

Planning Context and Objections

**Site Sutton Street and Henrietta Mews, rear of
33-35 Great Pulteney Street, Bath, BA2
(Ref 19/03821)**

**Submission to B&NES by Pulteney Estate
Residents Association (PERA).**

October 2019

Executive Summary

This report has been prepared by Pulteney Estate Residents Association (PERA) as a submission of planning objections to planning application 19/03821 submitted by Grange Park Securities Ltd (Les Gillingham).

In summary the main planning context and objections are:

Bath is a designated World Heritage Site and the heritage assets are of the **highest significance** in terms of the World Heritage Site, National and Local conservation and streetscape policies.

The development proposals will **significantly harm** the setting of the surrounding Grade I, Grade II* and Grade II Listed Buildings and the Bathwick Conservation Area and World Heritage Site. The proposals will **damage heritage assets** forming part of the World Heritage Site. In particular the development would destroy the local streetscape and many **important local vistas**, including those to and from the Holburne Museum to Henrietta Park, to and from Daniel Street to the rear of Great Pulteney Street, and to and from Henrietta Mews to the Pulteney Arms.

There is a previous 1971 planning refusal for residential development on this site on the grounds that it would detract from the character of this part of Georgian heritage area and be detrimental to amenities of the adjoining occupiers. The B&NES pre-application advice to the current developer concludes that **“I do not consider that residential development of any form to be acceptable on this site”**. B&NES advice and decisions on the site are supported.

The applicant claims that its own heritage assessment shows that the scheme will be of “negligible impact” and provide “minor benefit”, however, the assessment is dubious and both statements can be challenged. The development would have a **major impact on** and provide **no benefit (or even negative benefit)** to the World Heritage Site and the Conservation Area.

The Nash Partnership as architect has stated that “It is quite possible to conceive how it (*the site*) might have been developed in the 19th Century.” In reality the architect has ignored all planning policy and advice and created a scheme of no merit and one not worthy of a place in the Bath World Heritage Site.

The proposals seek to imitate the original Georgian design of Daniel Street but the poor design values and detailing of the scheme lead to the following objections:

- The proposals form an isolated, intrusive, and inappropriate group of three townhouses/mews buildings when the 19th Century residential architecture of the Conservation Area is as formal terraces.
- The detailing of elements particularly the incorrect 6x6 pane sash windows, inappropriate set-back doors with steps, the lack of ‘blind’ windows to

facades, and missing chimneys and rear parapets are not correct and do not respect the original architectural style of Daniel Street.

- The rear of the building and side elevations are visually chaotic and unattractive. The main structure on a concrete raft on stilts above the car park has no architectural merit of any description and is ugly. The nine solar panels will be visible to occupiers of Great Pulteney Street and are obtrusive.
- The wall finish at the back of the building is not Bath stone but an unacceptable and poor quality Bath stone/lime dust render.
- The proposals are family houses but no amenity space (patio/garden) is provided. Also, by having access only by steps from Sutton Street the developer ignores any provision for access by people with mobility problems.
- The applicant relies on an existing sycamore tree to hide the scheme and make it acceptable but the tree will be damaged by the development and could be lost. The applicant also attempts to screen the 'rafted' rear view of the scheme from residents overlooking from Great Pulteney Street with a 3m to 4m (13 ft) high wall along the southern site boundary, which is excessive and will be an additional eyesore affecting the listed building setting.
- The two (2) parking spaces provided for the residential units do not meet B&NES parking standards for the Outer area and there would be a loss of street parking spaces. Nine (9) car parking spaces are required by B&NES policy. No provision for the parking of bicycles is included.
- The entrance/exit to the garage and parking space and the Pearson May car park all situated on a dangerous 'blind' junction will cause traffic problems and endanger pedestrian safety.
- The impact of the scheme is likely to affect the viability of the Pulteney Arms by overshadowing the patio area to Sutton Street enjoyed by customers, risking the loss of the pub as an historic community asset.
- Light pollution and the impact on the Sutton Street bat 'corridor' between Sydney gardens and Henrietta Park has not been considered.

PERA submits that the planning application (19/03821) should **be refused**.

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Context

The site is at the rear of 33, 34 and 35 Great Pulteney Street, bounded by Sutton Street and Henrietta Mews and opposite Daniel Street.

The site has been open space and gardens for 33, 34 and 35 Great Pulteney Street and adjoins the garden of 36 Great Pulteney Street. On a map of 1810 appearing as a turning space for carriages with direct access to gardens and dwellings at No 33, 34, and 35. On all following maps the site is open space as gardens.

Historic maps, including J Barratt's map of 1818 (contained in UNESCO World Heritage site management plan 2016-2022), show that this area was part of the original plan for the Pulteney Estate and has remained unchanged for over 200 years. The town plan of 1886 shows that the site was set aside for a garden and formed a landscaped extension to Henrietta Park.

The site is now used for commercial parking space by Pearson May, chartered accountants, in connection with their business. It is laid out as an impermeable asphalt surface with 21 car parking space.

