement further distinguishes between the provision of care and the need of care. It states that both Use Class C2 and Use Class C3 could comprise of residential accommodation/dwellings with provision of care to its occupants. What distinguishes Use Class C2 therefore is that occupants are in need of care, which is secured through the S106 Agreement and its restricted occupation to those assessed as needing care.

#### 3.4.1 Commentary

The *Rectory Homes* judgement is clear in concluding that it is possible for dwellings to be provided through a Use Class C2 development, therefore triggering relevant policies relating to affordable housing as a proportion of total dwellings. It is also clear in stating that key factors differentiating Use Class C3 and Use Class C2 are: a) the overarching management of a site as an institution; and b) the occupation of the site by people who are assessed as needing care, secured through a S106 Agreement.

### 3.5 Legal opinion

In light of the discussions between the applicant and BCC regarding the appropriate Use Class for the proposals at the former St. Christopher's School, both parties have obtained legal opinion on the matter.

#### 3.5.1 Legal opinion obtained by the applicant

The legal opinion obtained by the applicant takes the view that the proposed development would be most appropriately determined as Use Class C2. It considers that the proposals constitute a specialist form of accommodation, allowing for increasing levels of care over older persons' lifetime which seeks to avoid the need for a move into other specialist forms of care such as a traditional care home.

Whilst recognising that the proposed accommodation would be self-contained, the opinion states that the centralised care and service facilities integrated into the development represent a 'single institutional setting'. Within this context, the opinion posits that the site is a single planning unit, given that an individual apartment could not be separated from the wider operation; it is to be managed and operated as a whole in order to deliver the required care and assistance, which includes a 24-hour presence of staff on site and a minimum level of care provision as a condition of occupation. Furthermore, the opinion considers that design features of the proposals are specific to aiding the elderly, such as level access, accessible internal fittings and communication with staff, reflect a C2 residential institution use.

In addition to the physical form and overall operation of the site, the legal opinion obtained by the applicant considers that the requirement - secured through S106 Agreement - for the primary occupier to undergo a mandatory Qualifying Person Assessment and receive a minimum care package meets the definition of care within the Use Classes Order. The legal opinion recognises that the type of care activities and services that can be chosen to meet that minimum of two hours provision is varied and reflects a broad spectrum of care which nonetheless are 'standard' for a C2 use. Furthermore, consideration is given to the potential for that minimum care to expand over time to reflect the intention of the extra care format in meeting the changing and developing needs of an older person in the long-term, most likely increasing with age.

In summary, the legal opinion concludes that the design of the scheme and the Section 106 obligation in relation to the scheme would bring the proposed development into Use Class C2. The legal opinion also refers to a number of appeal decisions which have determined extra care housing under Use Class C2, those of relevance are considered in Section 4 below.

#### 3.5.2 Legal opinion obtained by BCC

The legal opinion obtained by BCC takes a differing view to that obtained by the applicant, concluding that there is potentially a reasonably strong argument that the appropriate Use Class is C3. It states four key reasons for this position, namely: the self-containment of the residential units; the limited amount of personal care and scale of communal facilities provided; at least two recent appeal decisions; and the London Plan Housing Supplementary Planning Guidance (SPG) which identifies extra care housing as Use Class C3, in part on account of the self-contained nature of accommodation.

In assessing whether an application should be determined as Use Class C2 or Use Class C3, the legal opinion obtained by BCC states that it is important that the nature and function of the proposed operation is well understood. For example, understanding the extent to which normal living activities would occur outside of the self-contained units and the size of communal facilities comparative to private living space. Finally, the opinion refers to the 'front door test' in which the provision of an individual front door would suggest a level of self-containment that is not aligned with Use Class C2. This should also take account of the extent to which living is occurring within the shared facilities, even with individual front doors.

In assessing and understanding the level of care provision, the opinion notes that care should be taken to consider the nature of provision and not just the amount, identifying that 24-hour care could be provided within someone's private C3 dwelling without it representing a change to C2 use. Therefore, the extent to which care is provided inside or outside of the residential unit may also be a consideration taken into account.

The legal opinion obtained by BCC makes reference to two recent appeal decisions of relevance, considered further in Section 4 of this report. Whilst it concludes that a reasonably strong argument could be made that

the former St. Christopher's School development would be Use Class C3, the lack of consistency from Inspectors on this matter to date is highlighted as a key risk.

### 3.5.3 Commentary

Legal opinion has been obtained by the applicant and BCC which offer differing conclusions on the most appropriate Use Class for the proposed development. Each also refers to planning appeal decisions which support or align with the position of the opinion, reflecting the lack of consistency in decision-making on this matter. The common theme however of both opinions is that determining the Use Class requires a thorough consideration and understanding of the intended operation and function of the proposed development, in addition to its physical attributes. Whilst the residential use of the proposed development is clear, it is the nature of that residential occupation and associated care provision which is key to differentiating between Use Class C2 and Use Class C3. This depends on factors such as the extent to which living on the site is self-contained or communal; the extent of care provision and how it assessed and secured; and the overall functioning of the site as a single institutional operation.

## 4. Review of Appeal Decisions

### 4.1 Introduction

As reflected in national policy and guidance, there exists considerable diversity in the format and models available of older persons housing and care. The matters under discussion between the applicant and BCC regarding Use Class are therefore not unique and has been a challenge faced by other local authorities and developers. This has resulted in a number of appeal decisions which are relevant to this assessment and BCC has been directed to cases considered to be of particular relevance by the applicant and through the receipt of legal opinion.

The following appeal cases have been provided by the applicant to BCC for consideration:

- Cornwall (Appeal ref: 3199163)
- Westminster (Appeal ref: 3229842)
- Broadbridge Heath (Appeal ref: 3262938)
- Walton on Thames (Appeal ref: 3263347)
- Bath (Appeal ref: 3268794)
- Tunbridge Wells (Appeal ref: 3161379)
- Beckford (Appeal ref: 3167629)
- Aylesbury Vale (Appeal ref: 3181140)
- Epsom (Appeal ref: 3276483)
- Sonning Common (Appeal ref: 3265861)

These appeal cases have been reviewed and analysed to inform this assessment. A number of the appeal decisions provided by the applicant do not specifically consider the issue of Use Class as it was not a main issue of the appeal or a separate consideration. It is understood that these have therefore been provided by the applicant to demonstrate that schemes which are similar or comparative to the proposed development (in the applicant's view) have been determined on the basis of being Use Class C2. Whilst it is considered that these cases are useful in highlighting extra care housing schemes that have been determined by LPAs and by Inspectors at appeal as Use Class C2 without challenge, the decisions do not specifically address how the appropriate Use Class was or should be determined in the first instance by an LPA. As such, these cases are not considered in detail in the following section of the report. The cases discounted from this detailed analysis are:

- Broadbridge Heath (Appeal ref: 3262938)
- Epsom (Appeal ref: 3276483)
- Sonning Common (Appeal ref: 3265861)
- Beckford (Appeal ref: 3167629)
- Bath (Appeal ref: 3268794)

This review is not intended to be exhaustive but to identify the key issues identified by various decision makers in assessing whether a use purported to be C2 can be so classified.

### 4.2 Analysis of relevant appeal decisions

#### 4.2.1 Cornwall (Appeal ref: 3199163), decision issued February 2019

##### *Overview of case*

The proposed development within this appeal case was 'the erection of circa 30 age-restricted (55+ years) Use Class C2 bungalow/chalet bungalow dwellings, warden's office/accommodation, community facilities, open space and footpath connection (details of means of access only, all other matters reserved)'. The appeal was made against Cornwall Council for a refusal to grant outline planning permission.

Cornwall Council had determined the application as Use Class C3 despite the reference within the development description as Use Class C2. The correct Use Class was a main issue in the appeal. In



considering the use class issue, the Inspector noted that the correct categorisation of use is dependent on the specific circumstances of each scheme. Whilst the proposed scheme would require a minimum of 2 hours of care per week and an assessment to ensure occupants would need such care, the Inspector considered that the facilities and services provided would not fall within the definition of ‘personal’ care, instead comprising of ‘additional’ or ‘extra care’. The services referred to in the appeal decision include ‘support for bed changing, cleaning, help with shopping, access to disability equipment, management of heating systems, some personal care, help with cooking and a range of other support’.

The Inspector concluded that the range of services and facilities available would in many respects be little different to forms of support available to older persons living in Use Class C3 accommodation, although they would be more easily accessible. The Inspector found that whilst the appellant had expressed intention to provide an element of personal care to some residents, it remained unclear as to what it would involve, how individual needs would be assessed and what would happen if their personal care requirement fell under 2 hours. On that basis the Inspector concluded the scheme should be within Use Class C3 and the appeal was determined as such, ultimately being allowed. A condition was attached to the consent requiring that the occupation is limited to persons aged 55 or above, or a dependent/cohabitee following the death of the qualifying person.

### ***Commentary***

This appeal decision demonstrates that the Inspector considered the nature of the care being provided to be central to the determination of the Use Class. A further review of the application and appeal documents has clarified that due to the proposal being in outline, the details of care provision were not clearly defined within the application and the requirement for a minimum care package was not to be secured through S106 Agreement, with the appellant instead proposing that the older persons use would be secured through condition. As such, this case may not be considered as directly comparable to the proposed development assessed in this report, in which more detail is provided on the care provision and a mechanism for securing the occupancy conditions for prospective residents.

### **4.2.2 Westminster (Appeal ref: 3229842), decision issued April 2020**

#### ***Overview of case***

The proposed development subject to this appeal case was for ‘redevelopment of land at 36 St John’s Wood Road for an extra care facility, ancillary medical and rehabilitation facilities, landscaping, car and cycle parking, and the redevelopment of 38-44 Lodge Road for a care home and residential units with landscaping, car parking and cycle parking’. The appeal was made against City of Westminster Council against non-determination of the scheme. The main issue of the appeal was the extent to which affordable housing was required, specifically in relation to the extra care facility, which the Council considered to be Use Class C3 in conflict with the appellant’s view that it is Use Class C2.

In determining the Use Class, the Inspector applied the definition within the London Plan Housing SPG which states extra care housing is generally Use Class C3, providing ‘self-contained residential accommodation and associated facilities designed and managed to meet needs and aspirations of people who due to age or vulnerability have existing or foreseeable physical, sensory or mental health impairment’. In comparison to the SPG’s definition of a care home under Use Class C2, in which accommodation is not self-contained and meals/personal services are routinely provided, the Inspector considered the scheme to be Use Class C3.

Outside of reference to the SPG, the Inspector also considered the level of dependence of occupants on the care services and whether a ‘significant’ element of care would be provided. The appellant provided a document detailing the operation of the development, comprising of owner-occupied tenure with a minimum of 2.5 hours care a week, emergency care available 24 hours a day and the provision of at least 1 meal a day. The apartments would be designed to enable care to take place and there would be nurses stations throughout the development.

The Inspector noted that 76% of units would be two bedroom and only one occupant may need care, calculating that in total this means 43% of total residents could not require care. The Inspector also considered that the minimum 2.5 hour care requirement could be met through health promotion or illness prevention advice, which would not constitute a ‘significant’ element of care or mean that residents are

dependent on such care. The Inspector emphasised the fact that the Use Classes Order defines care as ‘personal care’ although does not define what personal care is. However, in the Inspector’s view, there is no requirement for the residents to receive personal care, as the minimum package could be met through services the Inspector would not consider to be personal care.

In looking at the design of the proposed development, the Inspector identified that the majority of floorspace is self-contained flats whilst the majority of the remaining floorspace would not be for caring facilities but for social/sports activities such as the gym, pool, cinema and restaurant/bar. The Inspector identified that there would no ‘compunction’ for residents to use those facilities, which are therefore incidental and separate from the proposed principal use, stating that this is no different to other forms of housing with communal facilities. The requirement for staff to be able access flats in case of an emergency call was also considered a feature that other leasehold flats have in certain circumstances (i.e. allowing entry by the freeholder).

Finally, the Inspector determined that even if a significant level of care had been identified as being provided, Use Class C3(b) allows for up to six residents in a dwelling house where care is provided. The Inspector considered that such a scenario would apply to the extra care units, whilst Use Class C2 specifically excludes C3 dwellinghouses from its definition.

Taking into account all of the factors outlined above, the Inspector concluded that Use Class C3 would apply.

### ***Commentary***

The scheme considered within this appeal is comparable to the proposed development at the Former St. Christopher’s School, in that it would provide a similar provision of self-contained accommodation, associated social and wellbeing facilities and a minimum care package secured through S106 Agreement. In fact, the level of care to be provided is slightly higher at 2.5 hours and includes the requirement for at least one meal, which the proposed development considered here would not. The Inspector has considered both the design of the scheme - in terms of its functional relationship with the communal facilities – and the detail of the care provision and operation. The potential for the minimum care provision to be solely services which are not personal care – despite the lack of definition of personal care in the Use Classes Order – and the overall proportion of residents that would be required as a minimum to receive care, has been given weight by the Inspector in deciding the appropriate Use Class as C3.

### **4.2.3 Walton on Thames (Appeal ref: 3263347), decision issued June 2021**

#### ***Overview of case***

The proposed development in this appeal case was ‘Development comprising 222 units of care accommodation with associated communal facilities, landscaping, parking, accesses (vehicular and pedestrian), public realm, bicycle stores and sub-station following demolition of existing buildings’. The appeal was made against Elmbridge Borough Council against the refusal of consent.

In the case of this appeal, the Use Class of the development was not itself a matter of disagreement between the parties, in which the proposed development had been determined as Use Class C2. Instead, the main issues related to whether the type of care accommodation would represent efficient use of land in the context of a pressing unmet general housing need and whether it would undermine the viability and vitality of the town centre. However, in considering these main issues, the Inspector discusses the nature of the C2 use and makes points that are of relevance to this assessment.

The Inspector noted that the S106 for the development requires a minimum of 2.5 hours of personal care a week and that the ‘care’ element of some of the listed activities were debated, such as use of an on-site hairdresser or cleaner. However, the Inspector also noted that the S106 referred to ‘assistance’ throughout, whilst the conditional occupancy secured through the S106 (requiring an age limit, a qualifying person assessment and minimum care package) was considered sufficient to ensure the C2 use would not be ‘diluted’ to C3. On the matter of allowing spouses or partners of the qualifying person to continue to occupy a property on site once the qualifying person is deceased, the Inspector recognised that this would not in a strict sense comply with the terms of definition of a qualifying person. However, the Inspector also concluded this would not be a common occurrence such that it would tip the development to Use Class C3

and would be insensitive to expect such a resident to leave. The Inspector also identified that the remaining resident would be paying the management fee and would be likely to require care or assistance as they age.

In considering the nature of the C2 use, the Inspector gives weight to the particular model of care provision, at the core of which is the concept of providing increasing levels of care over time. Referring to the model as ‘sound and thought through’, the Inspector considered that extra care housing seeks to enable older persons, who already require care to a degree, to down-size to a home where their long-term care needs can be accommodated without the need for relocating to a nursing home. The Inspector identified that extra care as a model is the overwhelming direction of travel for the county and borough’s care provision. Having explored the nature of C2 use, the Inspector assessed the main issues of the appeal and ultimately allowed it.

### ***Commentary***

This case, whilst not specifically considering disagreement on proposed Use Class between appellant and LPA, provides a useful exploration of the ‘nature’ of extra care accommodation under an agreed Use Class of C2. The Inspector clearly differentiates the use as a particular model of institutional care in which it is expected that minimum care provision would increase for a resident over time. Therefore, the Inspector does not appear concerned that the 2.5 hours minimum care package may constitute ‘assistance’ more than it does personal care, in part because assistance is defined in the S106 Agreement and in part because the other conditions of occupation, such as an age limit and qualifying persons assessment, would in their view be sufficient to conclude C3 use. This case also offers a specific view from an Inspector on the matter of occupancy by a sole spouse/partner who does not require care, once the qualifying person is no longer present. Recognising the sympathetic intention of this policy, the Inspector relies on the rarity of this occurrence as preventing a ‘tipping point’ occurring into C3 use.

#### **4.2.4 Tunbridge Wells (Appeal ref: 3161379), decision issued June 2017**

### ***Overview of case***

The proposed development in this appeal case was ‘Erection of proposed C2 housing with care for the elderly’. The appeal was made against Tunbridge Wells Borough Council against the refusal of consent. Amongst several main issues considered, the appeal considered whether the proposal constitutes Use Class C2 or C3 and the implications on affordable housing provision.

In considering the issue of Use Class, the Inspector reiterated that it is a matter which is determined by the specific circumstances of each case. In relation to this proposal, the Inspector identified several characteristics of the proposed development which they concluded would classify it as Use Class C2.

These were:

- The requirement for an assessment prior to occupation to determine whether the resident would require at least 1.5 hours of care, and the contracting of this care by residents in order to occupy the property.
- The minimum age limit of occupants of 65 years old.
- The provision of on-call staff 24 hours a day, an alarm system in each unit and the provision of communal facilities for residents (albeit a small lounge area only).
- The requirement for service charges to be paid which exceed those which might reasonably be expected in non-institutional accommodation.
- The intention of the appellant to register with the care quality commission.

The Inspector considered that it would be unlikely that many potential residents would not be in need of, or anticipating a need soon, of regular care. The Inspector also considered that the terms of occupancy – i.e. the requirement for an assessed care need and minimum age – would reinforce a culture of care and support within the development. Finally, the Inspector noted that whilst the self-contained aspects of the units would create an ‘illusion’ of independent living, the reality would be a ‘tightly knit community unified by access to a dedicated enterprise of specialist care and security for the elderly’.

Ultimately on the matter of Use Class, the Inspector concluded that the above characteristics and scope to secure them through a planning condition would classify the development as Use Class C2. The appellant and the Council were in agreement that if found to be Use Class C2, no affordable housing was required in accordance with the development plan. The appeal was dismissed, due to heritage impacts.

### ***Commentary***

This appeal case demonstrates how secured occupancy requirements and the overall operation of a development has contributed to an Inspector's decision to classify an extra care development as Use Class C2. In particular, the Inspector has considered aspects of the development such as on-site staffing, payable service charges, communal facilities and regulatory oversight through the care quality commission as demonstrating a residential institution use. The Inspector also considered self-containment, concluding that irrespective of residents living in independent units, the actual operational experience would be one of a single unified enterprise.

#### **4.2.5 Aylesbury Vale (Appeal ref: 3181140), decision issued April 2018**

### ***Overview of case***

The proposed development in this appeal case was 'demolition of existing buildings and erection of 72 extra care units, ancillary community facilities including ancillary guest room, parking, landscaping and associated works'. The appeal was made against Aylesbury Vale District Council against the refusal of consent.

This appeal case specifically considers the matter of Use Class. Whilst the Council accepted the development to fall within Use Class C2, the appellant and the Council were not in agreement over the application of a housing policy in refusing consent and whether that policy referred equally to Use Class C2 and Use Class C3 development. In assessing this key issue, the Inspector considered the nature of the development and its operation, with points of relevance to other such extra care housing schemes.

The Council's position was that the extra care accommodation would provide independent living units due to having their own front door and being self-contained, therefore contributing households to the Housing Land Supply. Whilst the Inspector recognised that an 'impression' of independent living would be made through the self-containment of the units, the Inspector considered that the reality would be 'a community unified by access to a dedicated enterprise of specialist care for its elderly residents provided within a dedicated complex'. Therefore, the Inspector concluded that the extra care units would be 'habitably self-contained' but would not represent independent living, placing the use 'firmly' within Use Class C2.

The Inspector also gave weight to the completion of a Unilateral Undertaking to secure the occupation age limit of 55 years old and a requirement of care, which it was considered would ensure Use Class C2 occupation in perpetuity. In concluding that the development would be in C2 use, the Inspector determined that it would not contribute to Housing Land Supply and would not fall within the application of the Council's affordable housing policy. On the latter, the Inspector specifically considered that as the definition of Use Class C2 specifies it is 'other than a use within Class C3 (dwellinghouses)', a clear distinction is drawn between the residential institution use and that of general housing/residential development as cited in the Council's policy. Ultimately, the appeal was allowed.

### ***Commentary***

This appeal case illustrates how an Inspector has considered self-containment in drawing a clear distinction between Use Classes C2 and C3. Similar to the position provided in the Tunbridge Wells appeal above, the Inspector distinguishes between the physical fact of self-containment within individual units and the expected operational experience of a single communal living environment. Securing occupancy limitations through Unilateral Undertaking was also considered by the Inspector as ensuring a perpetual C2 use.

#### **4.3 Summary – key messages**

The appeal cases considered in this section demonstrate that there is not a consistent approach adopted by decision-makers in determining the appropriate Use Class for applications for extra care housing. Whilst nationally, the direction given through the PPG is that the LPA could have regard to 'the level of care and scale of communal facilities provided', the appeals highlight differences in how LPAs and Inspectors have assessed these aspects of proposals and the ultimate conclusions that have been drawn. Indeed, in some instances the Inspectors have themselves noted within their appeal decision that the Use Class of any one development will depend on the specific circumstances of that case. As such, it can be concluded that there is not a standard approach that BCC can apply to the Former St Christopher's case and a thorough and reasoned consideration of the specific circumstances of the proposed development is required.

In reviewing the approach taken in the appeals above, the following factors have commonly been considered by Inspectors, albeit the conclusions of their assessment may not be consistent:

- The nature of care being provided as a minimum, including: the proposed range of activities available; the extent to which it is 'personal care'; the method of care provision (in home / through communal facilities); regulatory oversight; and, the likelihood of increasing requirements for care over time.
- The self-containment of individual units both physically and as a 'lived' operational experience for residents.
- The extent to which occupancy is limited and how this is secured, including the age limit of occupants and subsequent likelihood of care needs.
- The provision of communal facilities and services and how it is expected that occupants will use or rely on such facilities, including the extent to which it is self-evident that such facilities would be used by someone choosing to live in extra care housing The overall intention of the extra care model as a form of housing for older persons.
- The extent to which there may be residents on site without a need for care (i.e. spouse of qualifying person).

# 5. Assessment of Use Class

## 5.1 Methodology

It has been established through the preceding sections of this report that determining the appropriate Use Class for a development such as that proposed at the Former St. Christopher’s School is complex. It is therefore considered important that such an assessment is based on a structured and reasoned methodology which seeks to assess a range of factors relevant to the proposals and which provide a holistic understanding of the development; both in its physical form and its operational function. In line with the PPG, this assessment will consider the level of care and scale of communal facilities provided in the proposed development. It will also explore the overall nature of the residential use. This assessment will draw on the legal opinions obtained by both the applicant and BCC, as well as the common factors for consideration identified through review of relevant planning appeals in Section 4.

This assessment will consider the proposed development in relation to three key questions:

1. What is the extent of care being provided?
2. What is the nature of non-residential uses within the development?
3. What is the nature of the residential use and occupation?

