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Written Statement: Matter 4

Examination of the Bath and North East
Somerset Local Plan Partial Update

On behalf of Vistry Homes

06 JUNE 2022

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MATTER 4: AREA POLICIES AND ALLOCATIONS

Issue: Are the proposed policies and allocations justified, effective and consistent with national policy?

Policy SB8: Bath Riverside

Q.17 What is the justification for the requirement in 1) that proposals for Purpose Built Student Accommodation shall not be permitted?

The site benefits from outline consent (06/01733/EOUT) which was granted on 23/12/2010 for development of the following description:

“A new residential quarter including up to 2281 residential homes and apartments (Class C3); up to 675 student bedrooms and associated communal areas (Class C3) (or alternatively up to 345 student bedrooms (Class C3) and a primary school (Class D1)); local shops, restaurants, and other community services and facilities (within Classes A1, A2, A3, A4, A5, D1); construction of new bridges, roads, footways and cycleways; associated infrastructure and facilities; accommodation works; and landscaping.”

The principle of student accommodation on the site has been established by the above consent. Whilst this decision pre-dates the adopted Core Strategy and Placemaking Plan, it should be noted that a subsequent application (19/05165/ERES) was submitted on 27/11/2019 for reserved matters approval of the following:

Approval of reserved matters (scale, appearance and landscaping) pursuant to outline application 06/01733/EOUT for the erection of 2 no. 5-storey buildings comprising 290 student bedrooms (Sui Generis); retail floorspace (Class A1); bin and cycle stores, plant rooms, and associated landscaping works.

Whilst the above application was refused on 27/08/2020 on the grounds of poor design, the refusal did not relate to the principle of providing student accommodation. It is well established case law that previous planning decisions are capable of being material considerations, meaning that they may need to be taken into account by those determining subsequent applications for permission. Clearly an extant planning permission for student accommodation would be a material consideration for any further applications for development comprising student accommodation. Decisions must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (see section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004). The requirement in Policy SB8 that student

accommodation shall not be permitted, would present a difficult legal situation for decision makers by creating a conflict between the development plan and the material consideration that is the extant planning permission.

Consistency in planning decision making is important as explained by Mann LJ in *North Wiltshire District Council v Secretary of State for the Environment (1993) 65 P & CR 137*:

“One important reason why previous decisions are capable of being material is that like cases should be decided in a like manner so that there is consistency [...]. Consistency is self-evidently important to both developers and development control authorities. But it is also important for the purpose of securing public confidence in the operation of the development control system.”

In light of the above, it is particularly important that the Council provides a robust justification for the requirement. The Topic Paper on Student Accommodation (CD-SD036) does not provide that justification. It identifies a shortfall in purpose-built student accommodation (PBSA) of 640 bedspaces and acknowledges that a surplus would start to address pressure on HMO's. It is proposed that an amended Development Framework Plan for the Claverton Campus set out in Policy SB19 would provide 870 bedspaces creating a surplus, although it is acknowledged that the timetable for delivery of bedspaces on Claverton Campus is not yet clear.

If the maximum consented levels of student accommodation were to come forward at Bath Riverside alongside the anticipated student accommodation at Claverton Campus there would be a surplus of 905 bedspaces. The creation of a surplus would address pressure on HMO's and is not in itself good justification for the requirement to not permit student accommodation at Bath Riverside. However, in light of the lack of clarity on the delivery of bedspaces at Claverton Campus and the identified shortfall in bedspaces, it is clearly not justified to seek to prevent consented student accommodation from coming forward on an allocated site.

Q.18 Are the assumptions for the site to deliver 564 dwellings within 5 years and 756 dwellings in the plan period (as set out in the Council's response to my initial questions) realistic and based on a robust assessment?

Firstly, it should be noted that based on the Council's response to the Inspectors initial questions the assumption is that the site will deliver 740 dwellings within 5 years and 932 dwellings in the plan period. This is because in Appendix I 1a Large Sites with Full Permission the Council provides details of BWR Waste Site (ref: 19/05471/RES) as shown below:

Appendix 11a – Large Sites with Full Permission

Site Name	BWR waste site, Bath				
Local Plan Ref	19/05471/RES				
Total Capacity	176				
Plan period Completions	176				
Five Year Completions	176				
	2022/23	2023/24	2024/25	2025/26	2026/27
Completions			100	76	

This permission relates to reserved matters pursuant to outline consent 06/01733/EOUT, which is part of the wider SB8 Bath Riverside site. Permission was granted to Aequus Group, who are wholly owned by BANES Council, on the 17th December 2020. The permission is subject to various pre-commencement conditions that have not to date been discharged.