It is thought that the site has been used as a car park in July 1965 or thereabouts, possibly in connection with the GP Surgery. It is now used by Pearson May. Pearson May does not have direct access from its office at 37 Great Pulteney Street to the site. It is not clear when the site was surfaced with tarmac to be a hardstanding car park.

No 37 Pulteney Street is occupied by Pearson May, chartered accountants; No 36 is in residential use as flats and owned by Curo, the housing association, the flats have recently been refurbished and some are occupied; and No 35 is occupied by the Pulteney Practice Surgery, which has a Right of Way over part of the application site in perpetuity.

Ownership

The ownership of the site appears from HM Land Registry plans to originally be part of No 35 (Filed 9/78) but is now in the ownership of named partners at Pearson May. The HM Registry documents names the partners as David Richards, Jacqueline Bowden, James Rose and Martin Bridle.

It is thought that the site was sold by No 35 Great Pulteney Street (GPS) in 1965, to HW Cross Ltd, but No 35 retained a Right of Way over the land.

In 1984 the site may have formed part of No 33 GPS possibly then owned by Retirement Properties Ltd.

The named partners at Pearson May could have acquired the site sometime in the late 1980's.

The value of the site at 27th March 2018 was put at £875,000 (HM Land Registry).

On 17th August 2018 a restriction was added to the Title so that no further charges could be added to the Title without the agreement of Grange Park Securities Ltd relating to an Agreement of 8th August 2018.

Planning History

37 Great Pulteney Street, BA2 4BZ (this address seems to cover applications for the site since 2000)

10.03.2010 (ref 10/01099) Permitted - Internal and external alterations.

08.08.2003 (ref 03/01998) Permitted - Installation of gate.

25.07.2003 (ref 03/01896) Refused - Removal of 0.6m of rear boundary wall and re-erection of timber gate.

02.01.2001 (ref 01/00024) Refused but allowed on Appeal - Erection of two-storey extension and use of pavement vaults as storage.

20.07.2000 (ref 00/01560 and 00/01562) Consent - Erection of two-storey extension and use of pavement vaults as storage.

25.10.1984 (ref 7634/6) Granted - land rear of 33-35 Great Pulteney Street – Alterations to vehicle access and erection of boundary wall. Applicant - Retirement Properties Ltd, 4 Queen Street, Bath, BA1 1HE. Agent D Brain (Architect).

03.07.73 (ref 7634/5) Granted - Erection of 12 garages on land rear of 35 Great Pulteney Street. Applicant - HW Cross Ltd. Agent - BR Snow Esq (Architect). Planning Condition - The roof of the garages being constructed with only Trafford Tiles of a dark grey colour.

04.05.71 (ref 7634/4) - Refused - land rear of 33/35 Pulteney Street - Erection of a terrace of three houses, each with an integral garage. (note three 4-bed houses each of three-storeys from ground level, two-storeys fronting Sutton Street, with demolition of boundary wall). Applicant - HW Cross Ltd. Agent - John Bull and Associates (Architect). Refused permission on the grounds that (a) the erection of a terrace of houses of the design proposed would detract from the character of this part of the Georgian heritage area; (b) the proposed development would be detrimental to the amenities of the adjoining occupiers in Pulteney Street; and (c) inadequate manoeuvring space would be available in front of the proposed garages and for the parking of visitors' cars.

The site was originally a garden area to 33-35 Great Pulteney Street and also used as a driveway for carriages. It is thought that the site has been a car park since about July 1965. The site is currently hard paved and marked out for 21 car parking space.

PERA Comment - The planning appraisal indicates that Pearson May does not have listed building consent for the change of use of the land from garden/open space to commercial car parking.

PERA Comment - It is considered that the car park is at present an unlawful use of the site and requires Listed building consent. This might be rectified by a Listed Building Application for change of use from garden/open space to “use as a commercial car park for 21 vehicles” in order to regularise its use. It is thought that under current policies any car park would require a permeable surface as a flood prevention measure rather than the current impermeable surface.

01.06.16. 16/03086/PA03 Pre-application advice sought from B&NES for four two-storey ‘mews’ houses. The advice from the B&NES planning officer concluded **“I do not consider that residential development of any form to be acceptable on this site”** (Quoted in Applicant’s Design and Access Statement).

01.03.19. PERA was informally consulted by Grange Park Securities Ltd on plans for three 3-4 storey townhouse and mews style buildings built on a raft over the area used for car parking. Amendments to the proposals were to be made.

28.08.19 Planning application submitted (19/03821) for the ‘Erection of three dwellings with ancillary car parking, retaining office car parking below’; Land At Rear Of 37 Great Pulteney Street (r/o 33-35 Great Pulteney Street), Sutton Street, Bath, BA2. The number of townhouses has been reduced but the overall height of the scheme increased.

The above proposals are at the planning application consultation stage and the subject of this ‘objections’ report.