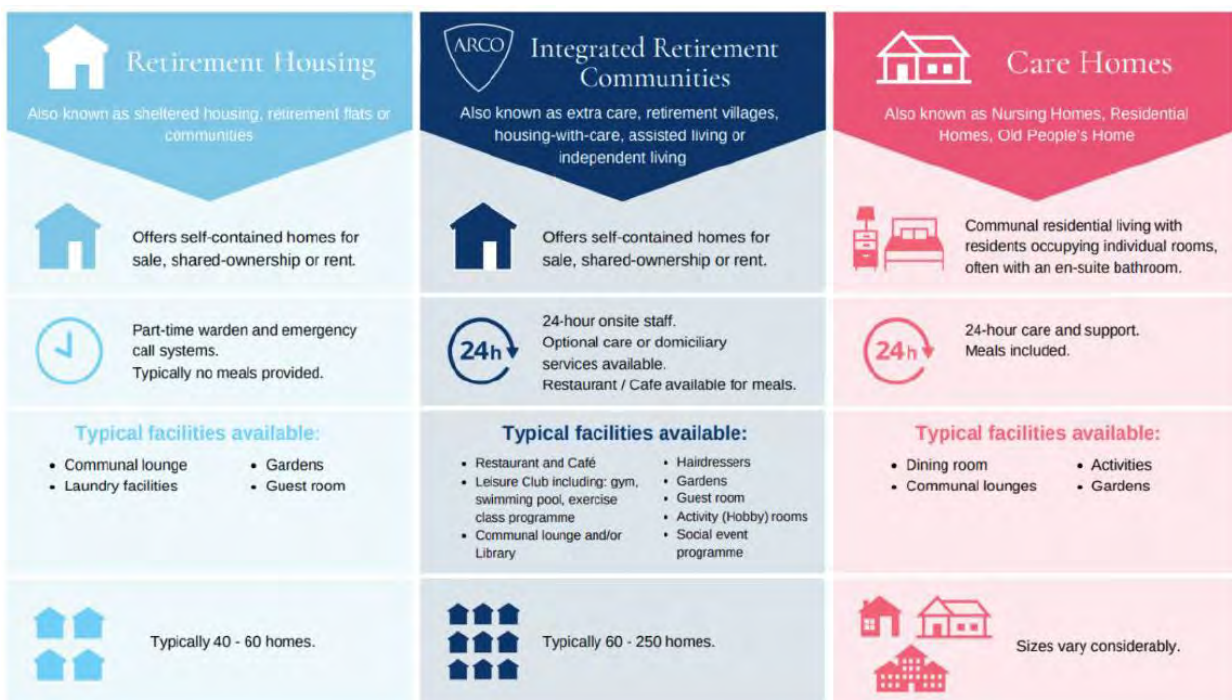
## 5.2 What is the extent of care being provided?

### 5.2.1 Analysis of planning application

#### Model of care provision

The Planning Statement and the draft Heads of Terms (HoT) submitted with the planning application detail the proposed model of care provision within the proposed development. The Planning Statement sets out in paragraphs 4.3 to 4.5 the general model of an Integrated Retirement Community (IRC) as proposed through the application, differentiating this to retirement housing and care homes. It identifies the IRC model (also known as extra care, housing-with-care, retirement villages or independent living) as providing more services and care than retirement housing, and less than a care home as depicted in Figure 2 below:

Figure 2 Extract image from Planning Statement



The Planning Statement refers to care within the IRC model as being optional, with the offer of personal care and other domestic services to be provided if and when needed. It seeks to offer a home for life to ‘age in place’.

The draft HoT sets out the specific model of care to be implemented within the proposed development. It refers to the model as ‘*an in-home privately funded care model which has the on-site oversight and engagement of a fully qualified Care Team and Support Personnel. There will be a 24-hour presence on site with trained care and support staff, monitored care buzzers and security cameras covering communal areas.*’

The draft HoT, which is offered to form part of a S106 Agreement, specifically states that its purpose is to ensure that the land use can be classified as Use Class C2 and remain so in perpetuity. It therefore seeks to secure occupation restrictions including an age limit, needs based occupancy and receipt of a minimum care package.

### ***Occupation restrictions***

The draft HoT state that the proposed development would be age restricted, with a minimum age of 65 for lead residents. The applicant states that it is anticipated that the average age of residents at entry would be late 70’s and on a ‘needs basis’. The occupation of the development would also be dependent on all residents receiving a minimum care package of ‘at least 2 hours support per week in the form of care services’. The need for this care package would be determined through a Qualifying Persons Assessment which would be undertaken for prospective residents by a suitably qualified person. This would confirm that the prospective resident is a Qualifying Person and confirm the care and assistance required to meet the minimum care package. The draft HoT also states that reassessment would take place ‘periodically’ post-occupation to ensure the care and assistance remains as required to meet their needs.

The draft HoT allows for a cohabitee, spouse or dependent of a Qualifying Person to remain living in the development following the death of the Qualifying Person, irrespective of their age. As such, the draft HoT is clear that the age limit of 65 does not exclusively mean that all residents would be 65 or above; there may be residents who are younger and occupy the property by virtue of their relationship with a Qualifying Person.

### ***Nature of care under the minimum care package***

The draft HoT sets out the types of personal care and support activities that may comprise the minimum care package of 2 hours a week. This includes some activities that would involve close personal contact, including:

- Assistance with bodily functions such as feeding, bathing and toileting
- Assistance with eating
- Assistance with grooming and personal hygiene
- Healthcare services such as blood pressure checks
- Help with incontinence care

However, a larger proportion of the care and assistance activities listed in the draft HoT are of a broader support and advisory model, including:

- Helping a person to manage their personal circumstances;
- Provision of medication reminders;
- Assistance with morning/wake up and evening bedtime preparation
- Time spent with the Care Team and Support Personnel to:
  - ensure the provision of housekeeping, property, maintenance and management of personal affairs
  - manage and arrange the delivery of prescriptions and food
  - organise and discuss the provision of care services
  - plan and agree domestic assistance to be undertaken by the Care Team and Support Personnel which includes the delivery of services such as cleaning, laundry, and assistance with personal affairs

Furthermore, the HoT also sets out separately that delivery of the minimum care package may include the provision or use of services within the development, such as:

- The provision of 24 hours a day/7 days a week emergency response system provided by a CQC registered provider;
- A Qualifying Persons Assessment at planned intervals;
- Access to the Care Team and Support Personnel who deliver the Minimum Care Package and to provide advice, encouragement and supervision of care activities;
- On-site services such as security and manned reception services; property and garden maintenance; transportation co-ordination/escort services; on-site activities and events team; on-site bistro; wellness facilities; support personnel.

The draft HoT therefore sets out that the type of ‘care’ provided under the minimum care package may vary significantly dependent on the needs of the occupier, ranging from the use of on-site communal services/staff to close contact care.

The pre-application enquiry made the Applicant also refers in paragraph 3.6 to the ability of residents to use their existing care provider. This has been clarified with the applicant, who has stated that whilst the minimum care package would be offered by the development operator, to allow for personal choice, the Qualifying Person could instead obtain some of the care and support activities from a third party care provider.

### 5.2.2 Assessment

It is clear in reviewing the application for the proposed development that an occupation restriction would be secured via S106 Agreement in which both a minimum age limit and an assessed need for care must be met. Based on the approach taken by some Inspectors, this operational aspect of the proposed development would fundamentally support a definition of Use Class C2 and would secure it as such in perpetuity. The Rectory Homes judgement also provides weight to the S106 Agreement mechanism as ensuring that all dwellings are occupied by someone who has been assessed as needing care and is therefore a C2 use. In the legal opinion obtained by the applicant, the provision of a minimum care package based on an assessed need is sufficient to meet the definition of care within Use Classes Order and support a Use Class C2 categorisation.

The draft HoT should however also be examined in relation to the specific nature of the care to be provided under the minimum care package, taking into account the approach of the Inspector in the Westminster appeal and the legal opinion obtained by BCC. As stated in Section 3.1, the Use Classes Order defines ‘care’ under Use Class C2 as: “*personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder, and in class C2 also includes the personal care of children and medical care and treatment*”. The range of services cited in the HoT as meeting the minimum care package requirement indicates that at point of entry, a prospective resident could qualify for occupation based on a minimum package with no or few activities that may traditionally be thought of as ‘personal care’. Whilst personal care is not defined, the majority of activities and services listed in the draft HoT do not involve close or physical contact as may be expected by personal care and appears to include passive access to services as a form of delivery of the package, many of which would be located outside of the home. For example, the draft HoT states that the minimum care package may be delivered through the provision or use of a 24/7 emergency response system, or access to on-site services. On this basis, the minimum 2 hours is met simply by the presence of such facilities on site, whether used or not. Some of these services may also not constitute a need ‘by reason of old age’ as they are services which are similar to those offered in general residential housing with concierge and communal facilities, such as a manned reception/security service, property maintenance and on-site wellness facilities.

On the basis that residents must be at least 65, it is perhaps reasonable to expect that even if a qualifying resident has at point of entry, a minimum care package with no or very limited element of personal care, their needs will increase over time and their package will expand to include close contact or personal care services. Indeed, whilst the PPG states in its definition of extra care housing that it provides a ‘medium to high’ level of care, it also recognises that ‘the intention is for residents to benefit from varying levels of care as time progresses’. It is in this context that the overall model of extra care housing has been considered by some Inspectors and which may be important to consider in this case. As stated in the Planning Statement, the intention of the IRC model is to enable residents to ‘age in place’. It is also the experience of the applicant that most residents will be in their late 70s at time of entry, placing a greater likelihood on the need for a more comprehensive package of care. Therefore, whilst the draft HoT sets out a possibility for a minimum care package to be quite light touch, or passive, in terms of provision, the reality of this occurrence



may be considered unlikely, particularly in the long-term as ‘younger’ qualifying residents age. To require, at point of entry, that a resident has a significant care need, may undermine the point and purpose of the IRC model, which bridges the gap between relatively unsupported retirement housing and the high-dependency model of care and nursing homes.

Finally, consideration may be given to the proportion of residents who would not be in receipt of care from the operator. The applicant has confirmed that residents may choose to receive their care package from an external care provider, which may be seen to undermine the ‘institutional’ aspect of a C2 Use, given that a resident in general C3 Use housing may also contract care. Given that a non-qualifying dependent or spouse can live on the site with a qualifying person, there is the potential that up to half of residents would not have a care need (if for example, all units were a two-person household with only one qualifying person). If a number of cohobitees stayed on site following their death of their qualifying person, this could theoretically tip into a scenario in which a majority of those on site do not fulfil the occupation restrictions, or do not contract care from the institution itself (although they may use other on-site facilities). At such a point, it may be questionable as to what extent the development can be categorised as Use Class C2. However, it is considered that determining a Use Class based on such scenario-testing may not be reasonable or realistic, particularly without evidence to suggest this has occurred in similar developments.

### 5.2.3 Conclusion

It is considered that this issue – the level and nature of care to be provided – is finely balanced in determining the appropriate Use Class for the proposed development. On the basis of some decisions reviewed in this report, the simple existence of a S106 Agreement to secure occupation restrictions and a minimum care package would be sufficient to strongly support a C2 Use Class. However, there are elements of the minimum care package that are ambiguous in terms of meeting the ‘personal care’ referred to in the Use Classes Order, comprising of services which may be found in other forms of managed accommodation generally determined as Use Class C3, whilst there could be a substantial proportion of residents occupying the site who do need care and who do not meet minimum occupancy requirements. It is a possible, though unlikely, scenario that this could constitute a majority of residents in some circumstances, which would clearly undermine a C2 classification.

On balance, it is considered that it is important to keep in mind the intention of this model of older persons’ care provision and the recognition in the PPG that extra care housing will involve varying levels of care over time. The flexibility of the minimum care package at point of entry, and the ability for this to be added to in the future to respond to increasing needs of an occupant, is critical to the model of extra care housing. It is considered reasonable to expect that even if the assessed care need at point of entry is minimal, this would increase over time in line with the concept of the IRC model that residents can ‘age in place’. It is also important to recognise that the level of care can increase over time to include services that would clearly constitute personal care such as feeding, bathing and toileting, as referred to in the Use Classes Order. It is therefore concluded that the nature of care provision and its status as a condition of occupation, would fall in favour of determining the proposed development as Use Class C2 more than it would Use Class C3.

## 5.3 What is the nature of non-residential uses within the development?

### 5.3.1 Analysis of planning application

In addition to residential accommodation, the proposed development would include a range of facilities for use by both residents and in some instances, the general public. The primary location of these communal facilities would be in Grade II Listed Grace House, in which a ‘community hub’ would provide ‘wellbeing’ facilities such as a hydro pool, exercise studio/gym, nutritionist and treatment room and ‘belonging’ facilities to including; café / bistro, cinema/activities room, art room and workshop. Additionally, an urban village hall would be located in North House and a mix of communal, private and semi-private gardens would be located throughout the site. To the north of the site would be ancillary/plant buildings.

The applicant has provided the Gross Internal Area (GIA) Schedule of all buildings in the proposed development<sup>2</sup>. The GIA of the communal/ancillary buildings would be:

- Grace House ‘community hub’: 940.9 m<sup>2</sup>
- North House ‘urban village hall’: 136.5 m<sup>2</sup>
- Plant: 291.5 m<sup>2</sup>

In total this comprises of 1,368.9 m<sup>2</sup> of non-residential internal uses within the development. The total GIA of all buildings – residential and non-residential – on the site would be 16, 255.8 m<sup>2</sup>. As such, communal or ancillary uses represents ca. 8.5% of the total GIA of the proposed development.

### 5.3.2 Assessment

The PPG provides guidance on defining forms of specialist housing for older people, which states that extra care housing is often characterised by ‘extensive communal areas, such as space to socialise or a wellbeing centre’. The legal opinion obtained by BCC advises that in determining Use Class for extra care housing, the extent to which normal living activities would occur outside the self-contained home should be understood, including the size of the communal facilities comparative to private living space. The legal opinion obtained by the applicant takes a slightly different view, which seeks to assess the extent to which the communal or centralised care and service facilities would be integrated into the development to represent a single institutional setting. The Inspector for the Westminster appeal discussed in Section 4 of this Report provided comment on the level of ‘compunction’ of residents to use such facilities and the level of care they provide, questioning the extent to which such spaces would support the case for Use Class C2 in comparison to types of Use Class C3 housing which have communal facilities (e.g. apartment complexes).

From the information provided by the applicant, clearly the communal facilities of the development constitute a relatively low proportion of total GIA, at 8.5%. As such, it is clear that in terms of floorspace, the primary use of the site would be as residential accommodation.

In relation to the types of communal uses proposed within Grace House and North House, it cannot be said that they would be providing a significant element of care. The facilities are largely centred around social and wellbeing uses which do not specifically cater for older persons in need of care. Indeed, it is proposed that some of these facilities would be open to the general public, such as the deli/café, bar and communal gardens, with the option for local groups to use facilities such as the hydro pool. Whilst it is recognised that some of the facilities may be used as part of delivering the care package (such as the hydro pool, exercise areas, activities/arts rooms), it is considered that the main function of the communal areas in the proposed development would not be for care.

Understanding the nature of the communal facilities is not just related to the type of use but also how they are used by residents and the extent to which their use would represent a single institutional setting. The main communal building, Grace House, would be located in the centre of the development as set out in the Masterplan, intended to create a ‘village square’ feel to the area around it. North House in contrast is located in the south-east corner of the site and would be less readily accessible to the residents living on the west of the site. The range of facilities and services proposed in Grace House suggest that it would be a facility that many residents would seek to use, reinforced by its central location within the development. By locating the reception, site management and care/support staff within the same building, it is considered likely that Grace House would operate as the main ‘hub’ of the development. In doing so, it might be argued to create a sense of a singular institutional setting and a focal point aligned with the ‘village square’ concept in the Masterplan. North House in providing a village hall would also potentially reinforce a sense of community amongst residents in terms of operation, if not physical location.

Despite the above, it is also considered that it is entirely possible that a resident of the site could live almost or entirely independently of the communal facilities, with little compelling need to use its facilities. As such, it could not be argued that significant amounts of care or of living would occur communally within the proposed development by default; rather, this would be based on the individual preference and needs of

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<sup>2</sup> Please see Gross Internal Area (GIA) Schedule enclosed with this Report.

residents. Given the fees payable to live in a complex with additional facilities, it may however be doubtful that a resident choosing to live in an extra care facility would subsequently choose not to use any of them.

### 5.3.3 Conclusion

It is concluded that the communal facilities provided in the development would not constitute delivery of a significant level of care and that residents would not be reliant on the communal areas for their day-to-day living. On a pure floorspace basis, the communal uses would not represent a significant proportion of the site. In that sense, the communal facilities could be argued to be functionally separate from the residential accommodation on the site and represent little difference to that provided in some forms of residential complex under Use Class C3. However, taking into account the location of Grace House central to the site and the range of facilities it would provide – including the offices of management and care staff at the development – it is considered likely that it would be viewed by residents as a ‘community hub’ of the site and would support a case that operationally, the site would be a single institutional setting. This is reflected in the Rectory Homes judgement, in which a broad definition of institution is applied as including an ‘organisation’ which manages a whole development to ensure the needs of residential occupants for care are delivered. Whilst it is recognised that some residents may choose not to use communal facilities, as noted in the section 5.2, in some instances their use may form part of the minimum care package for qualifying residents.

The matter of non-residential uses is therefore also very finely balanced in determining the appropriate Use Class for the proposed development. Taken at face value, the type and amount of non-residential space does not strongly differentiate the development from Use Class C3 housing schemes with communal facilities such as gyms, pools, gardens and management/security. However, it is considered that the range of facilities proposed and their location within a central hub of the development, would in operation act to create a sense of a community and a single functional unit for its residents, supporting the institutional element of a Use Class C2 categorisation.

## 5.4 What is the nature of the residential use and occupation?

### 5.4.1 Analysis of planning application

In total, the proposed development would provide 122 residential units, comprising of 11 no. 1-bedroom units and 111 no. 2-bedroom units. In total, 97 of the units would be new build dwellings whilst 25 would be delivered through the conversion of the existing lodges on the site.

All of the units would be entirely self-contained to include living, kitchen and bathroom facilities. The applicant has provided information to confirm that 20% of the units would be built to M4(3) Building Regulations which are wheelchair user dwellings, whilst all of the units would be designed to Lifetime Homes Standards.

In terms of floorspace, the GIA of all of the properties would range from a minimum of 66.5sqm to a maximum of 111.3sqm (Block H Cottages and Lodge Block 05-CL respectively, as noted in Appendix A). A total of 78 or 63% of the properties would have private amenity space via a balcony or terrace. It is understood that the units would be purchased on a leasehold basis.

### 5.4.2 Assessment

It is clear through the Use Classes Order that both Use Class C2 and Use Class C3 constitute a form of residential accommodation. It is also established through the Rectory Homes judgement that residential units under both Use Classes can constitute individual dwellings. As such, the key factor in assessing whether the proposed development is a C2 or C3 use is consideration of the nature of the residential living; the extent to which each unit would represent an individual household that functions independently of the wider development. There are two aspects to this, the physical features of the residential units and the way in which, operationally, the living environment is integrated into the wider development.

#### *Physical factors*

Physically, each residential unit would be entirely self-contained. Reference to the ‘front door test’ is made in several of the appeal decisions and the legal opinion reviewed in this report, in which the presence of a

front door and fully self-contained residential unit within an extra care housing scheme may be considered to be an indicator of Use Class C3. A majority of the residential units would have private amenity space, reducing reliance on the wider site for access to outdoor space. There is nothing to firmly evidence that residents would be physically reliant on other parts of the development outside of their home in order to go about their day-to-day living. On this basis, the units would appear no different to a general housing unit under Use Class C3. However, there are some factors which may be viewed to differentiate the residential use. Every unit would have an alarm system installed in order to notify on-site staff of an immediate/emergency need, whilst the design of every unit to a Lifetime Homes standards illustrates that the properties would be equipped to be adapted to the needs of care over time, at which point the resident may live less independently.

### ***Operational factors***

It is noted in both obtained legal opinions that self-containment in itself is not determinative of a C3 use because there must be a broader consideration of how residents are situated within a wider institutional setting. In the case of Aylesbury Vale and Tunbridge Wells appeals, the Inspectors referred to the self-containment of residential units as creating an ‘impression’ or ‘illusion’ of independent living whereas in reality, residents would be in a communal living environment dedicated to specialist care of older persons.

Due to the occupancy restrictions secured via S106 agreement, every unit in the proposed development would be occupied by a Qualifying Person in receipt of some level of care (except in circumstances of sole occupancy by a cohabitee/spouse after their death). All residents would have access to the communal facilities on the site. In both instances, it is recognised – as highlighted in the preceding sections - that it is not guaranteed that residents will use the care provision or the facilities provided by the site operator. In such instances, the living experience of the resident may be operationally independent from the wider site and could be reasonably considered Use Class C3b (a dwelling in which care is provided for residents).

### **5.4.3 Conclusion**

Every residential unit within the proposed development would be a self-contained dwelling and over half of units would have their own private amenity space. There is little doubt that it is physically possible for a resident to lead an almost entirely independent life from the wider site and this does therefore strongly indicate Use Class C3. However, the likelihood of a resident living so independently must be considered in the context of the overall model of extra care housing, including the occupation restrictions and an assessed care need.

Physical features of the units are clearly designed to enable and support independent living of older persons and facilitate increasing needs over time. All units would be built to a Lifetime Homes standard to enable adaptation over time, whilst 20% of units would be wheelchair accessible. An emergency call system in all homes would provide a constant link between residents and site management. As the care package of a resident may increase over time, it is likely that they would live less independently despite being in a self-contained unit – just as is often experienced through external care provided at home under Use Class C3(b). It is therefore difficult to distinguish between a C3 and C2 Use in this respect, particularly given that some residents of the proposed development may choose to receive their care from an external provider and not the on-site operator. The Rectory Homes judgement concludes that it is the assessed need of care which is the key differentiator between the Use Classes, in which case the occupation restrictions through the S106 Agreement are determinative rather than the self-containment of units.

## **5.5 Conclusion**

This section has sought to carry out a detailed and thorough assessment of the proposed development in order to determine its Use Class. It has given specific consideration to the nature and extent of care provision, non-residential uses and residential uses within the development, in order to gain a holistic understanding of how it would operate and function, as well as how residents would perceive and experience it.

The argument for categorising the proposed development as either Use Class C3 or Use Class C2 is considered very finely balanced. There are reasonable arguments for each position which can be supported within the context of national policy, legal opinion and recent appeal decisions. However, it is concluded on balance that the most appropriate Use Class for the proposed development would be Use Class C2

Residential Institutions. This conclusion is reached on the basis of two fundamental aspects of the proposed development which it is considered represent the strongest argument of differentiation from a C3 Use.