In Appendix 11b Delivery information for large sites with outline planning permission or allocations without permission, the Council provides details of Bath Western Riverside as set out below:

Site Name	Bath Western Riverside				
Local Plan Ref	SB8				
Total Capacity	880				
Plan period Completions	756 (400) (Note: figures in brackets are the figures in the 2021 trajectory)				
Five Year Completions	564 (240)				
	2022/23	2023/24	2024/25	2025/26	2026/27
Completions			188	188	188

The Council notes that the site is now in the control of a housebuilder (St. William, part of the Berkley Group) and the council, who intend to develop phases at the same time. St Williams is conducting public consultation in relation to the part of the site referred to as the Bath Gasworks. No full or reserved matters applications have been made for this part of the site, which is technically very challenging as it is the site of decommissioned gas holders. As set out in the IL review at Appendix 1, we consider that completions will not be obtained from the site until 2026/27.

The Housing and Economic Land Availability Assessment NPPG, at paragraph 005, requires local authorities to adopt inputs and processes that should lead to a robust assessment of land availability. Adopting the methodology advocated ensures the avoidance of over-optimistic forecasts which

subsequently fail to materialise and potentially suppress future requirements. The Councils assumptions when taken together require the delivery of 288 dwellings 2024/25, 264 dwellings in 2025/26 and 188 dwellings each thereafter. In our view this is an unrealistic and over optimistic assessment of delivery rates per annum. In our experience a delivery rate of 80 dwellings per annum would be more realistic.

Based on the above we consider that a realistic assumption is for the site to deliver 176 dwellings within five years and a total of 330 dwellings over the plan period.

Q.27 What is the indicative dwelling capacity for the site and what is the evidence that the Policy is either deliverable or developable as per the definitions in the NPPF?

The Regulation 18 Consultation Document provided a housing capacity of 90 dwellings, although it is unclear how the Council arrived at this figure. To gain a better insight into the potential capacity and of the site, we have reviewed planning application ref: 19/02276/FUL. It proposed redevelopment of the site for the following development:

Mixed-use redevelopment of Twerton Park and adjoining land, comprising of; replacement spectator stand, new east terrace and playing pitch (levelling with 3G surface); 12no. affordable dwellings (C3 Use), 33no. co-living apartments (Sui Generis); 356 beds of student accommodation (Sui Generis); community function space (D1 Use); gymnasium (D2 use); commercial units (A1/A2/A3/A4/A5 and AA Uses); modifications to the external appearance of the existing retail and residential units (providing 6no. additional apartments) between 105 and 116 High Street; associated landscaping and public realm works.

The application was refused by the Council on 12/03/2020 on the grounds of poor design; harm to conservation area; harm to residential amenity; and lack of parking. The reasons for refusal relate to a large extent from impacts arising due to the height of the proposed development (up to 7 storeys). This appears to be reflected in the revised wording of the policy which states that building heights will be generally 2-3 storeys with a maximum of 3.5 storeys at the northern edge of the site.

The application was accompanied by an accommodations schedule as shown below:

STRIDE TREGLOWN	
33, Oldfield Rd Bath BA2 3NE 01226 466 173 stride@stridetreglown.com	
32495_Twerton Park, Bath City Football Club	31.05.19
Gross External Areas by Level	

Student Accommodation & Retail	GEA (sqm)
LG Level	2550.1
UG Level	1898.3
Level 1	1898.3
Level 2	1898.3
Level 3	1898.3
Level 4	1695.3
Level 5	788.3
TOTAL	12626.9
Grand Stand	GEA (sqm)
UG Level	1989.3
Level 1	1526.1
Level 2	1557.8
TOTAL	5073.2

Based on the above we assume that any development will provide 1898.3 sq.m of floorspace across each floor, although note that this might be further reduced to address the lack of parking on the refused scheme. Assuming a flat site and an average height of 3 storeys across the site, development would yield 5,695 sq.m. Assuming an average requirement of 100sq.m to provide a single dwelling and no non-residential floorspace, would yield a site capacity of 57 dwellings. However, given the heritage sensitivity of the site, the need to provide Class E units along the Twerton Road frontage and additional parking, we conclude that a realistic, if somewhat optimistic capacity, would be at most 50 dwellings.

Planning application 19/02276/FUL was accompanied by a viability assessment and was argued to be enabling development for the stadium. Cushman and Wakefield were appointed by the Council to review the viability assessment and concluded:

“C&W’s independent viability appraisal produces a Residual Land Value of £2.16M against a BLV of £3.10M, which indicates a viability deficit of negative -£940K. This assumes a full CIL contribution of £2.45M.”

The viability assessment related to a development of up to 7 storeys. The proposed requirements of amended policy SB14 would limit development to a maximum of 3.5 storeys, severely restricting the amount of development that could come forward on the site. Therefore, the available evidence shows that the site is not developable. Furthermore, the Council have not provided any evidence that the site is deliverable as defined by the NPPF.

Q.35 What is the evidence that the proposed allocation would be deliverable or developable in terms of the NPPF within the plan period?

The site is a complex and sensitive, requiring the conversion and redevelopment of clinical buildings to non-clinical uses in a highly sensitive heritage setting. We are not aware of any evidence provided by the Council that the proposed allocation would be deliverable or developable.

APPENDIX I