The Fundamental Objections (Policy)

National Policy

The revised National Planning Policy Framework (NPPF) was updated on 19 February 2019 and sets out the government’s planning policies for England and how these are expected to be applied.

Section 2 of the NPPF (2019) (Page 5) covers ‘Achieving sustainable development’ and includes Paragraph 8 (c) which is *“an environmental objective - to contribute to protecting and enhancing our natural, built and historic environment ...”*

Section 12 (Page 7) states *“The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission **should not usually be granted**. Local planning authorities may take decisions that depart from an up-to-date development plan, but*

only if material considerations in a particular case indicate that the plan should not be followed.”

In Section 12 - ‘Achieving well-designed places’ - Paragraph 127 (Page 38) states *“Planning policies and decisions should ensure that developments:*

- *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development (1a)*
- *are visually attractive as a result of good architecture, layout and appropriate and effective landscaping (1b)*
- *are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities) (1c)*
- *establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit (1d)”*

PERA Comment - It is our contention that none of the above criteria are met by the proposals.

Paragraph 128 states that *“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.”*

In Section 16 ‘Conserving and enhancing the historic environment’, Paragraph 184 (Page 54) says *“Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations”.*

Paragraph 189 (Page 55) ‘Proposals affecting heritage assets’ states *“In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance...”.*

Para 190 has *“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.”*

In the Section ‘Considering potential impacts (Pages 55-57) the following paragraphs apply:

Paragraph 193 *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”*

Paragraph 194 *“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:*

1. a) *grade II listed buildings, or grade II registered parks or gardens, should be exceptional;*
2. b) *assets of the highest significance, notably ... grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.”*

Paragraph 195 *“Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or **all** of the following apply:*

1. a) *the nature of the heritage asset prevents all reasonable uses of the site; and*
2. b) *no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
3. c) *conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and*
4. d) *the harm or loss is outweighed by the benefit of bringing the site back into use.”*

PERA Comment - The paragraphs above all support refusal of the planning application.

Local Policy (B&NES)

In a conservation area local authorities must take into account the need to preserve or enhanced the area’s special character when deciding whether to grant planning consent. Applications are considered against conservation policies and can be refused on conservation grounds alone. Proposals that would alter the character of buildings which make a positive contribution to the character of the area or **would damage the character of the area as a whole** are unlikely to be permitted.

A conservation area is designated under the provisions of Section 69 of the Planning (Listed Buildings and conservation areas) Act 1990 and is defined as ‘*an area of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance*’. The quality and interest of the area as a whole,

rather than individual buildings, is the main consideration when designating such areas.

Section 71 of the Act requires the local planning authority to periodically formulate and publish proposals for the preservation and enhancement of conservation areas within the district. Section 72 requires that in considering applications for development in a conservation area, attention shall be paid to the desirability of conserving or enhancing the character of that area.

BANES has set out the following points in the “Draft Bathwick Character Appraisal Bath Conservation Area”, published in November 2015. Conservation area appraisals are considered by Historic England to be vital to the conservation of these special areas.

The significant relevant comments in terms of supporting a refusal of the scheme are:

“The strongest character is derived from the great ‘set-piece’ of Great Pulteney Street and its short tributary streets”. (Page 1 Para 3)

“Its complex and delicate hierarchy of interrelated urban spaces, landscape and architecture could be easily disrupted by overbearing or misinformed development and by the accumulation of harm” (Page 1 Para 4)

“Innovative forms of town planning including squares, crescents and the circus were introduced. Attractive views and vistas were deliberately created”. (Page 2 Para 3)

“As an example of late-18th century formal planning and the use of axial positioning of key buildings, this Character Area is defined by its views” (Page 16 Para 5)

“Daniel Street represents a well-scaled and complete example of a more economical (two-bay) terrace, begun by Baldwin and finished by Pinch. The Pulteney Arms, on the corner with Sutton Street, is by Baldwin and has been used as an inn since 1796.” (Page 21 Para 2)

“Private rear gardens form a significant contribution to the open green space in the Character Area, especially where they may be glimpsed from the street. At the ends of terraces and at street corners glimpses of vegetation and tranquil garden spaces often punctuate the streetscape.” (Page 28 Para 1)

“The extent of the survival of the late 18th century townscape is remarkable, drawing tourists and offering an authentic backdrop for film-making.” (Page 31)

The report also identifies views along Daniel Street towards Great Pulteney Street and from the Holburne Museum along Sutton Street as important views. (Annex 1 - Maps - Landmarks and Views)

BANES also has more detailed policies in the Somerset Core Strategy and draft Placemaking Plan. The BANES Placemaking Plan was formally adopted by the Council on 13th July 2017. The Placemaking Plan now forms part of the

Development Plan for the District and is used in the determination of planning applications.