First, it is considered that the occupation restrictions secured through the S106 Agreement are strongly indicative of a residential institution as described in the Use Classes Order, in which personal care is provided to meet a need by reason of old age or disablement. It is recognised that the type of care provided as part of a minimum care package could be variable based on what the applicant describes in the draft HoT, such that at the lesser end of the scale the services or facilities provided may not constitute personal care at all. This therefore brings into doubt the ‘care’ aspect of a Use Class C2 classification. However, it is concluded that the intent and purpose of an extra care housing model must be given due consideration within this assessment, in which a minimal level of care at point of entry is expected to increase over time. This integral aspect of the extra care model is reflected in the PPG and is key to accommodating older persons long-term and bridging a gap between sheltered housing and nursing homes.

The second key factor in favour of a C2 classification is the extent to which it would operate as a single unit to create a communal and institutional setting for residents. It is recognised that physically, there are aspects of the proposed development which are no different from some forms of Use Class C3 development, in which there are communal facilities and residential management or security. To some extent, these may often even be more exclusive and with less public access than proposed in this development. It is also recognised that the individual dwellings would be self-contained and that there is potential for a resident to live entirely independently of the wider site. However, a realistic appraisal of how prospective residents would perceive and use the site has concluded that it would feel and operate as a singular operation seeking to provide facilities and services for older persons, to a varying extent constituting ‘care’. The provision of a wide range of social, health and wellbeing facilities – as well as site management and security – within the central Grace House ‘community hub’ is considered indicative of an institutional setting that is likely to be used regularly by residents and may be the site of delivery of some of their minimum care package (such as the wellbeing and belonging facilities). Whilst it is recognised that some residents – particularly those who are younger or have a lesser care need – may not use communal facilities or even contract care from the operator, it can be reasonably expected that this may change over time, with the on-site provision of services and facilities more important as a resident ages and their care needs increase. It is again considered that the intention of the extra care model should be taken into account, which does seek to enable older persons to retain independence for as long as they can, whilst also providing some elements of care and institutional support.

In summary, it is considered that BCC should determine the proposed development under Use Class C2. Whilst it is recognised that there are aspects of the development which could reasonably be argued to constitute a C3 classification, overall it is considered to be a finely balanced judgement which reflects the complexity of this issue at a national level and the inconsistency of decision-makers to date.

## 6. Summary

Arup has been commissioned by BCC to undertake an assessment relating to the Use Class of the proposed development of a retirement community at the Former St. Christopher's School on Westbury Park in Bristol, under planning application reference 22/01221/F. BCC wishes to form a view as to whether the application should be determined as falling within Use Class C2 Residential Institutions or Use Class C3 Dwellinghouses of the Use Classes Order, such that the appropriate CIL charge and policies of the Development Plan can be applied.

This report has reviewed national and local planning policy; case law and legal opinion; and relevant appeal decisions in order to provide context and inform the methodology of the assessment. A thorough assessment of the application has been undertaken, in which key determining factors of Use Class have been reviewed, namely the nature and extent of its proposed care provision, non-residential uses and residential use.

This report has concluded that, on balance, the proposed development is best categorised as Use Class C2 Residential Institutions. It is therefore recommended that BCC determines the application on that basis. It should however be recognised that this assessment has found the case for either Use Class to be finely balanced, reflecting the complexity of this issue as experienced by other LPAs and decision-makers. It should also be recognised that, as reflected in national guidance of the PPG, it is the responsibility of an LPA to determine the Use Class of specialist older persons housing and the outcome of any such case may vary depending on the specific circumstances. The conclusions of this assessment for this particular development should therefore not be assumed as informing the determination of other proposals for specialist older persons housing in Bristol.

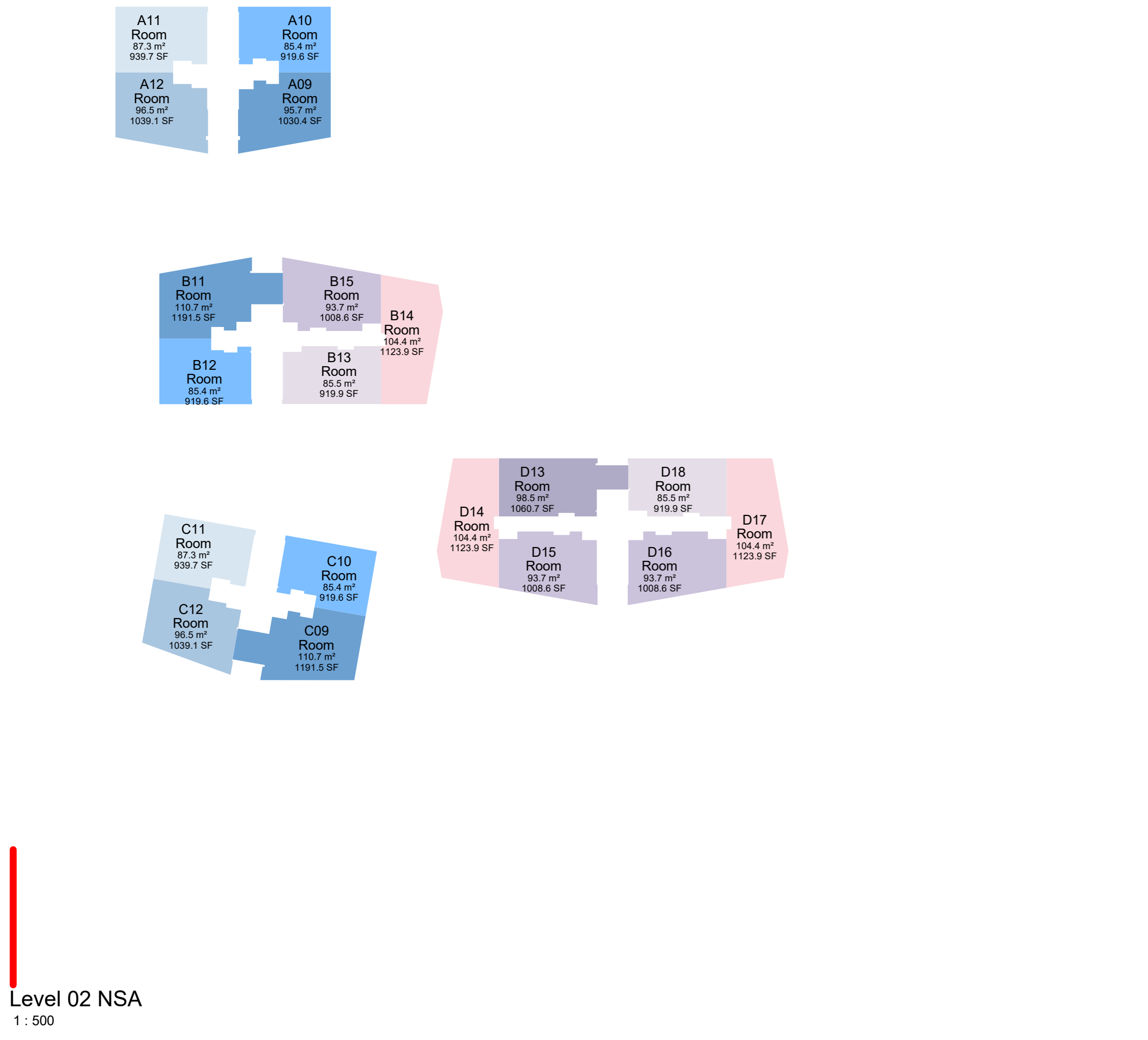
Having concluded that the proposed development would fall within Use Class C2, CIL is not liable. Ordinarily there would be no need to impose any specific planning controls since any change of use would be limited to another use falling within Use Class C2 or the limited permitted development rights granted. However, given the ambiguity around the Use Class it is considered to be reasonable for BCC to use planning controls to ensure that the proposed development operates as a use falling within Use Class C2 and the stated intention of the proposed development providing an integrated retirement community.

As discussions regarding the S106 obligation should progress, the provisions relevant to the definition of the use and its classification as a use falling within Use Class C2 would be:

- Restriction on the use of the property as extra care housing for older people providing accommodation, services and facilities;
- Age restriction on occupancy – minimum age of 65 years for lead residents;
- Needs Based Occupancy - Requirement for a health assessment (a ‘Qualifying Persons Assessment’) prior to occupation to determine level and type of personal care and periodic reviews post-occupation by a CQC-registered provider;
- Minimum Care Package comprising a minimum of 2 hours a week of care services, with any personal care delivered under the provision of a formally assessed care plan approved by the Clinical Manager
- Provision of a range of communal facilities to be made available to residents throughout their occupation of the development;
- On-site Transport Service: provision of a car club, valet parking services to aid on-site parking and a shuttle service, including a service suitable for disabled residents.

These controls, viewed in light of the analysis and the assessment of the proposed development, would ensure that use of the extra care units and associated facilities would comprise a use falling within Use Class C2.

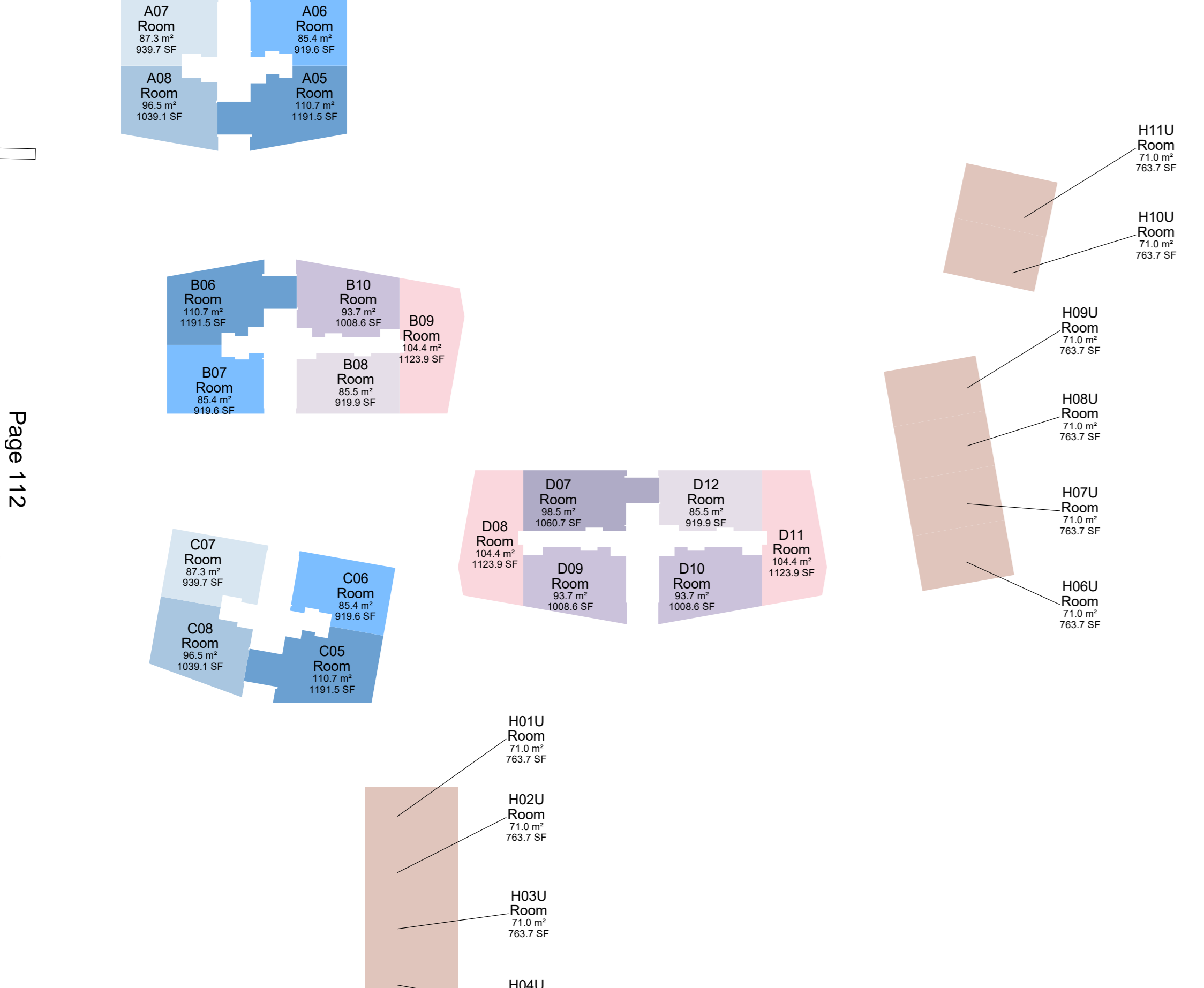
**Appendix A – Communal and Residential Area Schedules Provided by Applicant**