The Plan has the following comments and policies which apply:

“The unmet need is not considered to represent exceptional circumstances for developing in the Green Belt and in any case is not viewed as overriding the great weight that needs to be afforded to the significance of heritage assets, not least the World Heritage Site.” (Page 4 Item 22)

*“... the Bath spatial strategy seeks to contribute to the actions proposed in the City of Bath World Heritage Site Management Plan (November 2010) that seek to protect the Outstanding Universal Value (OUV) of the site and its setting. The significance of the WHS is set out in the Statement of Outstanding Universal Value and derives from the city’s Hot Springs, its Roman Archaeology; **Georgian town planning; Georgian architecture;** ...”* ((Page 4 Item 23)

Policy B1 Bath Spatial Strategy - Page 9 - Natural and Built Environment

“Sustain and enhance the significance of the city’s heritage assets and green infrastructure, including:

a The Outstanding Universal Value of the City of Bath World Heritage Site and its setting.

b Listed buildings, the Bath conservation area and their settings.

c Archaeology, scheduled ancient monuments, and historic parks and gardens.”

Page 11 Para 29 – *“The World Heritage Site status of the city is a key material consideration when making planning decisions. As a designated heritage asset of the highest significance there is a strong presumption in favour of the conservation of the Outstanding Universal Value of the World Heritage Site. The significance of the WHS is set out in the Statement of Outstanding Universal Value (OUV) (2010) and is summarised in paragraph 2.05. The World Heritage Site Management Plan (2011-16) sets out the objectives and actions needed for the successful conservation and management of the Site. The Local Plan has a key role in the implementation of the Management Plan.”*

Page 11 – Para 32

“Design that fails to conserve or take the opportunity to enhance the Outstanding Universal Value World Heritage Site will be rejected.”

Page 11 – Para 33

“... a Building Heights Strategy for the area of Bath covered by the World Heritage Site designation has been prepared. The strategy provides area-based guidance on the appropriate height of new development to ensure the protection of the Outstanding Universal Value (OUV) of the Site.”

Policy B1 Bath Spatial Strategy - Page 9 - The World Heritage Site and its Setting

“There is a strong presumption against development that would result in harm to the Outstanding Universal Value of the World Heritage Site, its authenticity or integrity.

This presumption applies equally to development within the setting of the World Heritage Site.”

The BANES Placemaking Plan details local policies on design and access (D1-D7). These set principles which development must meet in the following areas:

- D1: General Urban Design Principles – including enriching the character and quality of places
- D2: Local Character and Distinctiveness – including responding appropriately to urban morphology
- D3: Urban Fabric
- D4: Streets and Spaces – Including contributing to a clear hierarchy of streets and spaces and resolving the impact of parking provision on connectivity
- D5: Building Design – Including historical style where the development is re-unifying lost compositions
- D6: Amenity – providing appropriate levels for existing and future residents
- D7: Infill and Backland Development – supported where it has regard to the character and quality of the surrounding townscape and reflects the form, pattern and grain of existing development

PERA Comment - The paragraphs above all provide supporting policies and guidelines for refusal of the planning application.

Vistas

An important part of the Bath World Heritage Site designation concerns the views in and around the city. There are WHS attributes that might be considered as conveying or expressing Outstanding Universal Value. In particular in relation to vistas:

- Views and vistas, within the Georgian city deliberately created by awareness of context, and beyond, including such components as Prior Park and Sham Castle, designed to view, and be viewed from, the city centre.
- The design of the Georgian city as a theatre set, with visual surprises and open spaces linked with one another.
- C18th picturesque principles including the relationship of buildings to landscape, the concept of blending countryside and town, and historic parks and gardens.

PERA Comment - The development proposals will destroy the above attributes as they apply in the local area.

In particular the following views will be harmed or destroyed:

- From Henrietta Park, Henrietta Mews, and Henrietta Gardens, towards the Grade I Holburne Museum and the Watchman's Boxes.
- Daniel Street towards the rear of Grade I listed buildings in Great Pulteney Street.
- From Bathwick Street towards the rear of Grade I listed buildings in Great Pulteney Street.
- From the Holburne Museum towards Henrietta Park.
- From the rear of Great Pulteney Street to Daniel Street.
- From the rear of Sydney Place towards Henrietta Park.
- From and to the Pulteney Arms from Henrietta Mews/Henrietta Park

The consideration of vistas in the local area is well covered by the B&NES Bathwick Character Appraisal Bath Conservation Area. (November 2015).

PERA Comment - These important vistas are not taken into account in the applicant's Heritage Statement and the Assessment of Impact on Heritage Assets.

Parking Standards - Outer NOT Inner

The applicant has stated in the Design and Access Statement that the development site car parking standards comply with Policy ST7, Schedule 2, in the BANES Placemaking Plan, the assumption being that the site is in the Inner Zone (but not clearly stated by applicant). The scheme provides 2 car parking space for two of the units (4 bed each) and one unit (3 bed) does not have **any** parking provision.

The above assumptions are wrong. The site on Sutton Street and Henrietta Mews is in the 'Outer' Bath parking zone (Page 224 Defining Bath City document in Placemaking Plan) and the following applies:

Outer Zone – 2 spaces per 2-3 bed dwellings and 3 spaces per 4 bed dwelling.

PERA Comment - The total parking provision should therefore be 8 car parking spaces (plus visitor parking) and not the 2 spaces indicated. This view is now confirmed by the B&NES Highways and Traffic Department that nine (9) space are required (Submission 18.09.19).

This has led to vastly inadequate parking provision being made combined with the loss of 1-2 on street parking spaces on Sutton Street and one lost space in the Pearson May car park.

Traffic Issues

PERA Comment - The use of the site as a commercial car park with 21 spaces and access at the 'blind' junction with Sutton Street/Henrietta Mews is unacceptable.

The existing commercial car park use and the proposed car parking changes will create serious traffic and safety issues, with a high number of commercial vehicle movements on a busy 'rat' run. Daniel Street residents have repeatedly raised concerns with BANES Highways and Traffic group on the volume and speed of traffic along Sutton Street, particularly during rush hours and constantly exceeding the 20 mph speed limit. There have been several road traffic accidents at the Sutton Street/Henrietta Mews/Henrietta Gardens junction, where sightlines are poor. B&NES has promised action and a traffic management plan is said to be in the 'pipeline'.

Safety concerns in respect of vehicles being stationary and parked across the blind bend or on pavement while opening the gates to the car park. There are inadequate turning arrangements in car park itself.

In particular the sight lines and safety on access and egress (reversing) to the proposed garage and parking space on the building raft will create a dangerous traffic problem on Sutton Street.

In the Design and Access Statement the developer plays down traffic volumes in Sutton Street to avoid dealing with these issues.

Archaeology – What The Romans Did

The introduction of Planning Policy Guidance Note 16 (PPG16) in 1990, confirmed archaeology as a significant factor in determining planning applications and now need to be in accordance with the National Planning Policy Framework (NPPF). The importance of Roman remains is also an attribute in World Heritage Site recognition.

Paragraph 189 (Page 55) 'Proposals affecting heritage assets' states *"Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation."*

The car park site, which has never been built on, was previously gardens and open space associated with houses in Great Pulteney Street.

Recent excavations at Bathwick Street have identified significant Roman remains and activity possibly relating to the building of the Roman Baths.

It is considered that the Roman Road, from a crossing on the River Avon, may either cross the site or is close to the site. Within 50m of the site Roman burials, a

tessellated floor, and building remains have been identified. The extent of Roman occupation in the Bathwick area has only recently been fully appreciated and other burials alongside the line of the Roman Road are to be expected as the site is within the designated area of the Bathwick Roman Cemetery (see HER Record 62029)

PERA Comment - Roman remains could well exist on the site but the developer has not carried out any pre-application studies or excavations to determine the extent of any remains. A ‘watching brief’ on this site is not acceptable. This view is now confirmed by the B&NES Archaeology Historic Environment group which recommends refusal of the scheme (Submission 23.09.19).

Flood Risk Assessment

The site sits on a flood area.

National Planning Policy Framework (NPPF) states in the section on Planning and flood risk (Para 155 Page 45) that *“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.”*

Paragraph 155 states that *“All plans should apply a sequential, risk-based approach to the location of development – taking into account the current and future impacts of climate change”*.

Paragraph 158 states that *“The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.”*

PERA Comment - The developer is incorrect in stating ‘NO’ in the planning application to Item 12 ‘Will the proposal increase the flood risk elsewhere?’. The car park surfacing is admitted by the developer in the Flood Risk Assessment to be “finished in impermeable materials” and the increase in the flood risk caused by this and the fact that the materials are contrary to B&NES policy on car park surfacing and drainage has not been addressed. This view, plus additional comments on the need for a drainage assessment, is supported B&NES Drainage and Flooding group (Submission 25.09.19) and has a recommendation that the application be refused.

The Pulteney Arms – Impact

The Pulteney Arms public house at 37 Daniel Street has existed since 1796 and is Grade II listed. The public house is one of the oldest continuous drinking establishments in the UK and identified by CAMRA as one of the most important historic inns in the country.

The pub and its landlord are well regarded and it is used by the local community and visitors. It is recognised as a matchday pub for both Bath Rugby and opposition supporters.

The development will overshadow the patio area fronting Sutton Street used by customers and harm the historic vistas from the Pulteney Arms towards the rear of Great Pulteney Street and to some extent to the edge of Henrietta Park.

The development of residential buildings and hence occupiers directly opposite the public house entrance and patio area will potentially lead to conflicts on use and opening times which will adversely affect trade and unbalance local relationships on what is an exceptional community asset.

There is a strong presumption against development that would result in harm to the Outstanding Universal Value of the World Heritage Site (Core Strategy Policy B4) and the Pulteney Arms is an important local and international community and heritage asset providing employment both as a public house, a visitor attraction, and film set location.

PERA Comment – The development would affect the viability and potentially the future of The Pulteney Arms as a heritage and community asset by loss of trade estimated to be in the order of £100,000.