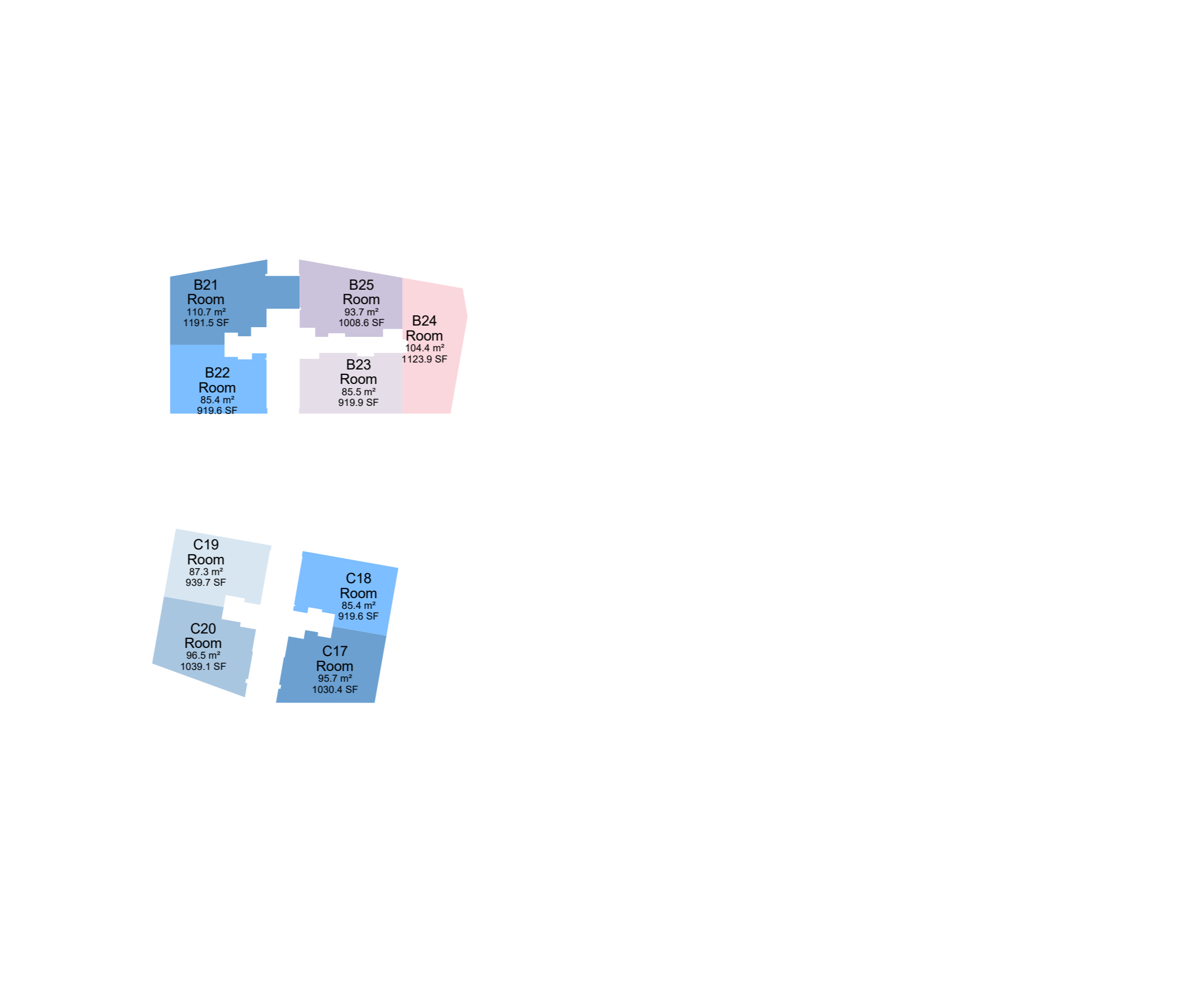
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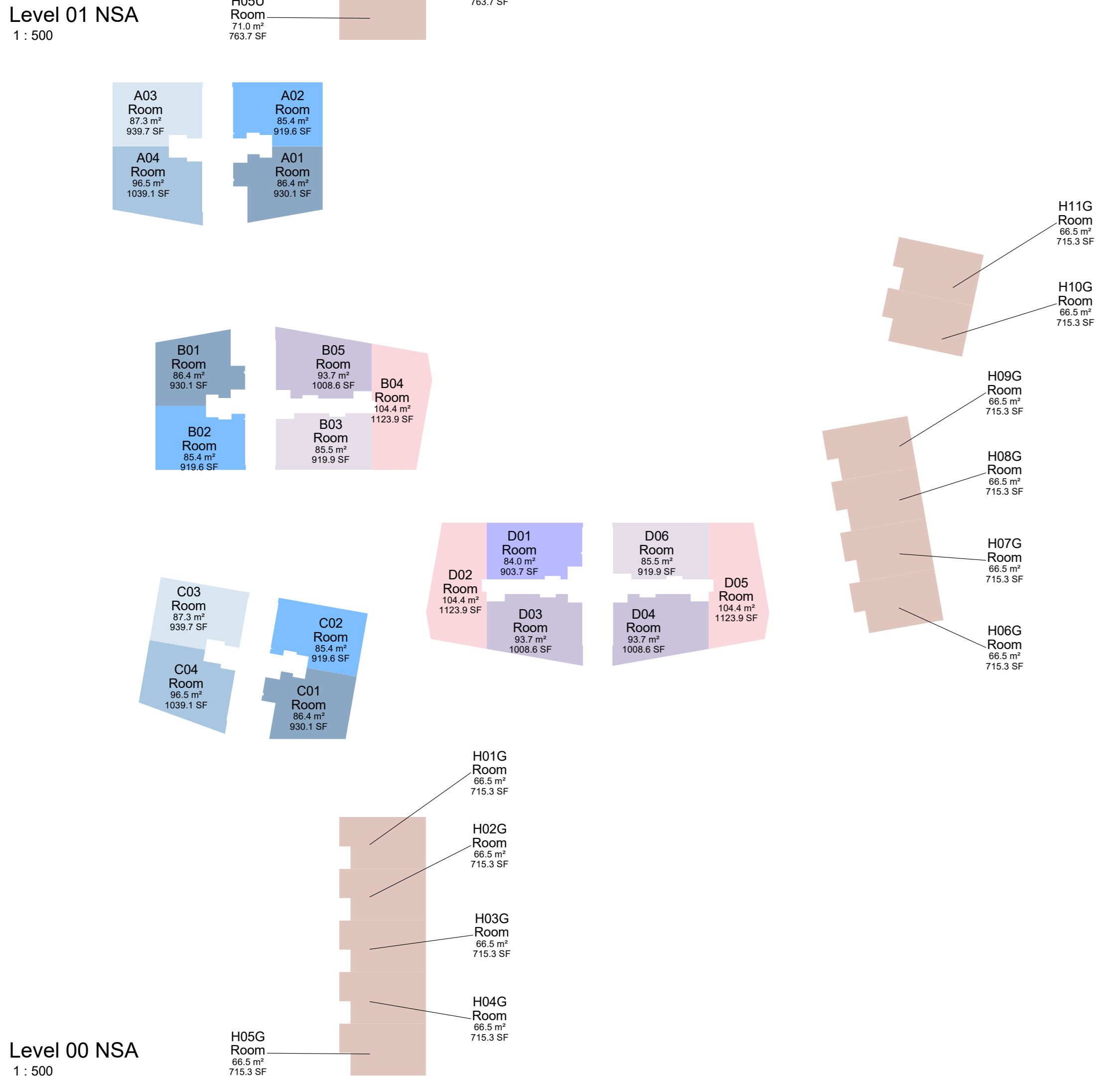
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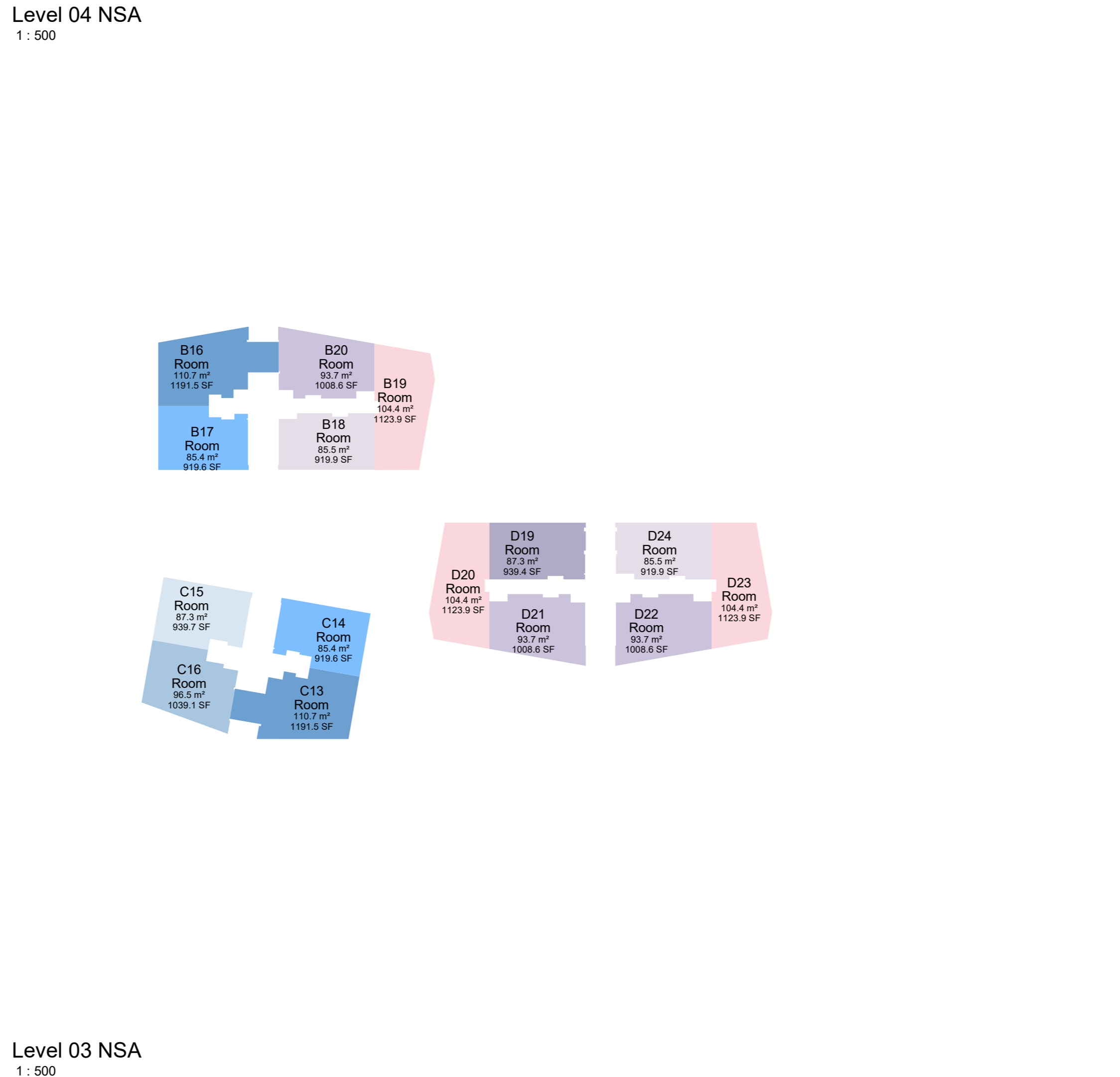
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NSA Apartments													
Rm. No.	Type	Type Group	Level	Area m²	Area ft²	No.	Block	Aspect	Amenity	Orientation			
A01	T04(G)	T03	Level 0	86.4	930.1	1	A	Dual Aspect	Terrace				
A02	T17	T17	Level 0	85.4	919.6	1	A	Dual Aspect	Terrace				
A03	T01	T01	Level 0	87.3	939.7	1	A	Dual Aspect	Terrace				
A04	T02	T02	Level 0	96.5	1039.1	1	A	Dual Aspect	Terrace				
A05	T03	T03	Level 1	110.7	1191.5	1	A	Dual Aspect	Balcony	SE/NE			
A06	T17	T17	Level 1	85.4	919.6	1	A	Dual Aspect	Balcony	NW/NE			
A07	T01	T01	Level 1	87.3	939.7	1	A	Dual Aspect	Balcony	NW/SW			
A08	T02	T02	Level 1	96.5	1039.1	1	A	Dual Aspect	Balcony	SW/SE			
A09	T07(R)	T03	Level 2	95.7	1030.4	1	A	Dual Aspect	Terrace				
A10	T18(R)	T17	Level 2	85.4	919.6	1	A	Dual Aspect	Juliette				
A11	T05(R)	T01	Level 2	87.3	939.7	1	A	Dual Aspect	Juliette				
A12	T06(R)	T01	Level 2	96.5	1039.1	1	A	Dual Aspect	Juliette				
				1100.7	11847.3	12							
B01	T04(G)	T03	Level 0	86.4	930.1	1	B	Dual Aspect	Terrace				
B02	T17	T17	Level 0	85.4	919.6	1	B	Dual Aspect	Terrace				
B03	T08	T08	Level 0	85.5	919.9	1	B	Single Aspect	Terrace				
B04	T15	T15	Level 0	104.4	1123.9	1	B	Triple Aspect	Terrace				
B05	T09	T08	Level 0	93.7	1008.6	1	B	Dual Aspect	Terrace				
B06	T03	T03	Level 1	110.7	1191.5	1	B	Dual Aspect	Balcony	SW/NW			
B07	T17	T17	Level 1	85.4	919.6	1	B	Dual Aspect	Balcony	SW/SE			
B08	T08	T08	Level 1	85.5	919.9	1	B	Single Aspect	Balcony	SE			
B09	T15	T15	Level 1	104.4	1123.9	1	B	Triple Aspect	Balcony	NW/NE/SE			
B10	T09	T08	Level 1	93.7	1008.6	1	B	Dual Aspect	Balcony	NW			
B11	T03	T03	Level 2	110.7	1191.5	1	B	Dual Aspect	Balcony				
B12	T17	T17	Level 2	85.4	919.6	1	B	Dual Aspect	Balcony				
B13	T08	T08	Level 2	85.5	919.9	1	B	Single Aspect	Balcony				
B14	T15	T15	Level 2	104.4	1123.9	1	B	Triple Aspect	Balcony				
B15	T09	T08	Level 2	93.7	1008.6	1	B	Dual Aspect	Balcony				
B16	T03	T03	Level 3	110.7	1191.5	1	B	Dual Aspect	Balcony				
B17	T17	T17	Level 3	85.4	919.6	1	B	Dual Aspect	Balcony				
B18	T08	T08	Level 3	85.5	919.9	1	B	Single Aspect	Balcony				
B19	T15	T15	Level 3	104.4	1123.9	1	B	Triple Aspect	Balcony				
B20	T09	T08	Level 3	93.7	1008.6	1	B	Dual Aspect	Balcony				
B21	T03	T03	Level 4	110.7	1191.5	1	B	Dual Aspect	Balcony				
B22	T17	T17	Level 4	85.4	919.6	1	B	Dual Aspect	Balcony				
B23	T08	T08	Level 4	85.5	919.9	1	B	Single Aspect	Balcony				
B24	T15	T15	Level 4	104.4	1123.9	1	B	Triple Aspect	Balcony				
B25	T09	T08	Level 4	93.7	1008.6	1	B	Dual Aspect	Balcony				
B26	T07(R)	T03	Level 5	95.7	1030.4	1	B	Dual Aspect	Terrace				
B27	T18(R)	T17	Level 5	85.4	919.6	1	B	Dual Aspect	Juliette				
B28	T12(R)	T08	Level 5	85.5	919.9	1	B	Single Aspect	Juliette				
B29	T16(R)	T15	Level 5	104.4	1123.9	1	B	Triple Aspect	Juliette				
B30	T13(R)	T08	Level 5	93.7	1008.6	1	B	Single Aspect	Juliette				
				2838.9	30558.2	30							
C01	T04(G)	T03	Level 0	86.4	930.1	1	C	Dual Aspect	Terrace				
C02	T17	T17	Level 0	85.4	919.6	1	C	Dual Aspect	Terrace				
C03	T01	T01	Level 0	87.3	939.7	1	C	Dual Aspect	Terrace				
C04	T02	T02	Level 0	96.5	1039.1	1	C	Dual Aspect	Terrace				
C05	T03	T03	Level 1	110.7	1191.5	1	C	Dual Aspect	Balcony	SE/NE			
C06	T17	T17	Level 1	85.4	919.6	1	C	Dual Aspect	Balcony	NW/NE			
C07	T01	T01	Level 1	87.3	939.7	1	C	Dual Aspect	Balcony	NW/SW			
C08	T02	T02	Level 1	96.5	1039.1	1	C	Dual Aspect	Balcony	SW/SE			
C09	T03	T03	Level 1	110.7	1191.5	1	C	Dual Aspect	Balcony				
C10	T17	T17	Level 2	85.4	919.6	1	C	Dual Aspect	Balcony				
C11	T01	T01	Level 2	87.3	939.7	1	C	Dual Aspect	Balcony				
C12	T02	T02	Level 2	96.5	1039.1	1	C	Dual Aspect	Balcony				
C13	T03	T03	Level 3	110.7	1191.5	1	C	Dual Aspect	Balcony				
C14	T17	T17	Level 3	85.4	919.6	1	C	Dual Aspect	Balcony				
C15	T01	T01	Level 3	87.3	939.7	1	C	Dual Aspect	Balcony				
C16	T02	T02	Level 3	96.5	1039.1	1	C	Dual Aspect	Balcony				
C17	T07(R)	T03	Level 4	95.7	1030.4	1	C	Dual Aspect	Terrace				
C18	T18(R)	T17	Level 4	85.4	919.6	1	C	Dual Aspect	Juliette				
C19	T05(R)	T01	Level 4	87.3	939.7	1	C	Dual Aspect	Juliette				
C20	T06(R)	T01	Level 4	96.5	1039.1	1	C	Dual Aspect	Juliette				
				1860.6	20027.2	20							
D01	T11(G)	T10	Level 0	84.0	903.7	1	D	Single Aspect	Terrace				
D02	T15	T15	Level 0	104.4	1123.9	1	D	Triple Aspect	Terrace				
D03	T09	T08	Level 0	93.7	1008.6	1	D	Dual Aspect	Terrace				
D04	T09	T08	Level 0	93.7	1008.6	1	D	Dual Aspect	Terrace				
D05	T15	T15	Level 0	104.4	1123.9	1	D	Triple Aspect	Terrace				
D06	T08	T08	Level 0	85.5	919.9	1	D	Single Aspect	Terrace				
D07	T10	T10	Level 1	98.5	1060.7	1	D	Single Aspect	Balcony	NW			
D08	T15	T15	Level 1	104.4	1123.9	1	D	Triple Aspect	Balcony	NW/SW/SE			
D09	T09	T08	Level 1	93.7	1008.6	1	D	Dual Aspect	Balcony	SE			
D10	T09	T08	Level 1	93.7	1008.6	1	D	Dual Aspect	Balcony	SE			
D11	T15	T15	Level 1	104.4	1123.9	1	D	Triple Aspect	Balcony	NE/NW/SE			
D12	T08	T08	Level 1	85.5	919.9	1	D	Single Aspect	Balcony	NW			
D13	T10	T10	Level 2	98.5	1060.7	1	D	Single Aspect	Balcony				
D14	T15	T15	Level 2	104.4	1123.9	1	D	Triple Aspect	Balcony				
D15	T09	T08	Level 2	93.7	1008.6	1	D	Dual Aspect	Balcony				
D16	T09	T08	Level 2	93.7	1008.6	1	D	Dual Aspect	Balcony				
D17	T15	T15	Level 2	104.4	1123.9	1	D	Triple Aspect	Balcony				
D18	T08	T08	Level 2	85.5	919.9	1	D	Single Aspect	Balcony				
D19	T14(R)	T10	Level 3	87.3	939.7	1	D	Single Aspect	Terrace				
D20	T16(R)	T15	Level 3	104.4	1123.9	1	D	Triple Aspect	Juliette				
D21	T13(R)	T08	Level 3	93.7	1008.6	1	D	Single Aspect	Juliette				
D22	T13(R)	T08	Level 3	93.7	1008.6	1	D	Single Aspect	Juliette				
D23	T16(R)	T15	Level 3	104.4	1123.9	1	D	Triple Aspect	Juliette				
D24	T12(R)	T08	Level 3	85.5	919.9	1	D	Single Aspect	Juliette				
				2295.0	24703.4	24							
H01G	CC-G	Cottage	Level 0	H01	66.5	715.3	1	H	Triple Aspect	Garden	SW/NE		
H01U	CC-U	Cottage	Level 1	H01	71.0	763.7	0	H					
H02G	CC-G	Cottage	Level 0	H02	66.5	715.3	1	H	Dual Aspect	Garden			
H02U	CC-U	Cottage	Level 1	H02	71.0	763.7	0	H					
H03G	CC-G	Cottage	Level 0	H03	66.5	715.3	1	H	Dual Aspect	Garden			
H03U	CC-U	Cottage	Level 1	H03	71.0	763.7	0	H					
H04G	CC-G	Cottage	Level 0	H04	66.5	715.3	1	H	Dual Aspect	Garden			
H04U	CC-U	Cottage	Level 1	H04	71.0	763.7	0	H					
H05G	CC-G	Cottage	Level 0	H05	66.5	715.3	1	H	Triple Aspect	Garden			
H05U	CC-U	Cottage	Level 1	H05	71.0	763.7	0	H					
H06G	CC-G	Cottage	Level 0	H06	66.5	715.3	1	H	Triple Aspect	Garden	SW/NE		
H06U	CC-U	Cottage	Level 1	H06	71.0	763.7	0	H					
H07G	CC-G	Cottage	Level 0	H07	66.5	715.3	1	H	Dual Aspect	Garden			
H07U	CC-U	Cottage	Level 1	H07	71.0	763.7	0	H					
H08G	CC-G	Cottage	Level 0	H08	66.5	715.3	1	H	Dual Aspect	Garden			
H08U	CC-U	Cottage	Level 1	H08	71.0	763.7	0	H					
H09G	CC-G	Cottage	Level 0	H09	66.5	715.3	1	H	Triple Aspect	Garden			
H09U	CC-U	Cottage	Level 1	H09	71.0	763.7	0	H					
H10G	CC-G	Cottage	Level 0	H10	66.5	715.3	1	H	Triple Aspect	Garden	WW/EE		
H10U	CC-U	Cottage	Level 1	H10	71.0	763.7	0	H					
H11G	CC-G	Cottage	Level 0	H11	66.5	715.3	1	H	Triple Aspect	Garden			
H11U	CC-U	Cottage	Level 1	H11	71.0	763.7	0	H					
				1511.5	16289.5	11							
				9606.7	103405.6	97							

NSA by Block & Type						
Block	Room Type	Area m²	Area ft²	Unit	Category	
A	T01	174.6	1879.5	12		
A	T02	193.1	2078.1	12		
A	T03	110.7	1191.5	12	M4(3)	
A	T04(G)	86.4	930.1	12	M4(3)	
A	T05(R)	87.3	939.7	12	M4(3)	
A	T06(R)	96.5	1039.1	12	M4(3)	
A	T07(R)	95.7	1030.4	12	M4(3)	
A	T17	170.9	1830.3	12		
A	T18(R)	85.4	919.6	12		
					1100.7	11847.3
B	T03	442.8	4768.1	4	M4(3)	
B	T04(G)	86.4	930.1	4	M4(3)	
B	T07(R)	95.7	1030.4	4	M4(3)	
B	T08	427.3	4599.4	5	M4(3)	
B	T09	468.5	5042.8	5	M4(3)	
B	T12(R)	85.5	919.9	5	M4(3)	
B	T13(R)	93.7	1008.6	5	M4(3)	
B	T15	522.0	5619.3	5	M4(3)	
B	T16(R)	104.4	1123.9	5	M4(3)	
B	T17	427.2	4598.2	5	M4(3)	
B	T18(R)	85.4	919.6	5	M4(3)	
					2838.9	30558.2
C	T01					





## **Supporting Documents**

### **1. St Christophers School, Westbury Park, BS6 7JE.**

1. Committee Report Rebuttal
2. Existing Site plan
3. Proposed Masterplan
4. Proposed Site Sections
5. Villa B Elevations
6. Villa C Elevations
7. Relationships with Existing Buildings
8. Tree Loss Plan

## Committee Report Rebuttal

This Rebuttal has been prepared in response to the Committee Report ("CR") in respect to planning application 22/01221/F (St Christopher's Square, Westbury Park Bristol BS6 7JE), published on 22<sup>nd</sup> May 2023. The application is to be discussed by Development Control Committee A on 31<sup>st</sup> May.

The applicant must raise and put on record their very strong concerns regarding the CR. These concerns relate to matters of fact, missing information and analysis, misleading comments, and an overall failure to provide a balanced review of the application.

### Public Benefits and Planning Balance

In relation to process, there is a lack of clarity in the CR about how the balancing exercise should be undertaken. We discuss the heritage balance below, but in terms of the planning balance, paragraph 152 of the CR says that the tilted balance is engaged but there is no discussion in the report as to how this should, and has, influenced the officer's conclusion on the balance, or that guides Members through this recommendation.

The CR does not clarify the weight that should be attached to the few benefits that the report identifies. This makes it very difficult for Members to make an informed decision about the weight to apply in the planning balance.

We consider that the CR presents a one-sided summary of the perceived harms of the scheme only, and fails to consider properly and robustly the very clear public benefits of the scheme.

It is worrying, deeply frustrating, and fundamentally unfair that so many of the public benefits of the scheme are ignored in the CR. Of the 65 written pages in the CR, some 44,000 words in total, only two sentences – two – of the CR (paragraph 253) briefly mention some of the benefits. Most benefits are ignored altogether. For a scheme centres around housing, taking care of our elderly, and restoring heritage assets, that is wholly unacceptable.

We repeat, again, that the scheme benefits include:

- Providing 116 housing units, addressing Bristol's overall housing requirement set out in the Core Strategy (policy BCS5) which sets out to create 30,600 new homes by 2026;
- The Council cannot demonstrate a 5-year housing land supply, and adding extra weight to this consideration, is a considerable way adrift of having a 5-year supply;
- There is a significant need for housing for older people in Bristol, but the CR fails to discuss this at all. We are dismayed and shocked that Housing Officers have provided no comments whatsoever on this fundamental part of the application, leading to the scale of need failing to be weighed;
- Freeing up family sized homes in the city;
- Opening of a previously inaccessible, inhospitable, and now derelict site, and providing public access to a listed building (Grace House) that has not been accessible to the community in its history
- Undertaking key maintenance and preservation works to a listed building (Grace House) that is in disrepair, with water ingress and deteriorating building fabric, and with no viable use, will fall into disrepair;
- Refurbish and conserve the existing villas fronting Westbury Park and their front gardens, which are also in disrepair, and form an important part of the Conservation area;
- Turning over North House to be used as an "Urban Village Hall" for the benefit of social enterprises, school groups, and the community at large. This gift to the community is missed out entirely in the CR, nor is any attempt made to calculate the value of this significant public benefit. The Urban Village Hall is an idea generated entirely, independently by the applicant as they have used this concept to success elsewhere in

bringing true social value to their projects, and together with their B Corp status, strongly indicates their commitment as one of the UK's leading ethical investors;

- Delivering the first Net Zero later living housing community in Bristol, delivered in line with Bristol's One City Climate Strategy (February 2020) the Bristol Climate Action Plan 2-22-2025 declaring the intent to be Net Zero by 2030 and emerging local plan draft policy ZSC2 towards Zero Carbon development. The conclusion at paragraph 254 of the CR that the scheme lacks resilience to climate change, and subsequent recommended refusal reason, is simply not credible and ignores almost in their entirety, key documents and lengthy supporting evidence provided in the application having to do with the project's low embodied and operational carbon achievements. This project should be celebrated, not vilified in terms of environmental sustainability on the basis of technical information that is better provided at the detailed building fabric design stage;
- There will be significant benefits to the physical and mental wellbeing of future residents, which also result in savings to the NHS (as confirmed by Planning Practice Guidance). The social benefits of the scheme are ignored entirely in the planning balance of the CR (see paragraph 253);
- Economic benefits including increased local spending and job creation is ignored entirely by the CR;
- The proposed substantial biodiversity net gain of 55.7% for area-based habitats and 1279% net gain for hedgerows is ignored by the CR;
- Allowing public access through the site for people to use and enjoy;
- Other environmental benefits such as making efficient and optimal use of brownfield land and encouraging sustainability located development in accordance with policy BCs20

The list is extensive and we could go on for some pages more.

Again, as it relates to the consideration of the above benefits of the scheme, these are strikingly absent from the report, or in some cases mentioned only in passing with no real consideration or critical analysis, and the report overall is wholly unbalanced.

The public benefits of the scheme were set out in the Planning Statement and repeated in correspondence with officers, including most recently an email to planning officers of 9 May 2023. The applicant has also, throughout the lengthy application process, offered to meet officers to discuss and clarify the benefits, but officers advised that they understood the benefits and a separate meeting was not necessary. Officers have not informed the applicant that the above benefits put forward by the applicant were not accepted. Why then, have the public benefits been ignored almost entirely?

The lack of consideration to the benefits is even more alarming, in the context that Bristol faces a housing crisis, a climate emergency, is capital constrained, cannot demonstrate the minimum 5 year supply of housing land as it is required to, and when Planning Practice Guidance says the need to provide housing for older people is "critical".

In any case, whether the benefits are accepted or not by officers, a balanced report should include discussion on these benefits and assess their merits, for sake of proper due process and so the planning committee can be properly informed when making a decision. We therefore conclude that the CR is flawed and misleading and strongly urge Officers to provide a full and proper assessment of the benefits in their Amendment Sheet to the Committee.

### **Heritage and the Heritage Balance**

Paragraph 175 of the CR correctly identifies that paragraph 202 of the NPPF requires the less than substantial harm to be balanced against the public benefits of the scheme. However, no such balance is undertaken in the CR. At paragraph 176 of the CR, heritage-related public benefits (only) are assessed against the harm (and the heritage benefits are considered to reduce to negligible), but no assessment of all public benefits against heritage harm has

been undertaken, despite paragraph 175 of the CR acknowledging that requirement. The CR is therefore significantly flawed in this respect.

The comments of the conservation officer, reported at paragraph 90 of the CR, that state that alternative forms of development may achieve similar public benefits are misleading and factually incorrect.

There is no requirement in policy or legislation to consider alternatives. In *First Secretary of State and West End Green (Properties) Ltd. v Sainsbury's Supermarkets Ltd.* [2007] EWCA Civ 1083 Keene L.J. said (in paragraph 38 of his judgment, with which Mummery L.J. and Richards J. agreed):

*"There is certainly no legal principle of which I am aware that permission must be refused if a different scheme could achieve similar benefits with a lesser degree of harmful effects. In such a situation, permission may be refused but it does not have to be refused. The decision-maker is entitled to weigh the benefits and the disbenefits of the proposal before him and to decide (if that is his planning judgment) that the proposal is acceptable, even if an improved balance of benefits and disbenefits could be achieved by a different scheme. ..."*

As such, the comments introduce an additional test that simply does not exist in policy and we consider that by doing so, the conservation comments cannot be relied upon and are misleading.

Furthermore, even allowing for the flawed "alternative better scheme" discussion to run, the suggestion that a smaller scheme could achieve similar public benefits is not factually correct. For example, a scheme with less homes, would clearly deliver less benefits in terms of addressing the need for housing for older people and the overall shortage of housing in Bristol. Furthermore, the planning application makes clear that an Independent Retirement Community needs to be of a certain scale to achieve the economies of scale necessary to deliver the care, support, and welfare facilities that are required by a facility of this type, and themselves contribute to social-related public benefits.

We also note, again a critical flaw in the CR, that a number of comments (for e.g., paragraph 47 and 48 of the CR) refer to a 6-storey villa. This villa was reduced to 5 storeys in December 2022. So the analysis undertaken and presented in the CR as an "expert opinion" do not even relate to the scheme before the committee.

The concluding paragraph of the CR at Recommendation to Refuse 1, states a grounds for refusal that the scheme "would fail to preserve or enhance the designated heritage assets" is based on a flawed, unbalanced analysis.

We therefore conclude that the CR is again flawed as it relates to heritage and heritage balance.

### **Density and overdevelopment**

Whilst not specifically referenced in the CR, the Conservation Officer's comments received by the applicant on 10 May 2023 (dated 28th April) allege (paragraph 4.12) that no evidence has been provided by the applicant to support the need for the "very high density" development. We note that the CR is influenced heavily by this point around overdevelopment, and density, overdevelopment, and overbuilding more generally is a common theme throughout, for example at paragraphs 49 (Historic England), 89, 94, 195, 210, 215, 251, 254, 258, 259, 263, 281, 288, etc.

First of all, the suggestion that no evidence has been provided is not factually correct. Sections in both the Design and Access Statement and Planning Statement explain why the proposal is not "high density", so it is concerning that this has been missed or ignored. Second, we repeat that the Urban Living SPD seeks a minimum density of 120 dwellings per hectare (dph) versus our proposals at 60 dph. The CR makes no attempt to reconcile the points around policy, housing need, and density and makes only a passing comment as it relates to policy at paragraph 263 of the CR summarising the changes made by the applicant at the second pre-app.