Housing Policy

Housing development is subject to the sequential tests. The scheme does not meet the criteria and the developer has NOT submitted any supporting information to justify meeting these tests.

The Design and Access Statement only says the scheme will contribute to the 23 units a year 2018 to 2023 as “windfall” development.

PERA Comment - The provision of ‘windfall’ units is accepted as being ahead of expected supply by two to three years. Any further units required can better be met on sites available elsewhere in Bath.

PERA Comment - The townhouses proposed do not have any provision for amenity space and are therefore unsuitable as family housing.

Biodiversity, Conservation and Trees

The developer is incorrect in stating ‘NO’ in the planning application to Item 13 ‘a) Protected and priority species:
.... on land adjacent to or near the proposed development’

The answer should be ‘YES’ in view of the biodiversity, particularly bats, in Henrietta Park and other nearby open spaces. Sutton Street as a link between Sydney Gardens and Henrietta Park is regarded as a ‘bat corridor’ and the development of 4 story townhouses and additional light pollution will seriously interfere with this important route.

Trees on adjoining land may not be covered by individual Tree Preservation Orders but a blanket protection order will apply as in a conservation area. The proposals are likely to badly affect the sycamore tree in the garden of No 36 Great Pulteney Street and could kill it.

The applicant plans to remove overhanging branches of the sycamore in the adjoining garden of No 36 Great Pulteney Street which will significantly affect its symmetrical shape and endanger the tree. The removal of branches is to allow a car park space to be created on the raft and this is next to the proposed garage. This parking space is unlikely to be used due to the ‘drop’ of sycamore sap on any vehicles or a further planning application could be made to enclose this car parking space and further harm the tree.

The site is within the boundary of the ecological network as defined by the B&NES proposals map and Placemaking Plan.

PERA Comment – The applicant has failed to submit a biodiversity report and the development will damage the sycamore tree on the boundary.

Precedents

The developer uses the example of the approved and recently completed mews development in Henrietta Mews to argue that the approval of this scheme means its own scheme is acceptable in planning and design terms.

The location, design, detailing, and quality of the Henrietta Mews scheme is unique and merited approval. It is far superior in Design Values to the proposals for the Sutton Street site by Grange Park Securities Ltd and actually is an asset to the Conservation Area.

PERA Comment - The use of the Henrietta Mews scheme as an example of a precedent has no merit.

Application - Design and Access Statement

The Design and Access Statement by Nash Partnership extensively details the relevant local and policies to be considered (to Page 11).

It is a weak document and rather than support the arguments for the development actually provides chapter and verse on the grounds for a refusal.

The report details the confidential comments made by BANES on pre-application advice as follows:

“Substantial buildings will be introduced into an area that is currently largely free from development and is considered to be ancillary space to the rear of the listed buildings.

The introduction of dwellings in this location will increase the sense of enclosure and will harm the setting of the listed buildings and this part of the conservation area, as well as the setting of Henrietta Park.

The loss and replacement of the existing boundary wall with dwellings at the back of pavement fails to respect this part of the conservation area.

Proposals may lead to pressure for removal of the neighbouring sycamore trees due to the proposed lowering of floor levels the impacts of shading, overhanging and seasonal debris on residents. This would be not acceptable given their contribution to the street scene.

The proposal would result in the loss of 3 spaces in all but there is some capacity in the car park and as such, it is not considered that there will be any increase in off-site parking. It would also appear that there is sufficient parking for the proposed dwellings.

Given the relationship between the proposed dwellings and the existing dwellings, it was not considered that there would be any adverse impacts on residential amenity.

Any garage doors opening over the footway would not be acceptable due to safety risks.

Access to the garages would also require the removal of a length of the limited stay parking available in Sutton Street (2hr max, Monday-Saturday 8:00am-7:00pm). This would require a separate Traffic Regulation Order (TRO).”

B&NES officers concluded that in light of these points, ‘given the low-key, ancillary nature of the street and its importance in the setting of the listed buildings and the conservation area, I do not consider that residential development of any form to be acceptable on this site.’

Despite this advice from B&NES the applicant still considers that there “remains a case for development based on a revised design and the statements submitted.”

PERA Comment – PERA considers that no case has been made for the development and fully supports B&NES officers’ conclusion that they do not consider “residential development of any form to be acceptable on this site.”

The applicant continues with “The Justification” (Section 5), which is rather thin and the main design point suggested is:

“There is a strong case for strengthening this corner and its legibility, celebrating both the curves and the change in height. Creating a development which responds formally to add to the formal symmetrical qualities of Daniel Street requires greater height. This has informed the overall massing and symmetry of the proposal”.

In the Planning Assessment Section 6 the main points are:

- The car park is not an important ancillary space in the wider historic context of the Conservation Area. It was a product of the geometry of the laying out of Daniel Street after the demise of the Thomas Baldwin Bathwick Estate Masterplan development. There is no virtue in leaving the site undeveloped simply because it is serving an ancillary function, when this use can continue.
- Daniel Street’s terraces will be better respected by providing a better visual stop and urban containment to the street.
- The proposals are considered to be of a suitable size, scale, character, materials and quality to prevent taking away any character or value from the experience and understanding of the Conservation Area.