Paragraph 91 of the CR reports that the Conservation Officer considers the public benefits of the scheme do not outweigh heritage harm. This is exceptionally irregular, as this balance exercise is to be undertaken by the planning

officer. It is evident that the Conservation Officer has not undertaken a robust or thorough assessment of all the public benefits and we are concerned that this has informed the conclusions of the CR.

The concluding paragraph of the CR at Recommendation to Refuse 1, states a ground for refusal that the scheme would “crowd and overbear existing buildings” yet this is based on the incorrect assumption that no evidence is provided within the application regarding the proposed density, and with a failure of the CR to critically assess the minimum density figure in the context of the Urban Living SPD seeking a minimum of 120dph, the shortage of housing in Bristol and the need to make optimum use of brownfield sites.

We therefore conclude that the CR is again flawed as it relates to density and scale of development.

### **Highways**

Highways officers suggest that the proposals do not include enough parking, but so far in the nearly two years this application has been pending, officers have not once given us a number they consider appropriate, or a calculation method. Or indeed, even the basis upon which those statements have been made.

The failure to quantify the lack of parking means the level of “harm” that is being attached to the parking issues is unclear. For example, surely the harm would be dependent on whether officers consider the scheme is 1 or 2, or 20 or 30 parking spaces short.

The Bristol City Council Policy document, Bristol Local Plan, Site Allocations and Development Management Policies adopted July 2014, Appendix 2, states that for C2 Residential Institutions ((which officers agree applies to this scheme) the car parking requirement for staff is one space per 2 full time duty staff and for visitors, and 1 space per 6 bed spaces. The proposal is for 116 units comprising 105 two-bed and 11 one-bed units. There will be an estimated 15 to 20 staff on site at any one time. Using the BCC adopted policy document, the site requires 37 spaces for residents and 10 for staff, totalling 47 spaces. Our proposals provide 65 spaces, which is 28 spaces – some 60% – over the required standard.

In addition to adhering to the above formal Bristol policy, we have produced numerous other widely used and adopted calculations using different methods with different sets of data, all of which demonstrate that we have enough parking.

### **Sustainability**

The applicant is one of the leading developers of low carbon, Net Zero properties in the UK, and is one of only a handful of developers in this country to have actually delivered schemes to Net Zero accreditation. We are flabbergasted by the Sustainability Officer’s overall objection to the scheme. We cover the Officer’s point on overheating below, but the CR and the Sustainability Officer’s comments specifically are flawed.

We have provided in the application a detailed, 58 page sustainability statement dated 29 November 2022 which provides an independent review of our sustainability strategy. Sustainability features heavily in our Design and Access Statement. Developer FORE Partnership was founded in 2012 with the singular mission of being a change agent in the property sector, championing ESG and driving real innovation in how we build, operate, and invest in buildings. FORE is recognised as a pioneer in low carbon, socially impactful development.

As stated in the Design and Access Statement:

*"The Development team is committed to creating a new generation of ultra-sustainable extra care communities based on the very highest of ambitions around carbon reduction and positive social impact. This will be one of the most innovative senior living developments in the UK.*

*St Christopher's Square will be net zero carbon in operation. No fossil fuels will be used on the property. There are a significant number of Innovations that will be adopted by the scheme, many of which have never been attempted anywhere in the UK. The development includes substantial solar electricity generation, district heating, electric air source heat pumps, low-carbon building materials, innovative construction techniques, and other innovations to reduce both embodied and operational carbon."*

Developments that the applicant is undertaking in other councils are celebrated by local governments for being exemplar in terms of sustainable design and innovation, and they are highly sought after by councils to undertake schemes across the country.

At St Christopher's Square, the application sets out, among many other green initiatives, the scheme includes the following:

- Mitigate our impact on the environment and climate change by requiring our suppliers to meet or exceed our environmental objectives and targets, and adhere to the applicant's strict Procurement Policy and Sustainability Policy
- Create minimum standards for all commonly procured goods and aspire to best practice
- Undertake the life cycle analysis to ensure environmental impact is minimised at design, operation, and end of life stages
- Source locally to reduce impact of deliveries
- Ensure that materials are certified at the highest levels of environmental sustainability
- Eliminate the use of hazardous chemicals covered by the Stockholm and OSPAR Conventions, and ensure management in line with the European Chemicals Regulations
- Take all reasonable steps to minimise water usage
- Where possible, employ closed loop systems that utilise the waste product from one process or product in another product or process
- Share experiences of innovation within the circular economy
- Promote the circular economy principles to all associated supply chain partners
- Minimise waste and use of materials and give preference to materials, products, and services with greatest circular- economy benefits
- Substitute the use of scarce minerals wherever possible quantify the embodied carbon of key materials
- Use low VOC products
- Utilise health-enhancing products like AirLite paint
- Provision of an abundance and variety of outdoor spaces
- Optimise air quality and ventilation to the spaces
- Carefully consider acoustics within the design, including the provision of induction loops
- Optimise accessibility
- Improve water quality
- Provide community, social spaces and facilities
- Creates a series of shared garden spaces
- Provide private external space for residents

- Encourage social interaction and community ethos
- Target WELL "Platinum", BREEAM "Outstanding"
- Procure 100% of timber and timber products from independently verified, legal and sustainable sources which meet the requirements of the EU Timber Regulation, certified under the Forest Stewardship Council ("FSC"), Programme for the Endorsement of Forest Certification ("PEFC") or the forest of origin should be licensed by the EU Forest Law Enforcement Governance
- Maximise the use of cement replacement products in concrete mixes and to maximise the use of recycled concrete aggregate, ideally sourced / reclaimed from our site where you are working
- Not to use materials with any of the following substances under any circumstances: alkylphenols; asbestos; chlorofluorocarbons (CFCs); formaldehyde; hydrochlorofluorocarbons (HCFCs) polychlorinated biphenyls (PCBs); phthalates; short chain chlorinated paraffins; wood treatments containing creosote, arsenic or pentachlorophenol; materials containing micro bead plastics

Again, another long list that could run on for pages. All points entirely excluded from the CR and any analysis of balance.

The positive impact of the scheme on climate change, sustainable design and construction, and the drive to a Net Zero built environment are completely ignored in the CR by both the officer and the Sustainability Officer. The Sustainability Officer's report misses out on these facts entirely, myopically focussed on overheating.

We therefore must conclude again that the CR is flawed as it relates to its analysis on these points and the balance placed thereon.

### **Overheating**

There is no sound policy basis for a reason for refusal on this point, which is specifically referenced as a grounds for refusal at the concluding paragraph of the CR, Recommendation to Refuse 3. –

Future weather simulations are not expressly required by policy BCS13 and in any case can be provided at a more detailed design stage which would aid in confirmation of material selection and build ups in line with what is likely to be procured for installation and not based on predicted u-value performance. We have followed the onerous requirements for Part O which discount the use of internal blinds and put significant limitations on TM59 window openings and demonstrate that the project complies. Furthermore, the scheme is targeting the very highest rating, BREEAM Outstanding, and the applicant has provided the evidence of how we are looking to achieve this rating. As part of this we are looking to achieve full credits for HEA04 – thermal comfort, which includes designing for future thermal comfort in line with climate change predictions. A refusal reason relating to lack of resilience to climate change is therefore misleading and unproportionate, failing entirely to acknowledge the scheme's sustainability credentials.

As one of the three grounds for refusal in the CR, we must conclude again that the CR is flawed.

### **Trees**

The CR includes reference to superseded tree comments that the amended scheme has successfully resolved. However, the objection remains in respect to three specific trees and is cited as one of the three grounds for refusal at paragraph 2 of the concluding remarks.

Whilst other options have been explored, it is unfortunately necessary to fell trees T52 and T65. However, their loss is fully accounted for in the on-site tree replacement planting proposed and so mitigated. Together with the significant Biodiversity Net Gain and other benefits of this scheme, we disagree that the loss of these two trees, lessened by replacement planting, warrants refusal of the planning application.



With regard to T7, the Arboricultural Impact Assessment (AIA) confirms that the spa building footprint causes an incursion of only 8.1% (57.5 m<sup>2</sup>) of the Root Protection Area. However, paragraph 3.8 of the AIA notes that 70% of the RPA is currently covered with tarmac or light structures that are to be removed as part of the proposal and overall, the overall coverage will reduce to only 14% of the RPA. This represents a significant improvement, such that we consider the proposed refusal reason on the basis of incursion into the RPA of T7 should be dropped, and members updated accordingly via the Addendum Sheet.

Fundamentally, we are taking an overgrown, vacant site, that is already substantially developed, and creating a landscaped, garden environment for future residents and the local community to enjoy. For committee members who have visited the site, the improvements of our proposals versus what is there should be very clear.

Again, as one of the three grounds for refusal in the CR, we must conclude that the CR is flawed.

### **Other Comments**

At paragraph 30, the CR notes that some comments have been made about the quality of public consultation and that it was misleading, but makes no further comment on this. The CR should acknowledge that as a matter of fact, and as set out in the Statement of Community Engagement, a great deal of public consultation has been undertaken, and that perceptions on the consultation carried out is not relevant to the consideration of this planning application.

With regard to the urban design comments (e.g., paragraph 76) it should be noted that these comments were received in April 2022, before at least two further rounds of design changes and amended plans were submitted, including significant changes in December 2022 for example, when the landscaping scheme was significantly amended and the proposed villas reduced in size. No further design comments have been received due to staff shortages, and the CR should be transparent that these comments do not relate to the scheme that is before the Committee. Similarly, the Historic England comments refer (paragraph 47 and 48 of the CR) to a 6-storey villa. This villa was reduced to 5 storeys in December 2022, so the comments relate to a much earlier iteration of the scheme.

Paragraph 149 of the CR says that services and facilities would not be available to the general public. This is incorrect, and the planning application makes it clear that the firm intention is to imbed the community into the wider local community and encourage integration and the wider use of the 'clubhouse' within the Listed Grace House for example.

### **Conclusion**

In our view, the Committee Report misses many points that are fundamental to our application, and so is inaccurate, unbalanced, and unfair. The recommendation to refuse is based on three principal conclusions:

1. The proposed development would be out of scale and context with the Downs Conservation Area, and the Grade II Listed building 'Grace House', is overdevelopment, and fails to provide a high-quality living environment for future occupiers
2. Issues around three trees
3. Climate change resilience

We have set out strong rebuttals to each of these grounds for refusal and we will be respectfully asking that committee members approve the proposals and allow this derelict site to be brought back to life, for the benefit of our elderly citizens and indeed the wider Bristol community.



# ST CHRISTOPHER'S SQUARE

## BRISTOL

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### Key

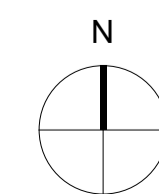
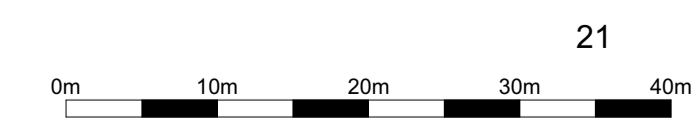
- Planning Boundary
- Tree Roots (RPAs)

Rev	Date	Description	SB	MW	Dwn	Ckd
1	18/02/22	PLANNING				

### St Christopher's Square

#### Existing Site Plan

Project	Origin	Zone	Level	Type	Role	Number
2	STCH-PRP-ZZ	-	-	ZZ	DR	A-2002
Revision						
-- PLANNING						
Status						
Issue for Planning						
Drawn	SB	Checked	MW	Date	FEB 2022	Scale @ A1 1:500



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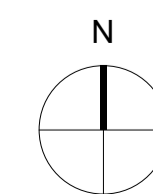


Rev	Date	Description	Dwn	Ckd
D	11/04/23	Amendments to Spa Building	EH	MW
C	20/02/23	Design Amendments	SB	MW
B	25/11/22	Issued for Planning design amendments	OS	JAB
A	18/07/22	Amendments to Green House, Block roof and footprint	OS	MW
-	18/02/22	PLANNING	SB	MW

### St Christopher's Square

#### Proposed Masterplan

Project	Origin	Zone	Level	Type	Role	Number
STCH-PRP-ZZ-	ZZ-	DR	A-	2004		
Revision						
D - PLANNING						
Status						
Issue for Planning						
Drawn	SB	Checked	MW	Date	FEB 2022	Scale @ A1 1 : 500





# ST CHRISTOPHER'S SQUARE

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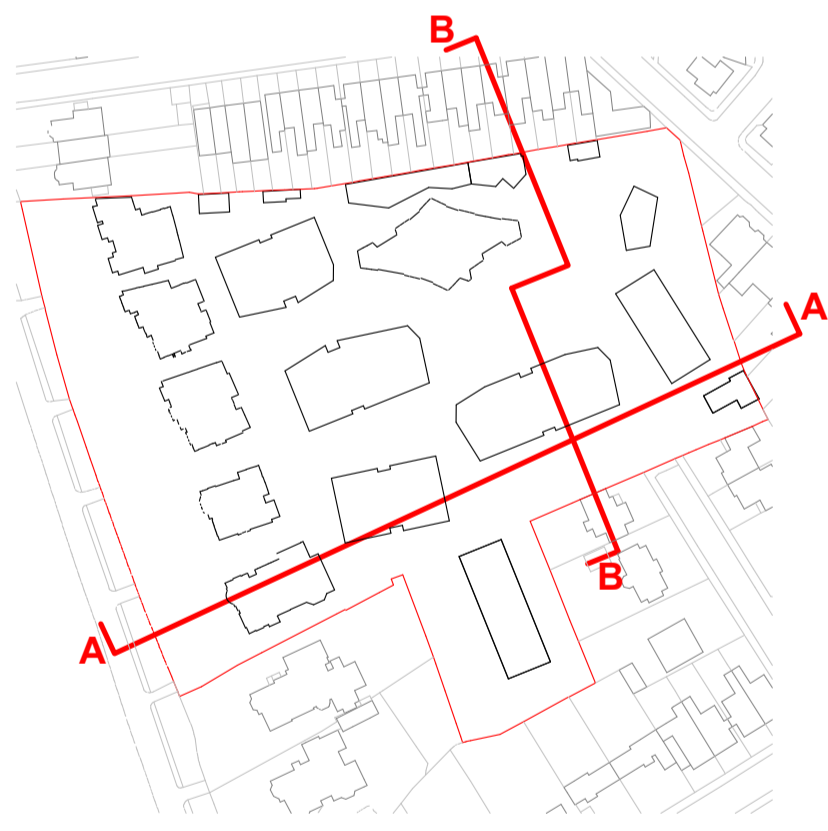


Page 124

Site Section A-A  
1 : 250



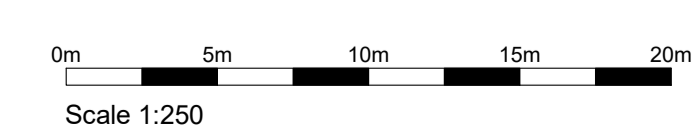
Site Section B-B  
1 : 250



Rev	Date	Description	OS	JAB
A	25/11/22	Issued for Planning design amendments	SB	MW
-	18/02/22	PLANNING	Dwn	Ckd

### St Christopher's Square Site Sections

Project	Origin	Zone	Level	Type	Role	Number
STCH -PRP - ZZ -	ZZ -	DR - A -	2006			
Revision						
A - PLANNING						
Status						
Issue for Planning						
Drawn	SB	Checked	MW	Date	FEB 2022	Scale @ A1 1 : 250



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The contractor is responsible for checking dimensions, tolerances and references. Any discrepancy to be verified with the Architect before proceeding with the works. Where an item is covered by drawings to different scales the larger scale drawing is to be worked to.

Do not scale drawing. Figured dimensions to be worked to in all cases.

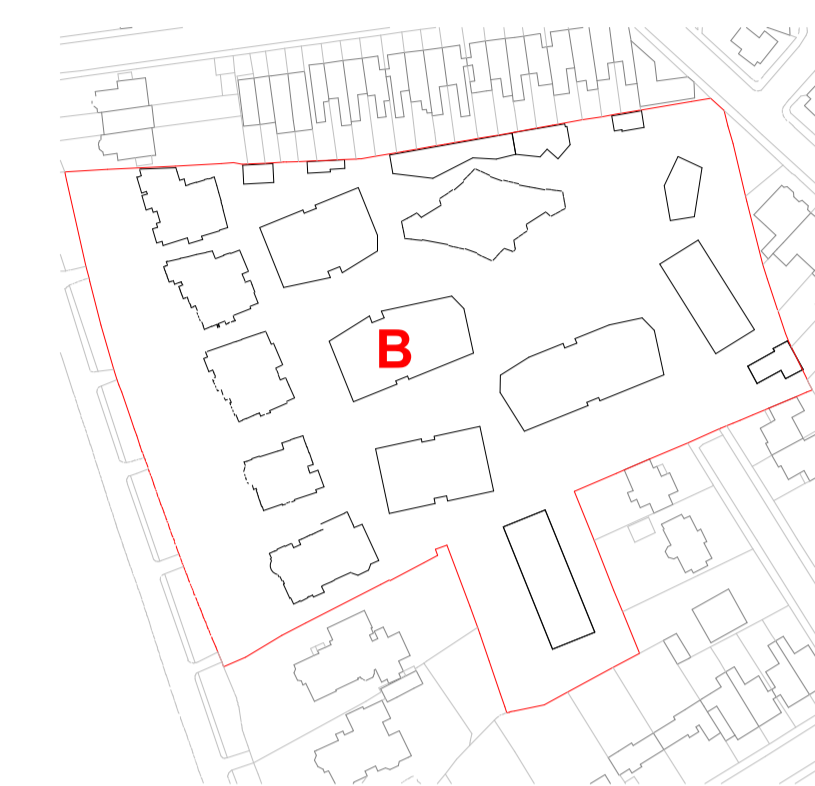
Where products have been specified, PRP have reviewed applicable products available in the UK at the time of writing the specification, from which products named in the specification have been selected.

Where the contractor wishes to propose alternative products, representative samples and a full technical appraisal should be submitted by the contractor to the employer demonstrating that their proposed alternative has equal or better performance.

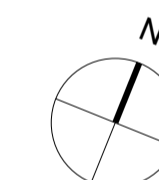
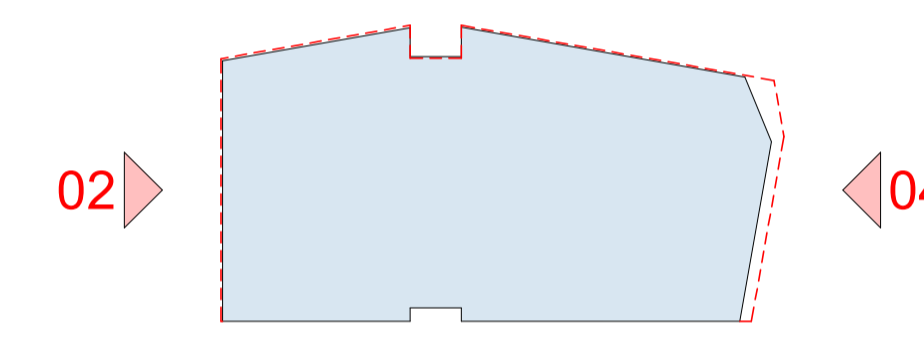
Any alternative products are subject to design team, building control, warranty provider and employer acceptance.

CDM REGULATIONS 2015. All current drawings and specifications for the project must be read in conjunction with the Designer's Hazard and Environment Assessment Record

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01



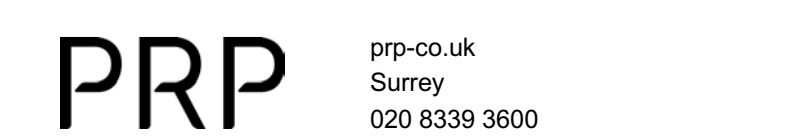
03

--- Outline of building footprint as submitted for at Planning Feb 2022

Rev	Date	Description	Dwn	Ckd
F	20/02/23	Design Amendments	SB	MW
E	25/11/22	Issued for Planning design amendments	OS	JAB
D	25/11/22	Issued for Planning design amendments	OS	JAB
C	21/11/22	Roof Plant reduced	OS	JAB
B	16/11/22	Issue for Coordination	OS	JAB
A	18/07/22	Amendments to Grace House, Block roof and footprint	OS	MW
-	18/02/22	PLANNING	SB	MW

**St Christopher's Square**  
Villa B Elevations

Project	Origin	Zone	Level	Type	Role	Number
STCH-PRP-BB-ZZ-DR-A-2014						
Revision						
F - PLANNING						
Status						
Issue for Planning						
Drawn	SB	Checked	MW	Date	FEB 2022	Scale @ A1
						1 : 100



Sheet Originates from Model: STCH-PRP-ZZ-M3-A-00002-MASTER

**01** Villa B North Elevation - Entrance facing Villa A & Grace House  
1 : 100

Page 125



Reconstituted stone 'fin' detailing  
Feature signage with reconstituted stone canopy over entrance door  
Recessed brick panel  
External fenestration with composite aluminium frame in dark bronze colour RAL840

**02** Villa B West Elevation - facing The Lodges  
1 : 100

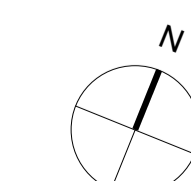
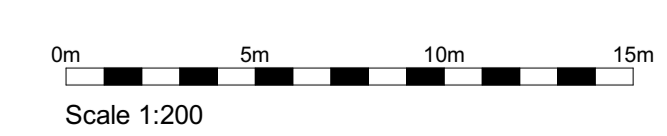


Metal Roof  
Rainwater goods. PPC aluminium square downpipes  
Reconstituted stone string course with recessed single brick course below  
Reconstituted stone surround detail  
Recessed metal panel

**03** Villa B South Elevation - facing Villa C  
1 : 100



**04** Villa B East Elevation - facing Sweet Gum Tree & Cottages H02  
1 : 100

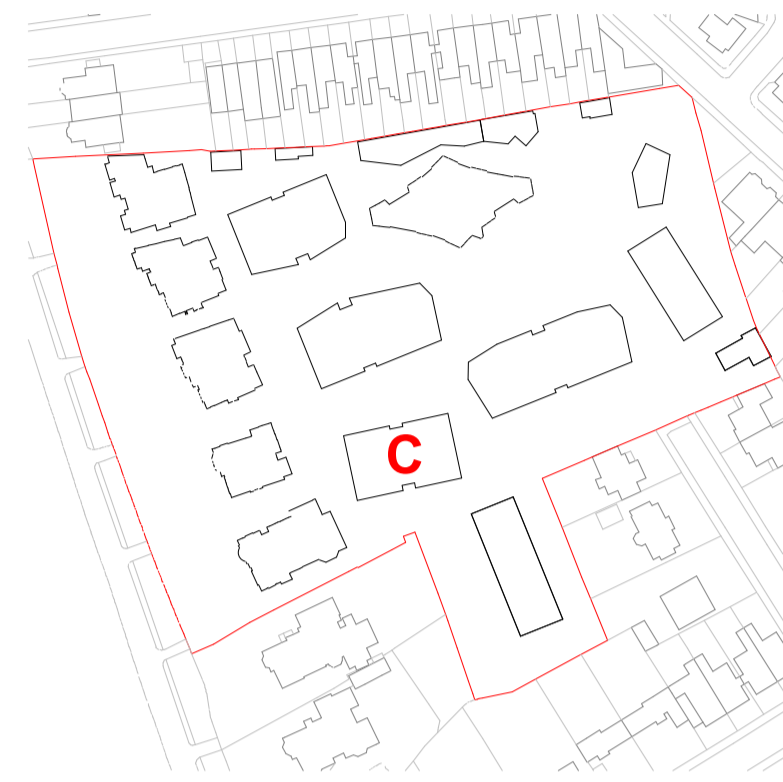




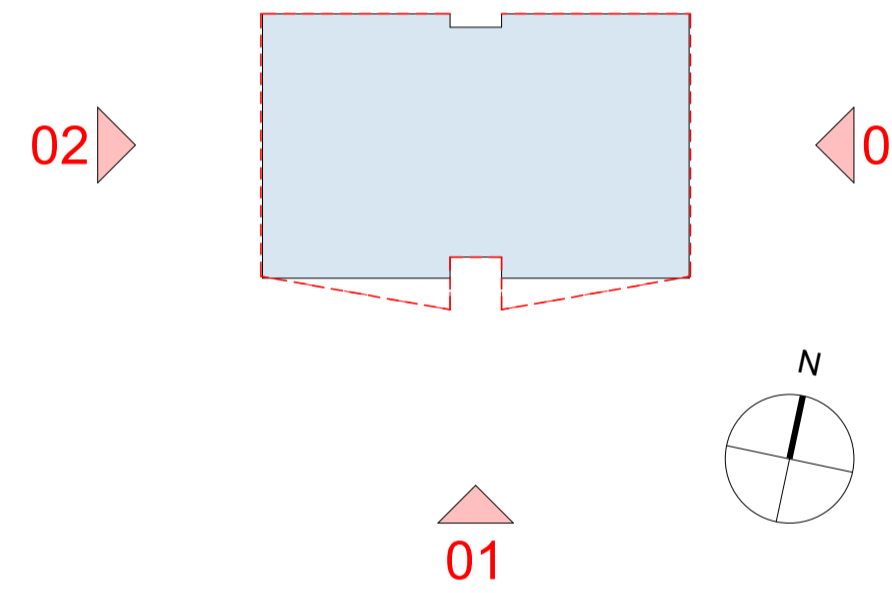
# ST CHRISTOPHER'S SQUARE

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03



--- Outline of building footprint as submitted for at Planning Feb 2022

Rev	Date	Description	SB	MW
E	20/02/23	Design Amendments	SB	MW
D	25/11/22	Issued for Planning design amendments	OS	JAB
C	25/11/22	Issued for Planning design amendments	OS	JAB
B	14/11/22	Issue for Coordination	OS	MW
A	18/07/22	Amendments to Grace House, Block roof and footprint	OS	MW
-	18/02/22	PLANNING	SB	MW

### St Christopher's Square

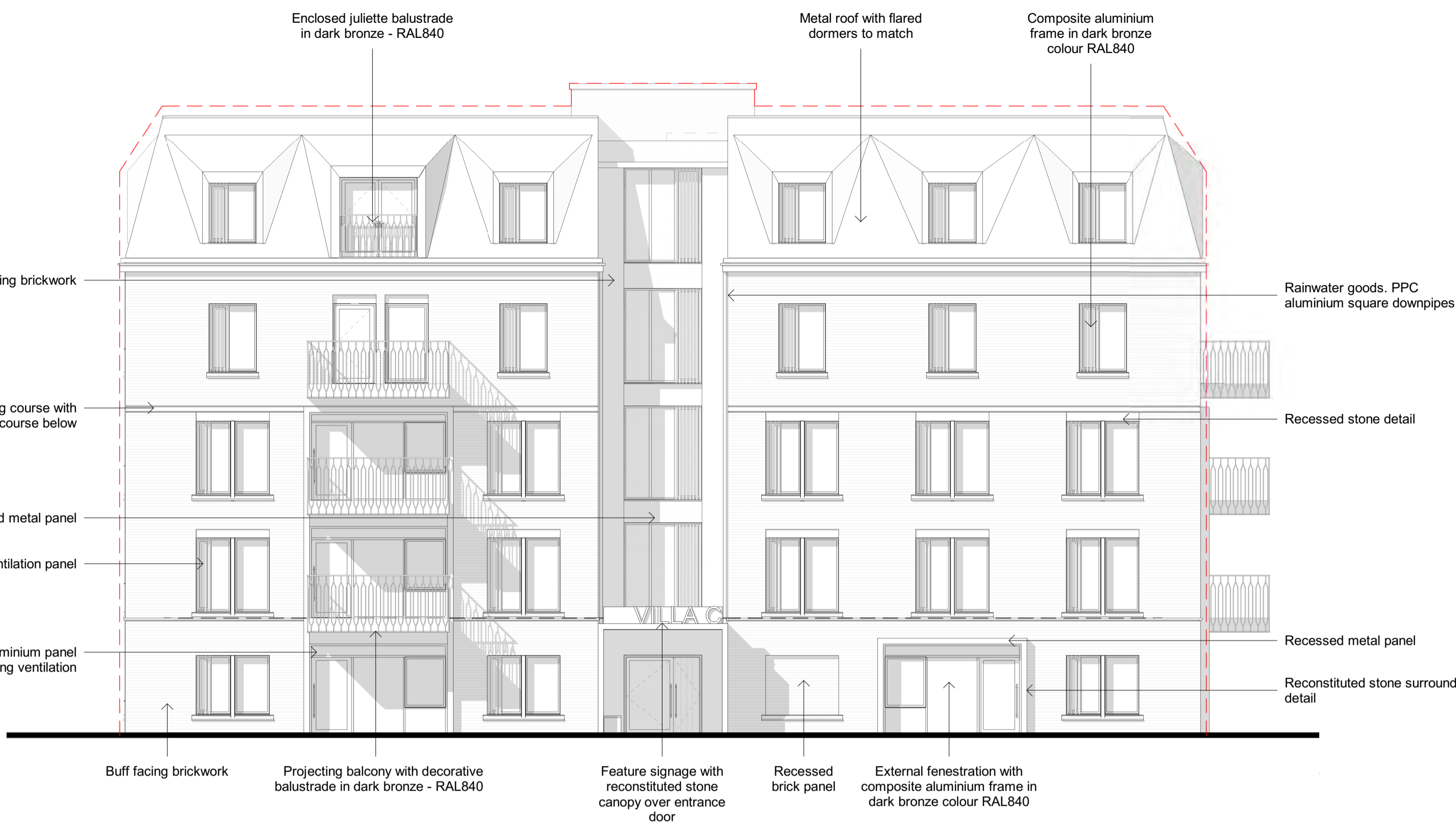
#### Villa C Elevations

Project	Origin	Zone	Level	Type	Role	Number
STCH-PRP-CC-ZZ-DR-A-2016						
Revision						
E - PLANNING						
Status						
Issue for Planning						
Drawn	SB	Checked	MW	Date	FEB 2022	Scale @ A1 1:100

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Sheet Originates from Model: STCH-PRP-ZZ-ZZ-M3-A-00002-MASTER

**01** Villa C South Elevation - Entrance facing Hyde & Chescombe  
1:100



**02** Villa C West Elevation - facing The Lodges  
1:100



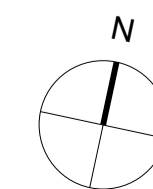
**03** Villa C North Elevation - facing Villa B  
1:100



**04** Villa C East Elevation - facing The Glen  
1:100



0m 5m 10m 15m  
Scale 1:200

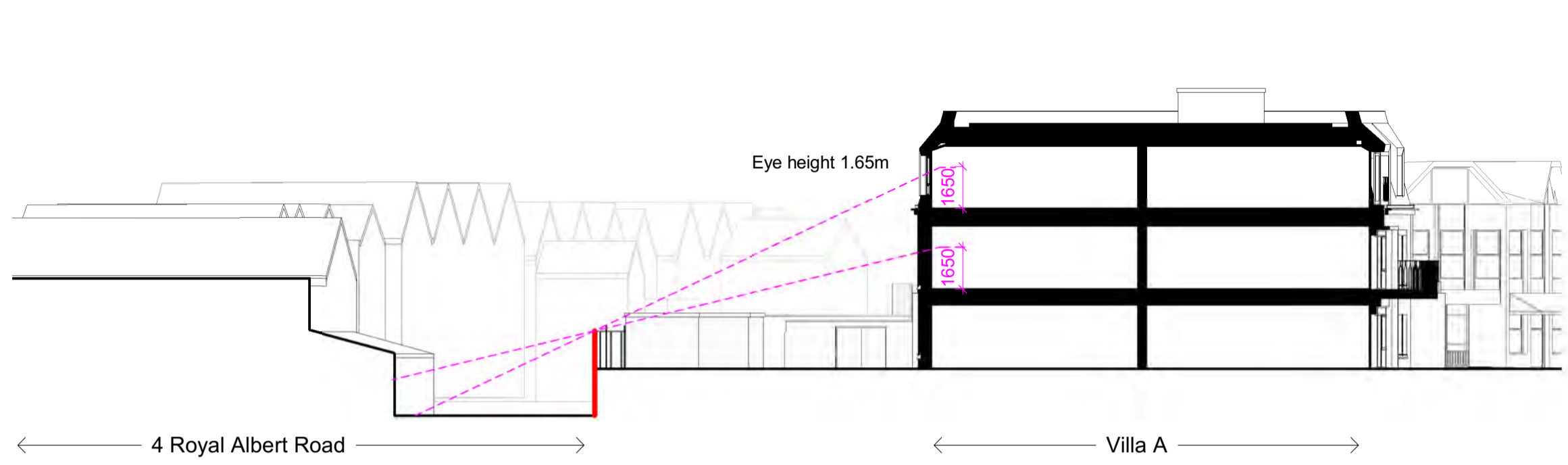




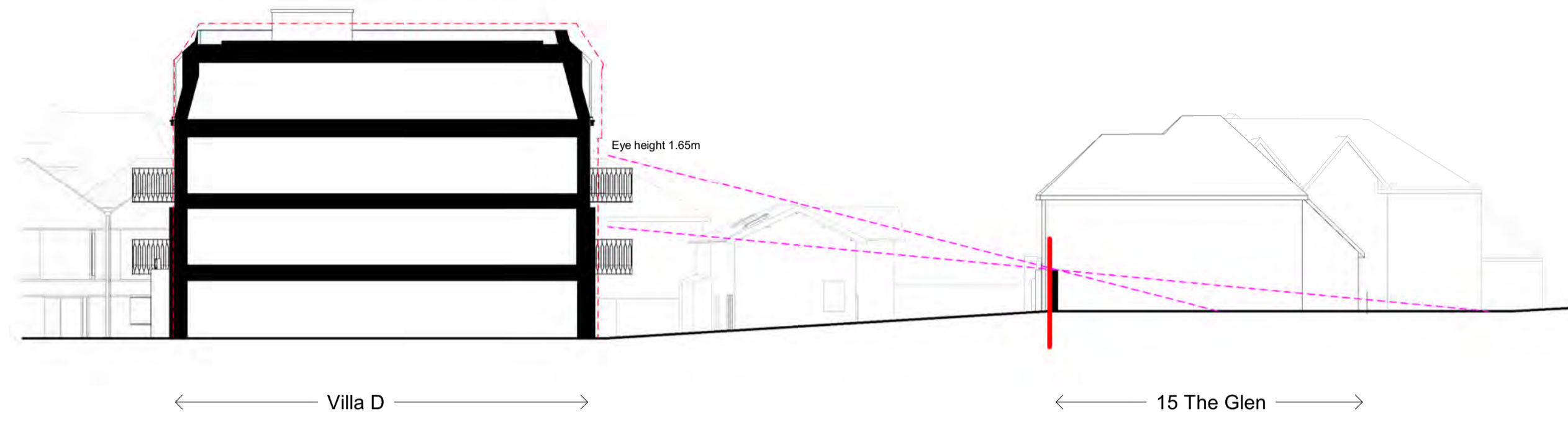
# ST CHRISTOPHER'S SQUARE

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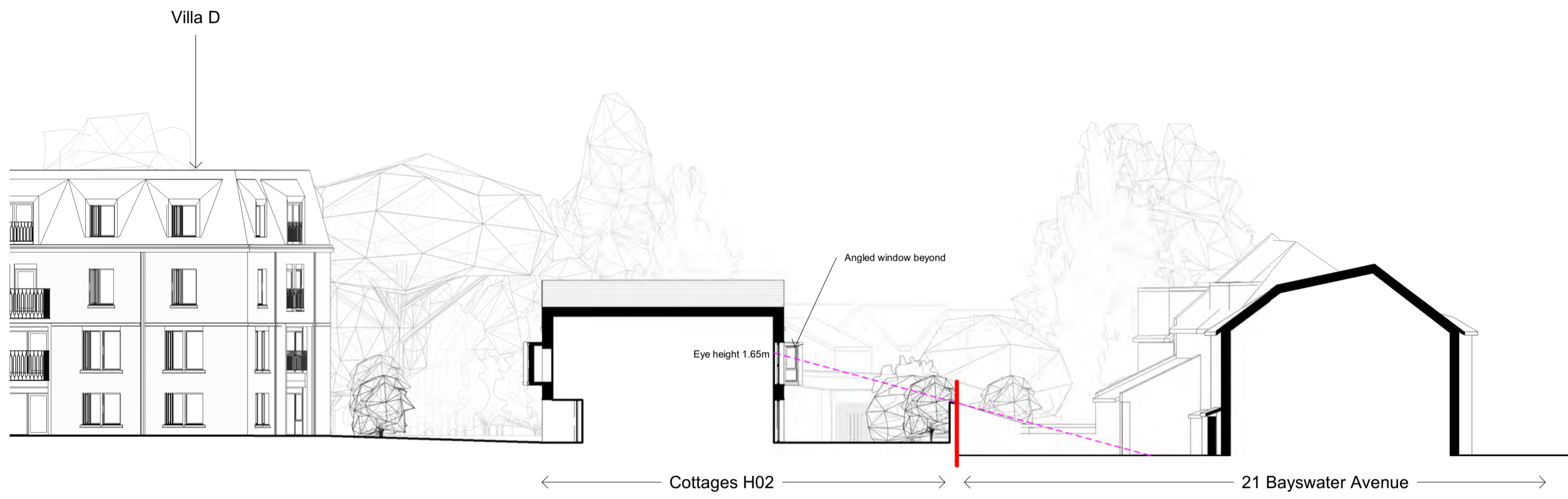
Site Cross Section 01  
1 : 200



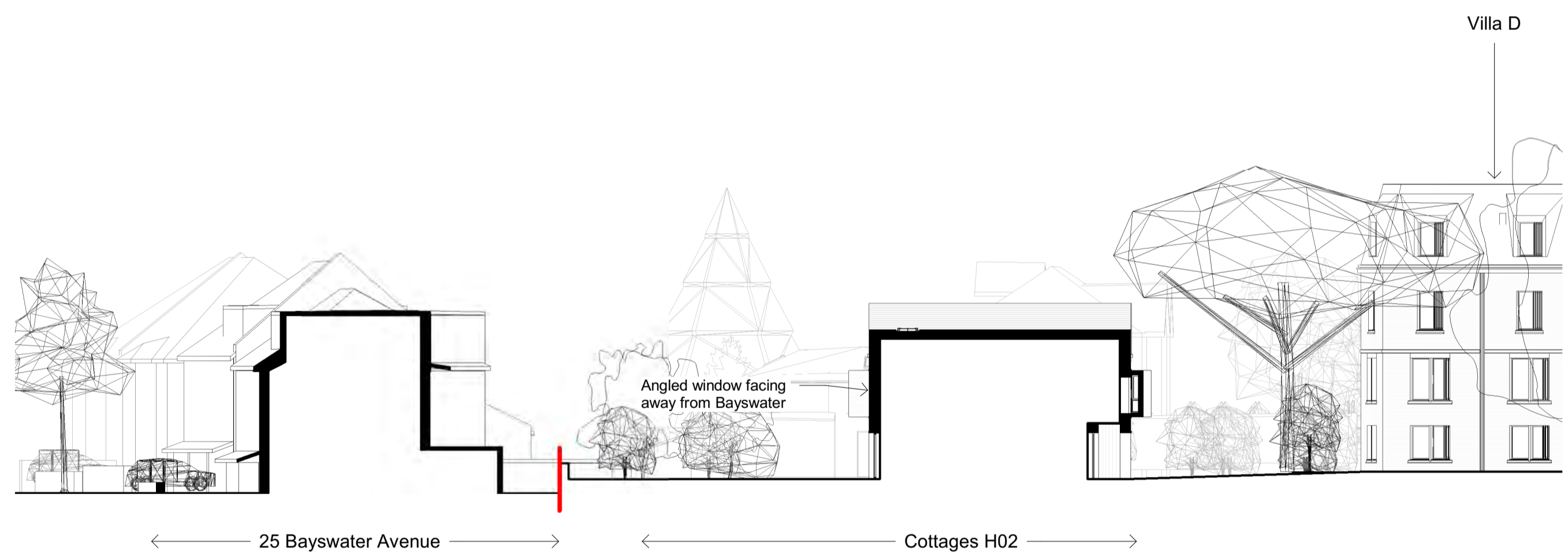
Site Cross Section 02  
1 : 200



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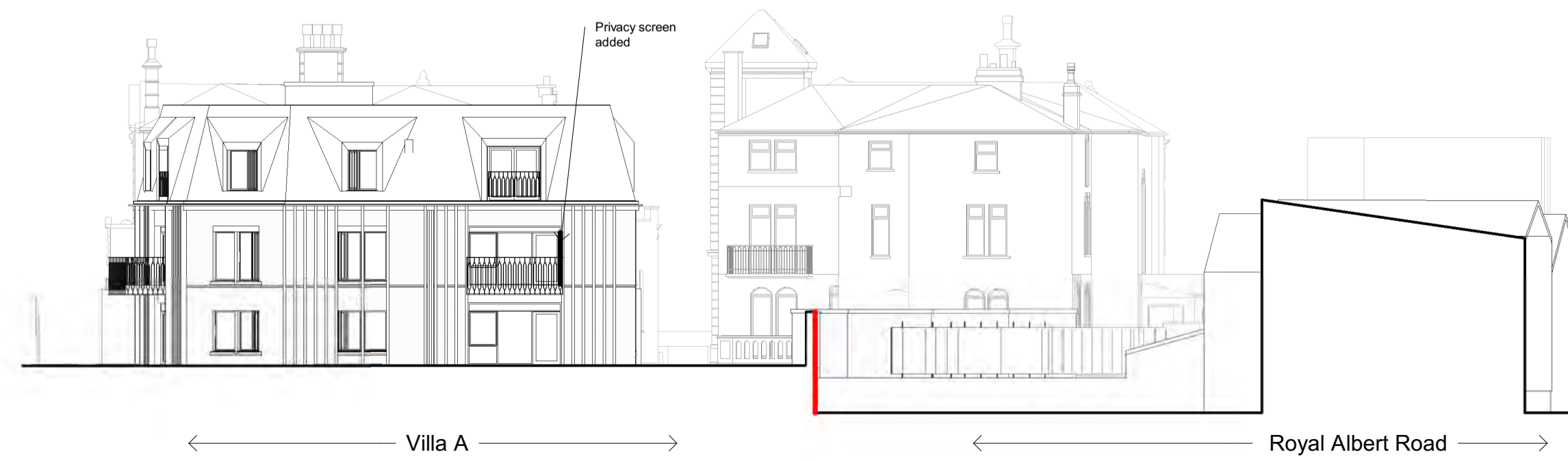
Site Cross Section 03  
1 : 200



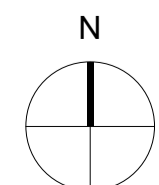
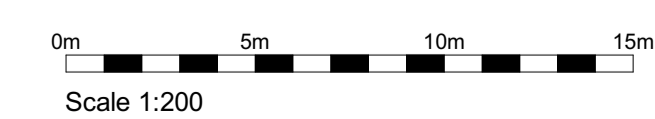
Site Cross Section 04  
1 : 200



Site Cross Section 05  
1 : 200



Site Cross Section 6  
1 : 200



Rev	Date	Description	OS	JAB	Dwn	Ckd
B	20/02/23	Design Amendments	SB	MW		
A	30/01/23	Issued following comments from BCC	OS	JAB		
-	23/01/23	Issued following comments from BCC	OS	JAB		

### St Christopher's Square Site Cross Sections

Project: STCH-PRP-ZZ-ZZ-DR-A-2009  
 Revision: B - Preliminary  
 Status: Issue for Planning

Drawn OS Checked MW Date JAN 2023 Scale @ A1 1 : 200

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**KEY**

- Category A Tree - High quality (Retention highly desirable)
- Category A Hedge/Group, Woodland - High quality (Retention highly desirable)
- Category B Tree - Moderate quality (Retention desirable)
- Category B Hedge/Group, Woodland - Moderate quality (Retention desirable)
- Category C Tree - Low quality (May be retained but should not constrain development)
- Category C Hedge/Group, Woodland - Low quality (May be retained but should not constrain development)
- Category U Tree - Very low quality (Mostly unsuitable for retention)
- Category U Hedge/Group, Woodland - Very low quality (Mostly unsuitable for retention)
- Root Protection Area (RPA) - Layout design tool indicating the minimum area around a tree deemed to contain sufficient roots and soil volume to maintain the tree's viability
- Shrub mass/into tree/out of scope (OOS)

**Statutory Protection**

- Tree Preservation Order (TPO): Trees under statutory protection. No tree works to be undertaken without specific consent or by relevant exception. The site may be within a designated Conservation Area which restricts tree works. Please see attached advice and guidance.
- Tree / Hedge/ Group to be removed

Note: The original of this drawing was produced in colour – a monochrome copy should not be relied upon. This drawing should be interpreted with reference to the accompanying tree schedule and written advice