PERA Comment – There is no case made for “strengthening this corner”, developing buildings on a raft to retain a car park, or a “visual stop” or the scale and design. The scheme would create an isolated, intrusive, and inappropriate group of three townhouses/mews buildings on a raft when the 19th Century residential architecture of the Conservation Area is as formal terraces.

The scheme would be an eyesore in the conservation area and significantly harm the setting of the surrounding Grade I and Grade II listed buildings and vistas.

PERA Comment – There would be a cumulative impact of this poorly designed development adding to the poor visual impact of the existing garages in Henrietta Mews.

PERA Comment – A construction management plan has not been prepared and should really form part of the planning application, particularly in respect of piling and noise and disturbance.

The conclusions by Nash Partnership (with PERA added comments in bold) are:

1. The existing car park at Sutton Street is considered to be of negligible value to the Bath World Heritage Site, Conservation Area or adjacent listed buildings. Its development represents a good opportunity to deliver much-needed

windfall housing on a brownfield site in a highly sustainable location. This principle is strongly supported by both national and local policy.

PERA Comment - The site, originally planned as an extension to Henrietta Park and currently used unlawfully as a car park, as an open space is of considerable value to the World Heritage Site and the Conservation Area. As an open space it provides unique vistas from Sutton Street and Daniel Street to the visually interesting and historic rear of buildings in Great Pulteney Street. The views from Henrietta Park to the Holburne Museum will also be blocked. The residential use fails the B&NES policy on 'sequential tests'.

PERA Comment - The development will cause substantial harm and destroy the 200-year old Georgian streetscape. It is the interaction between the built and natural landscape through history and their influence upon each other that has created the unique composition of Bath. This characteristic is described in the Bath City-wide Character Appraisal (adopted as a Supplementary Planning Guidance in August 2005).

2. The building will enhance this part of the Bathwick Conservation Area by reinforcing the marked change of urban character at this point when grand formal terraces give way to informal parkland ringed by 20th century buildings.

PERA Comment - This scheme will not enhance the area and will cause substantial harm to the setting of listed buildings and the conservation area.

3. The benefits associated with the site's development are to be weighed against the impact of the development on the Bath World Heritage Site, Conservation Area and adjacent listed buildings. The supplementary heritage statement in the report concludes that the proposals will have a minor beneficial impact on the Conservation Area and World Heritage Site, and a negligible impact on the setting and significance of proximate listed buildings.

PERA Comment - "Minor beneficial impact" is not adequate even if true (which it is not). Any development proposals in this setting needs to provide "Exceptional" benefits to be considered at all. The scheme proposed is poor, does not benefit the setting, and will cause substantial harm.

4. As demonstrated in chapter 6 the proposals are considered to be in accordance with all other development control policies contained within the planning policy framework.

PERA Comment - Not true.

5. For these reasons it is concluded that the proposals are in accordance with the overall planning policy framework and should therefore be granted planning permission.

PERA Comment - B&NES' original planning refusal in 1971 and the 2016 pre-application advice that "I do not consider that residential development of any form to be acceptable on this site" is to be supported. The planning application should be refused by B&NES.

Application – Heritage Statement

The Heritage Statement submitted as a justification contains many fundamental inaccuracies:

In para 1.2 the applicant states that *"the site itself does not contain any heritage assets"*. This is incorrect as the site is likely to contain Roman remains and the archaeology form part of the World Heritage Site assets. In this paragraph the applicant also states that *"The back of pavement wall bounding the site beside Sutton Street is not part of any listed building curtilage."* In fact the site was part of the curtilage of No 35 Great Pulteney Street when the buildings were listed and will be part of that property's curtilage and listing.

In para 1.6 it is stated that *"There are currently no access problems and traffic movement is comfortable"*. While not sure if "comfortable" is an appropriate term in transport planning the statement is not correct. Sutton Street is a 'rat run', vehicles constantly exceed the 20 mph speed limit, and the junction with Henrietta Mews is dangerous and made more dangerous by cars entering and leaving the car park, and a source of residents' complaints and promised action by B&NES.

In para 1.9 the applicant says that *"The existing car park is not considered to be important as an ancillary space to the historic provenance of the buildings"*. In fact the car park does NOT have listed building consent and the site should be gardens/open space and therefore it should be returned to this use and continue as an important open space allowing key vistas in the conservation area.

In para 1.11 the applicant states that *"All materials are in keeping with the surrounding built form"*. However, the use of stone dust and lime rendering to the rear elevation and solar panels do not fit with this statement.

In para 1.13 the applicant tries to justify the increased height and shallowness of the building as being of some improvement in the 'gap' between it and the Grade I listed buildings in Great Pulteney Street and says the scheme brings "significance". The statement is not convincing and the proposals have no significance and will cause substantial harm.

In para 2.3 the fact that the boundary walls are listed structures and in a conservation area is ignored.

In para 3.6 Henrietta Park is accepted as an important open space but the mention of it being *"not listed"* ignores the fact it is protected by being in the conservation area.

In para 3.18 the applicant is wrong to conclude that the site can be considered as being in the same 'infill' category as the scheme at the corner of Pulteney Mews and Sydney Wharf [sic – Raby Place intended?].

In para 3.22 the applicant, in considering the vista from Daniel Street towards the back of Great Pulteney Street says "It is clear that this was not a designed view". Even if true this opinion tries to denigrate what is now an important vista in the conservation area. Daniel Street was finally developed about 1810 after changes to the master plan and the relationship with the vista to the back of Great Pulteney Street would have been recognised. The backs of the buildings in Great Pulteney Street are all completed in squared Bath stone (not rubble stone) and as a more expensive construction method were intended to make a visual statement and to be seen.

Overall the applicant gives little consideration to the quality of the Grade II listed buildings in Daniel Street or the vistas in the conservation area.

The "Methodology for Assessing Heritage Impact" (Section 4) submitted by the applicant is flawed. The identification of Heritage Assets in Chapter 3 is focused in buildings. It briefly mentions the importance of vistas but in Section 4 it excludes assessments of these vistas which form an integral part of the character of the conservation area and setting.

In para 4.4 the 'value' of Grade II listed buildings as a heritage asset is indicated as 'Medium' importance and Grade I listed buildings are 'High' importance (see Table 4.1). There are no grounds for this distinction. Grade I and Grade II listed buildings should both be as 'High' importance in contributing to the Georgian character and setting in the conservation area.

In Table 4.2 the applicant has created a Magnitude of Impact table with Beneficial and Adverse groupings and contrived wording. In considering the Beneficial definitions the proposed development should be a negative on all counts, providing no benefits. On the Adverse impact the answer is Yes to Medium and High Adverse Impact. On the Low Adverse definition of "The development erodes to a minor extent the ability to appreciate the heritage assets in view, or the view as a whole" the answer should be NOT APPLICABLE.

In Table 4.3 the applicant goes on to introduce some unspecified "*weighing the magnitude of the impact against the value of the asset*" to conclude in Table 4.4 that Daniel Street Terraces are of 'Medium' importance and the Pulteney Arms is of 'Medium' importance. Both should be of 'High' importance.

In para 5.3 the applicant introduces the idea that the existing trees help hide the proposed scheme. This is misleading, any such contribution is negligible.

In para 5.7 the applicant includes a rather sweeping statement that "***It is quite possible to conceive how it might have been developed in the 19th Century, either as mews accommodation for those Great Pulteney Street properties closest to it or, alternatively, as a more formal stop to Daniel Street to the north.***"

The following paragraphs try to justify the scheme but provide no substantial arguments to counter the substantial harm these proposals will have on the setting of listed buildings, vistas and the conservation area:

- The statement in para 5.33 that “... ***there is nothing essential or significant to the quality and character of Daniel Street in this view line taking this particular form.***” and in para 5.34 “*For those walking down Daniel Street the generous width of the street, the simplicity of the elevations and the strong rhythm achieved by their low window/ wall ratio and their semi-circular framed inset stonework **would not be harmed by the positioning of the proposed building***”. All demonstrating how poor the applicant is on assessing heritage assets and policies in a World Heritage Site.
- In para 5.35 the applicant argues the methodology leads to the conclusion that the impact of the development on “*robust listed buildings*” will be **negligible** and in para 5.37 that the assessment has shown that the proposals will result in a negligible impact on the setting of the neighbouring listed buildings and will bring **minor benefits** to the Conservation area and World Heritage Site...”.

On a positive note in para 3.21 the applicant actually accepts that the site “*allows wide ranging views across it to the scale and variety of the backs of Great Pulteney Street. It also allows views towards the trees of Henrietta Park.*”

PERA Comment - The above references demonstrate how creative and inaccurate the applicant has been on the assessment criteria applied to the Bathwick and Great Pulteney Street heritage assets to come to a conclusion of “negligible” impact and ‘minor benefits’. The reality is that the proposal for development would do substantial harm to the Conservation Area and the World Heritage Site and provide no benefit.

Conclusion

The applicant has submitted the planning application contrary to the previous refusal (1971) and B&NES pre-planning advice (2016). The proposals do not comply with UNESCO World Heritage Site, National or Local policies.

The proposals if approved would do substantial harm to the Bathwick Conservation Area, Great Pulteney Street, and the heritage assets of the Bath World Heritage Site.

PERA supports B&NES on its pre-planning advice and requests that the planning application 19/03821 be refused.

Nigel Websper – PERA Committee Member

1 October 2019

Ceris Humphreys – PERA Committee Member

For and on behalf of Pulteney Estate Residents Association and approved by the PERA committee in September 2019