PROJECT TITLE		<b>St Christopher's Square, Bristol</b>	
DRAWING TITLE		<b>Tree Retention &amp; Removal Plan</b>	
SCALE	<b>1:400 @ A1</b>	DRAWING NUMBER	<b>BHA_4518_02</b>
DRAWN BY	<b>IM</b>	APPROVED BY	<b>RH</b>
REVISION	<b>E</b>	SHEET	<b>-</b>
DATE	<b>14/04/2023</b>		
SITE LAYOUT Landscape Masterplan General Arrangement STCH-PRP-ZZ-DR-L-2000 Rev A			
CLIENT <b>St Christopher's PropCo Limited</b>			
COORDINATE SYSTEM / DATUM <b>British National Grid / Newlyn Datum (A00)</b>			
<small>Crown copyright. All rights reserved. 2019 Emappelle Licence number 0100061264. Ordnance Survey Copyright Licence number 100054267.</small>			

**Barton Hyett Associates**  
Arboricultural Consultants

Tel: 01386 576161 Website: www.barton-hyett.co.uk  
Address: Office 5C, Deer Park Business Centre, Eckington, Pershore, Worcestershire, WR10 3DN



**Development Control Committee A – 9 August 2023**

**ITEM NO. 2**

**WARD:** Bishopsworth

**SITE ADDRESS:** South Bristol Crematorium And Cemetery Bridgwater Road Bristol BS13 7AS

**APPLICATION NO:** 22/05714/FB Full Planning (Regulation 3)

**DETERMINATION DEADLINE:** 28 February 2023

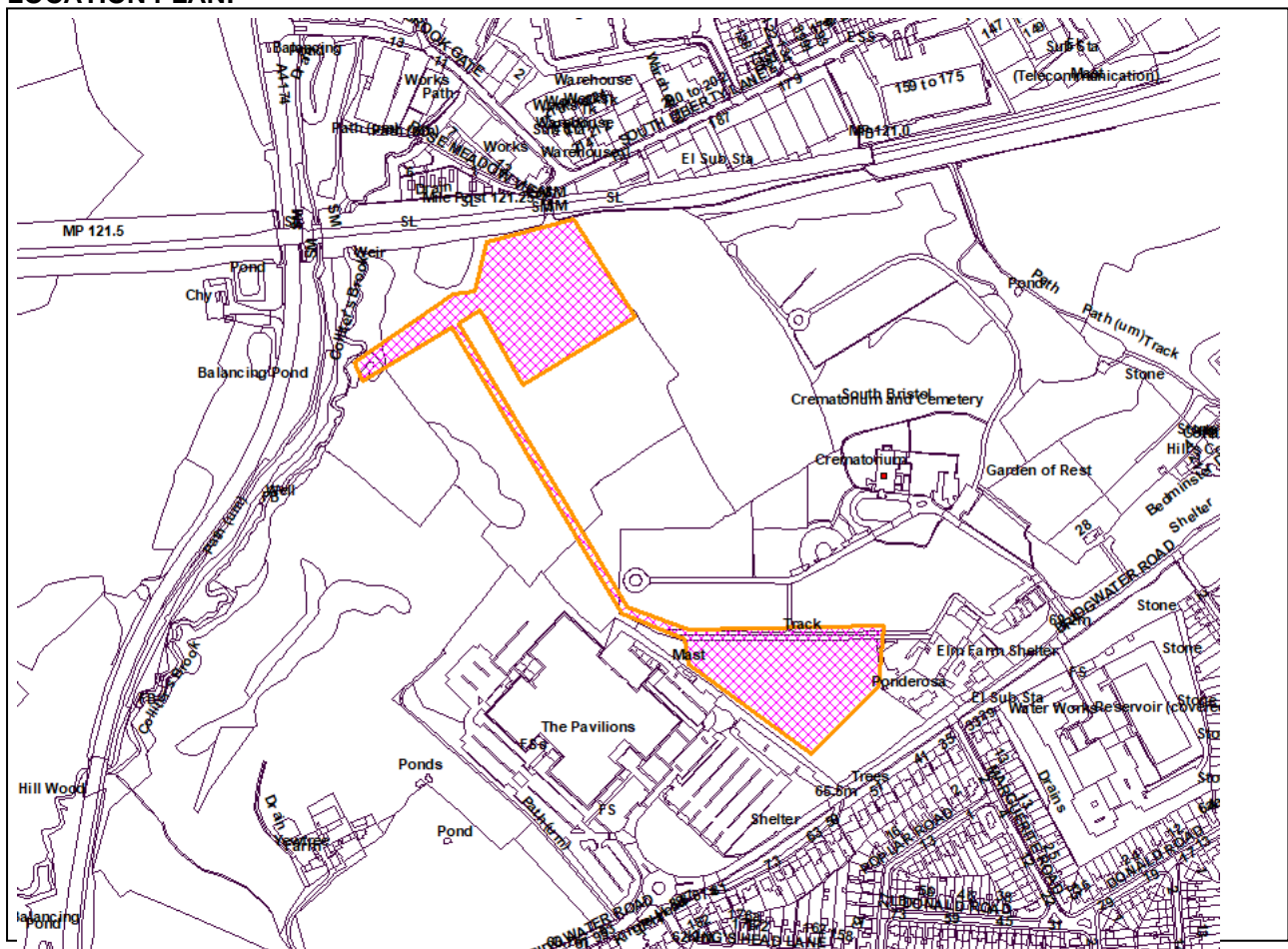
**Expansion of existing cemetery and crematorium to provide new burial and memorial plots with associated roads, footpaths, parking, drainage infrastructure, fencing, landscaping and furniture.**

**RECOMMENDATION:** Grant subject to Condition(s)

**APPLICANT:** Bristol City Council  
Major Projects (City Hall),  
PO Box 3399,  
Bristol  
BS1 9NE

*The following plan is for illustrative purposes only, and cannot be guaranteed to be up to date.*

**LOCATION PLAN:**



## **1.0 BACKGROUND**

- 1.1 This application has been submitted by Bristol City Council.
- 1.2 It is brought to Committee on account of its significance to the entire city. There has been no Member referral.
- 1.3 The Council has an obligation to provide burial land for residents of Bristol to ensure adequate burial space is provided for the future to meet the needs of an increased city population. Since 2008 the total population of the city is estimated to have increased by 11.7% (48,600 people), this compares to an England and Wales increase of 7.8%.
- 1.4 In their submission, the Applicants note that all the cemeteries in Bristol are close to capacity and so there is a need to identify extra space to meet demand. In support of their application, the Applicants state that:

“The Council presently operates eight burial sites across the city. South Bristol. Canford, Avonview, and Greenbank cemeteries are the only current sites providing new graves. The other cemeteries at Brislington, Ridgeway, Henbury and Shirehampton are full cannot offer new burials. Capacity at Canford, Avonview and Greenbank has been almost exhausted and the service mapping of new graves in between existing older plots is creating and compounding issues of ongoing maintenance and accessibility. The shortage of burial spaces is now critical.”
- 1.5 This need must be weighed against the ecological impact of bringing this land into use as burial land. Land which forms part of the application site is designated as a Site of Nature Conservation Interest (SNCI).
- 1.6 This is an application for full planning permission for the use of land designated as Green Belt for the expansion of the existing cemetery and crematorium to provide new burial and memorial plots with associated roads, footpaths, parking, drainage infrastructure, fencing, landscaping and furniture.

## **2.0 SITE DESCRIPTION**

- 2.1 The application site is land surrounding the existing South Bristol Cemetery and Crematorium located in the Bishopsworth ward in the south west of the city. The Cemetery is located on the northern side of Bridgwater Road (A38) and to the south of the Bristol to Nailsea railway.
- 2.2 The application site comprises three parcels of land on the edge of the existing Cemetery grounds. Specifically, two parcels of land to the north of the application site are currently fields / grassland interspersed with trees. This land is currently grazed by cattle. To the east are existing burial plots and to the south and west are open fields.
- 2.3 The third portion of land is located to the south of the cemetery. This is a roughly triangular parcel of land that has historically been used for grazing but is now fallow. It is bounded to the north by an internal cemetery road, to the south east by agricultural land and a dwelling with Bridgwater Road beyond.
- 2.4 The application site (each parcel of land) is located within the Green Belt.
- 2.5 The northern parcels of land and the adjacent fields to the west are located within Colliters Brook Site of Nature Conservation Interest (SNCI).
- 2.6 The southern parcel of land is located in close proximity to two listed buildings and a registered park and garden:

- Former Central Electricity Generating Board (The Pavilions) – Grade II Listed Building
- Landscape at the former CEGB Headquarters – Grade II Listed Park & Garden
- Bridgewater Road, Bedminster Down (North West side), Elm Farmhouse - Grade II Listed Building

2.7 The site is in Flood Zone 1(low risk).

### **3.0 APPLICATION DETAILS**

3.1 This is an application for full planning permission to enable the extension of cemetery grounds. This site will provide space for different kinds of burial requirements.

3.2 The application proposal involves the change of use to cemetery use predominantly for burial plots.

3.3 Internal pathways / roads will be created to link the new plots with the existing cemetery road / footway infrastructure. Areas for vehicle turning and parking will also be provided, all with a tarmacadam base (to match existing).

#### **Drainage**

3.4 Drainage infrastructure will be introduced in the north west development plot to manage flood risk and surface water run-off. This will connect to other parts of the site as shown on the Proposed Drainage Layout drawings.

3.5 In support of their application, the Applicants have submitted a Flood Risk, Sustainable Drainage, Ground Water and Environmental Assessment.

3.6 In respect of connections to existing drainage:

“The existing drainage in the upper section of South Bristol Cemetery discharges from an existing outfall located at the top of a slope within Colliter’s Brook SNCI. As this existing outfall has been assessed as not meeting current standards and unsuitable for the expanded drainage the existing cemetery drainage will be diverted into a new drainage pipe running from Site 1 to Manhole 27a, as shown on plan: D200012-CDS-EN-ZZ-DR-L-011D.

3.7 The drainage run has been designed to avoid the canopy line of retained trees. The surface water will be discharged to Colliter’s Brook, or when the maximum 80.5 l/s discharge rate of the Hydrobrake in MH27a is reached, excess flow will be diverted to the attenuation basin”.

3.8 The development will construct a new headwall on the bank of Colliter’s Brook.

#### **Trees**

3.9 A Tree Survey has been undertaken with the findings presented in the supporting Arboricultural Impact Assessment. In order to facilitate the proposed development, 14 trees comprising 1 Category B tree, 11 Category C trees and 2 Category U trees are proposed to be removed. Gaps are also proposed to be made in 4 Category C hedgerows to accommodate new access routes and the installation of drainage infrastructure.

3.10 Proposed landscaping includes the planting of 83 new trees and 6,456 whips for new hedgerow.

3.11 Retained trees will be protected throughout the construction programme with tree protection measures.

#### **4.0 RELEVANT PLANNING HISTORY**

- 4.1 Planning permissions were granted way back in 1962 and 1969 for use of the application site as a cemetery (Application References 1873P/62 and 69/01694/U).
- 4.2 The Town and Country Planning Act 1968 brought in time limiting conditions for any permissions granted before 1 January 1968 to be implemented. It has not been ascertained whether the consequential development of South Bristol Cemetery was implemented within that timescale as a basis for those previous consents to be relied on.
- 4.3 Application 21/04268/CE for a Lawful Development Certificate for an existing use or operation or activity - Use of land covered in the application was previously designated for cemetery use in sites planning approval 1873P/62 and 1694/69 was withdrawn on 19<sup>th</sup> July 2022.

#### **5.0 STATEMENT OF COMMUNITY INVOLVEMENT (SCI)**

- 5.1 In support of their application, the Applicants have submitted a SCI.

##### **Process**

- 5.2 The SCI sets out the details of consultation activities including, but not limited to:
- Ward Councillor engagement
  - Meeting with the Bristol Tree Forum
  - The Applicants had a range of engagement with key stakeholders. One to note was SANDS (Stillbirth and Neonatal Death charity) who were engaged in the design development of the new provision in Site 1 for baby burials.

##### **Key Outcomes**

###### ***Expansion Area 1***

- 5.3 Discussion with the Bristol Tree Forum on opportunities for additional tree planting led to the number of new trees proposed in area 1 being increased significantly from 16 to 46.
- 5.4 Discussion on potential removal of the existing overgrown Leyland Cypress hedge between site 1 and the existing cemetery. It was recommended by the Tree Forum that the Leyland Cypress were treated as trees.
- 5.5 The development proposals only cover removal of a restricted section of these trees at new entrances into the site from the cemetery, including increasing visibility between the two sites at the main entrance.

###### ***Expansion Area 3***

- 5.6 Protection of existing hedgerows agreed, an extended arboricultural survey was undertaken in Summer 2022 to support this. Requested an updated flora survey and bat survey for this area, which was undertaken in Summer 2022 and included in the updated ecology report.
- 5.7 New native hedge planting was welcomed.
- 5.8 Discussion on opportunities for additional tree planting led to the number of new trees proposed in area 3 being increased significantly from zero to 37.
- 5.9 Potential for phasing of works was discussed. The extent of works undertaken in area 3 as part of the first phase of works will consider opportunities for managing the land for ecological

benefit prior to commencement of burials alongside the requirements for infrastructure to be constructed as part of these works.

#### ***Site Drainage and Area 4***

- 5.10 Requested consideration of retaining use of existing outfall and consider utilisation of existing Network Rail drainage to scale of drainage works require and potentially mitigate need for new attenuation pond.
- 5.11 It was assessed that the drainage proposals were necessary to comply with West of England Sustainable Drainage guidelines.
- 5.12 Protection of existing hedgerows agreed, an extended arboricultural survey was undertaken in Summer 2022 to support this.
- 5.13 A single drainage run is required through an existing hedge, the remainder of runs use existing openings.
- 5.14 Requested an updated flora survey and bat survey for this area, which was agreed and undertaken in Summer 2022 and included in the updated ecology report.
- 5.15 Discussed that attenuation basin will be designed to maintain water levels and planted to enhance ecological interest.
- 5.16 Agreed that a contractor's method statement will be produced ahead of the drainage works to ensure that they minimise impact to the SNCI. Existing South Bristol Cemetery Site
- 5.17 Finally comments on the existing cemetery site were passed to the operational team and the ecology report has adopted a recommendation for the Council to create an action plan for enhancements within the existing site.

#### **6.0 RESPONSE TO PUBLICITY AND CONSULTATION**

- 6.1 Neighbouring properties were consulted, as a result 35 representations were received, of which 30 support the application and 14 object.

#### ***Objections to the application***

- 6.2 The objections raised can be summarised as follows:

This is a site of wildlife importance and the damage this proposal will cause is unacceptable. It goes against the green spaces motion, our ecological emergency and climate emergency as well as local and national planning policy.

Comments related to a neighbouring site - Yew Tree Farm

Yew Tree Farm, including this piece of land, is part of a wildlife corridor that links the city with the surrounding countryside and there fore should be protected from any development. It has also been accepted by the Council that this farm, the last working farm in the city, should be protected in its present state. I therefore object to this proposal.

"A more appropriate site needs to be looked into that will not have detrimental impact to the area."

"We have witnessed large gathering over the past few years for funerals, which also impacted the area's around the entrance to the Cemetery and the adjoining neighbourhood."

### ***Comments received in support of the application***

- 6.3 The representations received in support of this application stated that providing ongoing burial provision for the City. Comments received welcomed the expansion and the improved drainage for the site.

## **7.0 INTERNAL CONSULTATIONS**

### **BCC Drainage Officer**

- 7.1 The overall approach to the drainage strategy would be appropriate for this site given its existing drainage characteristics and the site constraints. Since infiltrating SuDS methods are inappropriate here the next preferred option in line with the SuDS hierarchy is directly discharging to a nearby watercourse and that is proposed into the adjacent Colliter's Brook. We are supportive of the use of an attenuation basin to give extra storage provision and to slow flows ahead of entering this watercourse.

- 7.2 It is noted that:

“The estimate of the greenfield runoff rate and proposed discharge rate seem very high and the calculations formulating this have not been provided. This should be recalculated, resubmitted and reused in informing the drainage strategy design.”

- 7.3 In order to address this, a relevant condition requiring the submission of a detailed drainage strategy design is recommended.

### **BCC Nature Conservation Officer**

- 7.4 The Council's Nature Conservation Officer's comments are included in the Key Issues below.

### **External Contributors**

#### **Statutory Contributors**

##### **Network Rail (NR)**

- 7.5 Part of the application site is located in proximity to land managed by Network Rail and accordingly they were consulted on the application proposal.
- 7.6 In response, NR raise no objection to the application proposal. However, various Advice Notes have been recommended and these form part of the recommendation set out below.

#### **Non-Statutory Contributors**

##### **Bristol Tree Forum**

- 7.7 The Forum comment as follows. Please note that Area 1 is the southern portion of the site and Areas 3 and 4 are the northern portions:

“... the fact that the development site forms part of the Bristol Green Belt, is within the Colliter's Brook Site of Nature Conservation Interest (SNCI) and is also an Urban Landscape has not been properly addressed. As a result, this proposal still fails to demonstrate that these plans will meet the requirements of the National Planning Policy Framework<sup>2</sup> (NPPF) and Bristol's planning policies, in particular BCS9, DM17 and DM19.”

The representation continues that: “We urge the Council to comply with its obligations and commission a full Biodiversity survey and Biodiversity Metric calculation before this application is decided.” If these issues are not addressed, then this application must be refused.

The representation continues: “We note that the whole development site is within the Green Belt, so the requirements of Section 13: Protecting Green Belt land of the NPPF and of BCS6 will need to be addressed.

The following comments relate primarily to the proposals to develop Areas 3 & 4. 1. Areas 3 & 4 are an Urban Landscape, as defined in DM17 Under DM17: Development Involving Existing Green Infrastructure of the Site Allocations and Development Management Policies (July 2014) (SADM), the sites identified as Areas 3 & 4 are designated an Urban Landscape. DM17 makes it clear that ‘Proposals which would harm important features such as green hillsides, promontories, ridges, valleys, gorges, areas of substantial tree cover and distinctive manmade landscapes [Urban Landscapes] will not be permitted.’

*Subsequent comments received from the Forum following on from further dialogue with the Applicants:*

We remain opposed to this application in as far as it affects the Colliter’s Brook SNCI.

They comment:

“Areas 3 & 4 are within the Colliter’s Brook SNCI. Under DM19: Development and Nature Conservation of the SADM, ‘Development which would have a harmful impact on the nature conservation value of a Site of Nature Conservation Interest will not be permitted.’ The works proposed will result in a loss of biodiversity on the development site and so will ‘have a harmful impact on the nature conservation of’ the SNCI. The fact that it may be ‘minor’ is irrelevant; no degree of harm is acceptable. Whilst the ecological report by Wessex Ecological Consultancy dated 5 May 2021 concluded that some minor damage would be caused to these areas, the report states at section 8 that: Measures to ensure that the proposals achieve net gain have been explored. The proposals include the replacement of areas of semi-improved grassland with modified grassland, and much smaller areas of track and hard standing. This will result in a loss of biodiversity value. There are limited opportunities to offset these losses on site. In the cemetery operational objectives mean that major enhancement schemes are not possible.

In the SNCI the high existing value of most of the site means that most areas cannot be enhanced above their current level. As the applicant has failed to produce any Biodiversity Metric calculation, it is not possible at this stage to measure the nature and extent of the damage identified, or to say whether it can or should be offset elsewhere. We have drawn the planning officer’s attention to paragraphs 179, 180 and 182 of the NPPF Habitats and Biodiversity requirements, which, among other things, require that plans should: ... identify and pursue opportunities for securing measurable net gains for biodiversity. We have also pointed out that paragraph 180 a) of the NPPF makes it clear that: if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative sites with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused ... We also note that there are other highly distinctive habitats noted on the development site - not least some of the grassland and the species-rich hedges, possibly with associated trees, banks or ditches - so that further compensation may need to be provided to achieve sufficient biodiversity net gain. Some of these habitats are also Habitats of Principal Importance for the purpose of conserving or enhancing biodiversity as defined in Section 41 of the Natural Environment and Rural Communities Act 2006.4 The NPPF defines these habitats as priority habitats and paragraph 179 b) specifically requires that plans should ‘promote the conservation, restoration and enhancement’ of them.

These habitats are also recognised by DM19, which requires that ‘[a]n appropriate survey and

assessment of impacts will also be needed to determine developments likely to impact...’ them.

It adds that a ‘... biodiversity ... survey and assessment of impacts should be provided where development might impact any sites of value or Habitats of Principal Importance.’ Consideration will also need to be given to the impact of the Biodiversity Metric trading rules for particular habitats, plus the fact that gains in either linear or area habitats cannot be used to cross-compensate losses between these two types. As it is unlikely that onsite mitigation measures will be available, viable offsite locations will need to be identified (not in the Colliter’s Brook SNCI) before this application can be approved. None of this can be properly understood until a full Biodiversity survey and Biodiversity Metric calculation is undertaken.”

### **Harvey Clan Trust**

7.8 Harvey Clan Trust make the following comment:

As a Trust we object to the planning application and have grave concerns regarding the destruction of our natural wildlife. Bristol City Council are obligated to protect our wildlife and the environment. Compassion and consideration must be given by every man and woman to ensure our green fields and the climate are also protected. Furthermore, the damage to Yew Tree Farm will be gone forever. The Trust's members recommends that this application be withdrawn forever

### **8.0 EQUALITIES ASSESSMENT**

8.1 The public sector equalities duty is a material planning consideration as the duty is engaged through the public body decision making process.

8.2 Section 149 of the Equalities Act 2010 provides that a public authority must in the exercise of its functions have due regard to:-

- (a) eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Act
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- (c) foster good relationships between persons who share a relevant characteristic and those who do not share it.

8.3 During the determination of this application due regard has been given to the impact of the scheme upon people who share the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

8.4 We have had due regard to the Public Sector Equality Duty contained in the Equality Act 2010 when making the assessment set out in this report.

8.5 Your Officers are mindful of the requirements of various Faith Groups to ensure that there is sufficient capacity for burials.

### **9.0 RELEVANT POLICY**

9.1 The following policy is relevant:

National Planning Policy Framework – July 2021

Bristol Local Plan comprising Core Strategy (Adopted June 2011), Site Allocations and



## Development

Management Policies (Adopted July 2014) and (as appropriate) the Bristol Central Area Plan (Adopted March 2015) and (as appropriate) the Old Market Quarter Neighbourhood Development Plan 2016 and Lawrence Weston Neighbourhood Development Plan 2017 and the Hengrove and Whitchurch Park Neighbourhood Development Plan 2019.

- 9.2 In determining this application, the Local Planning Authority has had regard to all relevant policies of the Bristol Local Plan and relevant guidance.

## Emerging Policy

- 9.3 The recent local plan consultation (November 2022) changed the 2019 emerging plan (Page 70 - Local Plan Review – November 2022). It is now proposed that the Bedminster Down area, including the existing cemetery and land surrounding it, would remain in the Green Belt. It was previously proposed to remove Green Belt designation in this area, with Local Green Space proposed to cover much of the area to be removed from the Green Belt.

## 10.0 KEY ISSUES

### (A) IS THE PROPOSAL ACCEPTABLE IN PRINCIPLE?

- 10.1 The application site is currently located within the Green Belt.
- 10.2 The NPPF states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. '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 (NPPF, paragraph 148).
- 10.3 It states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are (amongst other things):
- (b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- 10.4 Bristol Core Strategy Policy BCS6 states:
- "Countryside and other open land around the existing built-up areas of the city will be safeguarded by maintaining the current extent of the Green Belt.
- Land within the Green Belt will be protected from inappropriate development as set out in national planning policy."
- 10.5 Based on the advice in the NPPF, the application proposal can be regarded as an appropriate exception to the Green Belt designation and is therefore acceptable in principle in this location.
- 10.6 Development Plan Policy DM17 is concerned with development involving existing green infrastructure.
- 10.7 The northern plot is classified as a valuable urban landscape (a prominent green hillside) under policy DM17 of the Development Management Policies. The policy states that proposals that would harm these valuable landscapes will not be permitted.

- 10.8 Policy DM17 requires the integration of existing trees into development. It states that where tree loss is accepted, replacement provision in line with the Bristol Tree Replacement Standard (BTRS) should be provided.
- 10.9 The loss of this valuable urban landscape has been weighed against the nature of the use proposed. A cemetery is a valuable community use. This application proposal involves development of parcels of land around an existing cemetery, for cemetery use. The areas would be landscaped and this would reinforce its verdant character. The application proposal does not include extensive infrastructure.

**(B) IS THE ECOLOGICAL IMPACT OF THE PROPOSAL ACCEPTABLE?**

- 10.10 It is clear from the representations received that there is concern that the application proposal would have a harmful impact on the ecology of the area. Key to determination of this application is whether sufficient management can be put in place to safeguard the ecology of the site.
- 10.11 Ecological enhancement is needed to meet the requirements of the revised National Planning Policy Framework (NPPF, 2021). The NPPF states in paragraph 174 (d) on page 50 that *“Planning policies and decisions should contribute to and enhance the natural and local environment by... minimising impacts on and providing net gains for biodiversity...”*.
- 10.12 The Environment Act (2021) requires habitats to be maintained for 30 years after development is completed (schedule 7A, Part 1, paragraph 9) to secure net gains for biodiversity.
- 10.13 Bristol Core Strategy Policy BCS9 states:

“The integrity and connectivity of the strategic green infrastructure network will be maintained, protected and enhanced. Opportunities to extend the coverage and connectivity of the existing strategic green infrastructure network should be taken.

Individual green assets should be retained wherever possible and integrated into new development. Loss of green infrastructure will only be acceptable where it is allowed for as part of an adopted Development Plan Document or is necessary, on balance, to achieve the policy aims of the Core Strategy. Appropriate mitigation of the lost green infrastructure assets will be required.

Development should incorporate new and/or enhanced green infrastructure of an appropriate type, standard and size. Where on-site provision of green infrastructure is not possible, contributions will be sought to make appropriate provision for green infrastructure off site.”

- 10.14 The policy continues:

“Biological and Geological Conservation Internationally important nature conservation sites are subject to statutory protection.

National and local sites of biological and geological conservation importance will be protected having regard to the hierarchy of designations and the potential for appropriate mitigation. The extent to which a development would contribute to the achievement of wider objectives of the Core Strategy will be carefully considered when assessing their impact on biological and geological conservation.

Where development would have an impact on the Bristol Wildlife Network it should ensure that the integrity of the network is maintained or strengthened.”

- 10.15 Development Plan Policy DM19 states:

- 10.16 Development which would be likely to have any impact upon habitat, species or features, which contribute to nature conservation in Bristol will be expected to:
- Be informed by an appropriate survey and assessment of impacts; and
  - Be designed and sited, in so far as practicably and viably possible, to avoid any harm to identified habitats, species and features of importance; and
  - Take opportunities to connect any identified on-site habitats, species or features to nearby corridors in the Wildlife Network.
- 10.17 Where loss of nature conservation value would arise development will be expected to provide mitigation on-site and where this is not possible provide mitigation off-site.
- 10.18 Development on or adjacent to sites of nature conservation value will be expected to enhance the site's nature conservation value through the design and placement of any green infrastructure provided.

### **Ecological Management of the site**

- 10.19 Whether there is a harmful impact on the SNCI is entirely dependent on the ecological management of the site.
- 10.20 The application site is entirely in the control of Bristol City Council. There is no tenant farmer on the site. The previous tenancy was terminated in 2021 and the land has since been fully within the Council's control to determine and implement management arrangements.
- 10.21 In support of their application, it is noted that as a stopgap measure, an informal agreement had been given for the adjacent (Yew Tree) farm to have temporary access to graze the land. It has been confirmed with that party that the temporary access arrangements confer no assumed tenancy rights. This indicates Council is therefore the only relevant party to confirm the commitment to manage the site in accordance with arrangements identified within the supplementary mitigation document submitted on the 6th April 2023. These were produced by the Project Ecologist, in consultation with the Natural and Marine Environment Service, including cemetery staff that will be responsible for management activities. It was confirmed that the Head of Service of Bristol City Council's Natural and Marine Environment Service which is both responsible for:
- management of cemeteries (the maintenance team were directly engaged in developing the updated mitigation document) and
  - management of Council owned SNCI's.
- 10.22 Bristol City Council's Natural and Marine Environment Service are committed to deliver the required management works and to develop a full land management plan for agreement under a planning condition.
- 10.23 Accordingly a relevant planning condition is attached to ensure that the on-going land management issues are in place.

### **Trees**

- 10.24 In order to facilitate the proposed development, 14 trees comprising 1 Category B tree, 11 Category C trees and 2 Category U trees are proposed to be removed. Gaps are also proposed to be made in 4 Category C hedgerows to accommodate new access routes and the installation of drainage infrastructure.

- 10.25 Proposed landscaping includes the planting of 83 new trees and 6,456 whips for new hedgerow. This exceeds the Bristol Tree Replacement Standard (BTRS) for compensator and enhancement planting.
- 10.26 The landscape plans show that the new trees will be planted strategically across the development areas to enhance the visual amenity of the burial grounds and existing landscape buffers.
- 10.27 Retained trees will be protected throughout the construction programme with tree protection measures. It is also recommended that the installation of drainage infrastructure around a large oak tree (T951) is carried out under arboricultural supervision due to it passing through the root protection area. This can be secured through an appropriate planning condition.

### **Biodiversity Net Gain (BNG)**

- 10.28 There will be Biodiversity Net gain arising from the application proposal. However an update on the extent of that improvement will be provided at the Committee Meeting.

### **Conclusion on Ecology**

- 10.29 As part of their ongoing responsibility for the site, Bristol City Council have committed to the management of the SNCI. In so far as the Local Planning Authority can secure this, a relevant condition to secure a 30-year programme of management.
- 10.30 There will be Biodiversity Net Gain resulting from the application proposal. An update on this will be provided at the meeting.

### **(C) WOULD THE APPLICATION PROPOSAL HAVE AN ACCEPTABLE IMPACT ON HERITAGE ASSETS?**

- 10.31 In determining this application, there is a requirement set out in the Planning (Listed Buildings and Conservation Areas) Act 1990 at Section 66(1) for the local authority to “have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses”. Section 72 of the Act refers to the need for the Local Planning Authority to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area in the exercise of their duties.

- 10.32 When considering the current proposals, in line with Paragraph 194 of the NPPF (2021), the significance of the asset’s setting requires consideration. Following on from this, Paragraph 195 states:

“Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.”

- 10.33 Paragraph 199 states that in considering the impact of proposed development on significance great weight should be given to the asset’s conservation and that the more important the asset the greater the weight should be.

- 10.34 Paragraph 200 states:

“Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:

(a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional.

(b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.”

- 10.35 Therefore, clear and convincing justification is needed if there is loss of or harm to the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting).
- 10.36 Paragraph 201 provides advice where there would be substantial harm to a heritage asset and, essentially, requires it to be necessary to cause that harm to deliver substantial public benefits outweighing the harm or the nature of the heritage asset makes this the only practical option. As explained below, it is not considered that this is a ‘substantial harm’ case.
- 10.37 Paragraph 202 provides advice where there would be less than substantial harm to the significance of a heritage asset and requires that harm to be weighed against the public benefits of the proposal.
- 10.38 Paragraph 206 of the NPPF states that local planning authorities should look for opportunities for new development within Conservation Areas, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting, that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

### **The Heritage Assets**

- 10.39 The application site contributes to the setting of the following heritage assets:
- Elm Farmhouse – Grade II Listed Building – located approximately 40 meters from Area 1.
  - Former Central Electricity Generating Board (CEGB) Headquarters – Grade II Listed Building – located approximately 110 metres from the site.
  - Landscape at the former CEGB Headquarters – Grade II Listed Park and Garden – located approximately 20 metres from the site.

### **Is there harm posed by the development? (NPPF para 200):**

- 10.40 In support of their application, the Applicants note that the proposed development comprises internal roads, graveside features, walling and landscaping, which is low scale development.
- 10.41 The boundaries between the southern development plot and the Pavilions are clearly defined and populated with mature trees and hedges. This well-established boundary provides a good degree of screening, limiting intervisibility between the Pavilions and the development plot, and also limiting the potential for any heritage impact.
- 10.42 In the light of the scale of the development and the physical interventions in between the site and these designated heritage assets, there would be no adverse impacts upon the heritage values and significance. Accordingly, their significance would be conserved.
- 10.43 The NPPF requires the Local Authority to place “great weight” in conservation of the historic environment, defining the historic environment as an irreplaceable resource. This additional

weighting in comparison to other planning considerations means it is of fundamental importance in determining development proposals that would affect it.

- 10.44 It is the assessment of the Local Planning Authority that the development would not negatively impact the settings of the identified heritage assets.

**What are the purported public benefits? (NPPF para 202)**

- 10.45 The NPPF requires public benefits to be tangible, resulting direct from the development and be genuinely of a public nature. Benefits must conform with the criteria of being, social, environmental, or economic.
- 10.46 This proposal will contribute to an identified requirement for additional burial sites for a city with an expanded population.

**11.0 CONCLUSION**

- 11.1 There is real public concern that the importance of this area in ecological terms will be diminished if this application proposal is approved. Your Officers are mindful of the requirements of policy and the need to secure on-going management of the SNCI. To this end, there is a commitment from the Applicants to the on-going management of this site (secured through condition). This is considered to be adequate mitigation for the impact of development.
- 11.2 This has been weighed against the identified critical need for additional grave space in the city. This site has been identified as the only site capable of accommodating this development and accordingly the application is recommended for approval.

**RECOMMENDED GRANT subject to condition(s)**

**Time limit for commencement of development**

1. Full Planning Permission

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

Reason: As required by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

**Pre commencement condition(s)**

2. Landscape and Ecological Management Plan (LEMP)

Prior to commencement of the development hereby approved, the applicant shall submit a 30-year Landscape and Ecological Management Plan (LEMP) for all habitats contributing to Biodiversity Net Gain (BNG). This should address retained features of ecological interest, together with mitigation and enhancements to be provided. The LEMP should set out management compartments, objectives, and prescriptions for all new proposed soft landscaping/planting to demonstrate how all habitats will be managed to their target condition (as specified in the BNG Assessment). It should also show how management of the site will be resourced and monitored.

This LEMP should also set out how the development area will be managed to maintain its status as a Site of Nature Conservation Interest (SNCI) as per the Ecological Mitigation

Proposals report produced by Wessex Ecological consultancy (2023). This must demonstrate how no harmful impact on the nature conservation value of the site will take place as a result of the development, therefore demonstrating how the development complies with Policy DM19 of the local plan.

Reason: Ecological enhancement is needed to meet the requirements of the revised National Planning Policy Framework (NPPF, 2021). The NPPF states in paragraph 174 (d) on page 50 that "*Planning policies and decisions should contribute to and enhance the natural and local environment by... minimising impacts on and providing net gains for biodiversity...*". The Environment Act (2021) requires habitats to be maintained for 30 years after development is completed (schedule 7A, Part 1, paragraph 9) to secure net gains for biodiversity. Policy DM19 of the Bristol City Council Local Plan states: "Development which would have a harmful impact on the nature conservation value of a Site of Nature Conservation Interest will not be permitted".

3. Notwithstanding the information set out in the Applicants Drainage Strategy (Flood Risk, Sustainable Drainage, Ground Water and Environmental Assessment), prior to the commencement of development a estimate of the greenfield runoff rate and proposed discharge rate shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the sustainable drainage of the site is acceptable.

#### **List of approved plans**

4. List of approved plans and drawings

The development shall conform in all aspects with the plans and details shown in the application as listed below, unless variations are agreed by the Local Planning Authority in order to discharge other conditions attached to this decision.

D200012-CDS-EN -ZZ-DR-L-100 Overall site layout, received 29 November 2022  
D200012-CDS-EN -ZZ-DR-L-005CD2 Area 1A and 1B construction details, received 29 November 2022  
D200012-CDS-EN -ZZ-DR-L-005DL Detailed soft landscaping plan, received 29 November 2022  
D200012-CDS-EN -ZZ-DR-L-005L(10) Area 1 and 1B landscaping plan, received 29 November 2022  
D200012-CDS-EN -ZZ-DR-L-005LE Area 1A and 1B levels, received 29 November 2022  
D200012-CDS-EN -ZZ-DR-L-009L Area 3 - Landscape plan, received 29 November 2022  
D200012-CDS-EN -ZZ-DR-L-009LE Area 3 - Levels, received 29 November 2022  
D200012-CDS-EN -ZZ-DR-L-011L Site 4 Landscape plan, received 29 November 2022  
D200012-CDS-EN -ZZ-DR-L- Location plan, received 29 November 2022  
Arboricultural Assessment, received 29 November 2022  
Flood risk and sustainable drainage, received 29 November 2022  
Ground water risk assessment, received 29 November 2022  
Heritage statement, received 29 November 2022  
Planning obligations, received 29 November 2022  
Planning statement, received 29 November 2022  
Statement of community involvement, received 29 November 2022  
Design and Access statement, received 29 November 2022

Reason: For the avoidance of doubt.

#### **Advices**

1. Site Safety

Any works on this land will need to be undertaken following engagement with Asset Protection to determine the interface with Network Rail assets, buried or otherwise and by entering into a Basis Asset Protection Agreement, if required, with a minimum of 3months notice before works start. Initially the outside party should contact [assetprotectionwestern@networkrail.co.uk](mailto:assetprotectionwestern@networkrail.co.uk).

## 2. Ground Levels

The developers should be made aware that Network Rail needs to be consulted on any alterations to ground levels. No excavations should be carried out near railway embankments, retaining walls or bridges.

## 3. Ground Disturbance

If works involve disturbing the ground on or adjacent to Network Rail's land it is likely/possible that the Network Rail and the utility companies have buried services in the area in which there is a need to excavate. Network Rail's ground disturbance regulations applies. The developer should seek specific advice from Network Rail on any significant raising or lowering of the levels of the site.

## 4. Site Layout

It is recommended that all development be situated at least 2 metres from the boundary fence, to allow construction and any future maintenance work to be carried out without involving entry onto Network Rail's infrastructure. Where trees exist on Network Rail land the design of foundations close to the boundary must take into account the effects of root penetration in accordance with the Building Research Establishment's guidelines.



## Supporting Documents

### 2. South Bristol Crematorium And Cemetery, Bridgwater Road, BS13 7AS.

1. Confirmation of Land Ownership and Management
2. Powerpoint
  - Application Proposal
  - Application Site
  - Proposed New Plots
  - Proposed attenuation Pond
  - Application Proposal
  - Consideration of the Application
  - Site Location Plan



Peter Westbury  
Bristol City Council  
Development Management  
PO Box 3399  
Bristol  
BS1 9NE

**Reply to** Jonathan James  
Head of Natural and Marine  
Environment

**Your ref** 22/05714/FB  
**Date** 25<sup>th</sup> July 2023

Dear Peter,

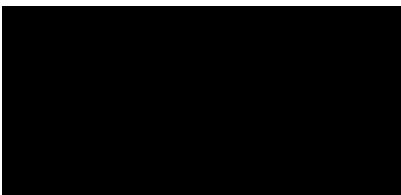
**RE: 22/05714/FB | South Bristol Cemetery Expansion**

I am writing in respect of the above application in my capacity as the Head of Service for Bristol City Council's Natural and Marine Environment Service, with responsibility for the management of South Bristol Cemetery and management of Bristol City Council owned SNCI designated sites.

I can confirm that Bristol City Council is the owner of the land covered within the above application, including the SNCI designated land where ecological mitigation and management measures have been proposed. I can confirm the previous tenancy on this land was terminated on 24<sup>th</sup> June 2021 and that no new tenancies have been entered into. The land is fully within the control of Bristol City Council to determine and implement land management arrangements.

The Ecological Mitigation Proposals document, submitted to the Planning Authority on 6<sup>th</sup> April 2023, was developed by the appointed Project Ecologist: Rupert Higgins of Wessex Ecology, based on engagement with my Service to ensure that the land management proposals are both robust and deliverable. I can confirm the agreement and commitment of Bristol City Council's Natural and Marine Environment Service to deliver the land management arrangements as set out within that document; including to produce a full management plan in consultation with stakeholders.

Yours Sincerely,



Jon James  
Head of Natural and Marine Environment

Natural and Marine Environment,  
PO Box 3399 (City Hall)  
Bristol  
BS1 9NE

**Patsy Mellor**  
Director: Management of Place

**Website**  
[www.bristol.gov.uk](http://www.bristol.gov.uk)



## **Application 22/05714/FB**

Expansion of existing cemetery and crematorium to provide new burial and memorial plots with associated roads, footpaths, parking, drainage infrastructure, fencing, landscaping and furniture.

**South Bristol Crematorium And Cemetery  
Bridgwater Road**

# Application site

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# Application site

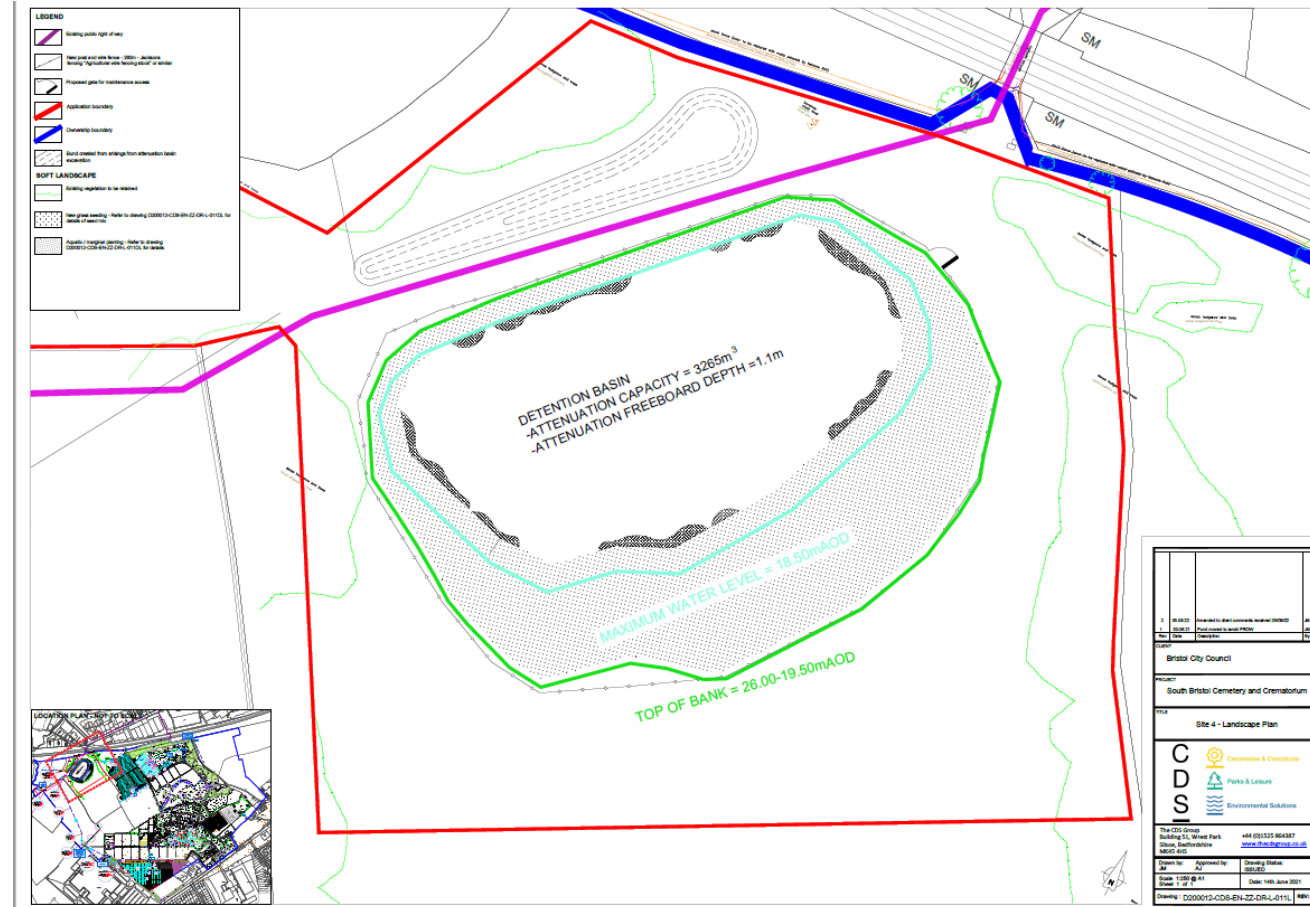
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# Proposed Attenuation Pond





# Application Proposal

- The proposed development involves a change of use from fields / agriculture to cemetery use, predominantly for burial plots.
- Internal pathways / roads will be created to link the new plots with the existing cemetery road / footway infrastructure. Areas for vehicle turning and parking will also be provided, all with a tarmacadam base (to match existing).
- The existing fields are largely open, so removal of vegetation will be kept to a minimum. Notwithstanding, the proposed development includes various landscaping and planting proposals to help encourage biodiversity and compensate for any ecological impact.
- Given the nature of cemetery operations, the land identified for use as burial plots will only be utilised for this purpose as the need arises. In this regard, the development is likely to be 'completed' in piecemeal fashion over a number of years.
- A new boundary wall will be created to enclose the northern parcel of land along its northern boundary with fencing erected alongside adjacent fields to prevent animals accessing the site.
- Introduction of Drainage infrastructure in the north western development plot to manage flood risk and surface water run-off. This will connect to other parts of the site as shown on the Proposed Drainage Layout drawings.

# Consideration of the Application

- There is a identified need to increase burial capacity in the city.
- The site is in the green belt – but the NPPF says that you can develop for cemeteries
- 61 neighbouring properties were consulted.
- 30 representations were received in support
- 14 objections were received
  - Concern about the impact on wildlife – SNCI, biodiversity (objection from the Bristol Tree Forum)
  - Concern about the impact on Yew Tree Farm

# Application Site

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