

BATHEASTON PARISH COUNCIL

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Development Management
Bath & North East Somerset Council
Lewis House, Manvers Street
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Submitted via the planning portal and by email to Development_management@bathnes.gov.uk

Dear Sir or Madam

Application 26/02351/FUL – Vine House, Bailbrook Lane, Lower Swainswick, Bath BA1 7AB

Proposal: “Erection of a detached dwelling”

Representation of Batheaston Parish Council: OBJECTION

1. Introduction and summary

- 1.1 Batheaston Parish Council objects to this application and asks that it be refused. Given the history of committee determinations on this site and the strength of public interest, the Parish Council further asks that, should officers be minded to recommend approval, the application be referred to the Planning Committee, and that the Parish Council be given the opportunity to address it.
- 1.2 The description of development, “erection of a detached dwelling”, does not convey what is sought. The dwelling in question, known as Bath Springs, is already substantially built under planning permissions 10/01067/FUL and 24/02402/VAR. Those permissions are subject to a legal agreement under section 106 of the Town and Country Planning Act 1990 requiring the existing dwelling on the site, Vine House, to be demolished within a fixed period of the new dwelling’s completion. The applicant’s agent states the purpose of this application in terms: “Once approved the new permission can then be relied upon to erect the dwelling currently under construction (with no requirement to demolish the existing Vine House).”
- 1.3 The proper comparison is therefore with the fallback position: the applicant may lawfully complete the dwelling under 24/02402/VAR, whereupon Vine House must be demolished. Measured against that baseline, the only change this application would effect in the real world is the retention of Vine House. Its planning merits stand or fall on that change alone: a net additional dwelling in the Green Belt and the Cotswolds National Landscape, on the lower slopes of Solisbury Hill, immediately adjacent to the Bath World Heritage Site.
- 1.4 That question has been asked and answered. In 2020 the Council refused an application to discharge the demolition obligations (20/01255/D6A) because they “continue to serve a useful purpose in preserving the openness of the green belt”. In January 2025 the Council granted 24/02402/VAR subject to a fresh section 106 agreement requiring the same demolition; the applicant entered into that agreement freely, and did so after publication of the December 2024 National Planning Policy Framework (NPPF) on which this application now relies. Nothing material has changed since except the height

of the walls: the dwelling whose acceptability rested on that obligation is now substantially built, and that progress is the exercise of a permission whose price was demolition, not a point in the proposal's favour.

2. The site and its designations

- 2.1 The site lies within the Bristol and Bath Green Belt and the Cotswolds National Landscape (formerly the Cotswolds Area of Outstanding Natural Beauty, or AONB), immediately adjacent to the boundary of the City of Bath World Heritage Site and the Bath Conservation Area, and outside any housing development boundary. It sits on the lower slopes of Solsbury Hill, whose summit hillfort, Little Solsbury Hill Camp, is a Scheduled Monument held by the National Trust since 1930. A well-used public footpath runs immediately above the site.
- 2.2 These designations are not incidental. Paragraph 189 of the NPPF gives great weight to conserving and enhancing landscape and scenic beauty in National Landscapes, which have the highest status of protection. The site is prominent in public views: the new dwelling is already clearly visible from the canal towpath between Bath and Batheaston, from the Bath Skyline, and from Sally in the Wood across the valley.

3. Planning history: from one dwelling to three

- 3.1 The relevant history is as follows.

Reference and decision	Effect
06/03449/FUL granted 15 February 2008	Demolition of Vine House and erection of a sustainable dwelling ("Bath Springs"). Approved by the Development Control Committee against officer recommendation, on a very special circumstances basis, subject to a section 106 agreement requiring demolition of Vine House within three months of completion of the new dwelling.
10/01067/FUL granted December 2011	Revised scheme for the same replacement dwelling; subject to a section 106 agreement in the same terms. Lawfully commenced before 28 December 2014.
20/01255/D6A refused 1 May 2020	Application to discharge the demolition obligations. Refused: the obligations "continue to serve a useful purpose in preserving the openness of the green belt".
24/02402/VAR granted 9 January 2025	Minor material amendment, "Erection of a sustainable dwelling following demolition of existing dwelling (known as Vine House)"; subject to a fresh section 106 agreement requiring demolition of Vine House within six months of completion.
25/03825/NMA approved October 2025	Non-material amendment for design changes.
25/02637/FUL granted 21 January 2026	Conversion of the barn on the adjoining land to a dwelling, approved by the Planning Committee against the objection of the Parish Council.
26/00852/PA02 response 1 May 2026	Pre-application enquiry for the present proposal.

- 3.2 Alongside this sequence, the wider landholding has seen two substantial agricultural buildings erected under agricultural permitted development rights, permission for office use within one of them, and, in January 2026, permission to convert the smaller barn to a dwelling once its agricultural use was said to be no longer required.
- 3.3 The direction of travel is unmistakable. In 2008 this holding contained one dwelling. If the present application succeeds it will contain three: Vine House retained, Bath Springs completed, and the converted barn, together with a large modern agricultural building, in a location where national and local policy could never have supported three dwellings had they been sought openly at the outset. Each step has been presented as modest; each has used the last as its platform. The officer's conclusion on the 2020 attempt remains apt: the committee that approved Bath Springs did so on the explicit basis that Vine House would go, and "the retention of the Vine House alongside the approved dwelling would have a significantly greater impact upon openness than originally determined".

4. The application should be determined for what it is

- 4.1 The covering letter and Design and Access Statement are candid that this is "a fresh full planning application for the erection of the dwelling currently under construction", promoted so that the demolition obligation falls away. The Parish Council invites the Council to determine the application for what it is in substance: an application to retain Vine House in addition to a 556 square metre dwelling, in the Green Belt and the National Landscape. The principle of consistency in decision-making is well established (*North Wiltshire District Council v Secretary of State for the Environment* (1992) 65 P&CR 137); like cases should be decided alike, and a departure from the Council's 2020 decision would require clear and cogent planning reasons. None exist.
- 4.2 For the avoidance of doubt, the advanced state of construction is not a consideration in the proposal's favour. The Council should assess this application as it would any proposal for development yet to occur. To allow the progress of the build to tip the balance would permit an applicant to strengthen his position by racing towards a fait accompli, and would reward precisely the strategy described above.
- 4.3 The application form continues this pattern of characterisation. It records that there is no public right of way within or adjacent to the site, when a well-used public footpath runs immediately above it; that footpath is the principal vantage from which the public experiences the development. It likewise declares that the site does not comprise agricultural land, on a landholding whose owners have justified two substantial barns under agricultural permitted development rights and, as recently as January 2026, secured permission to convert one of them on the basis that it was no longer needed for agriculture. The holding cannot be agricultural when that unlocks development and non-agricultural when the question invites scrutiny. These inaccuracies may be individually minor, but each understates the site's sensitivity or the holding's history, and they should be corrected before the application is determined, with re-consultation as necessary.
- 4.4 The agent reports that pre-application advice (26/00852/PA02) "gave us full encouragement". Pre-application advice is informal, is given without the benefit of public consultation, and cannot fetter the Council's determination. The Parish Council

requests that the pre-application response be published alongside the application documents.

5. The grey belt case fails

- 5.1 The application rests almost entirely on the proposition that the site is “grey belt” within paragraph 155 of the NPPF (December 2024, as amended). Each of the criteria at paragraph 155(a) to (d) must be met, and the threshold question under criterion (a) is whether the land is grey belt at all. It is not, for two independent reasons.
- 5.2 **The land strongly contributes to Green Belt purposes.** Grey belt is defined as Green Belt land which does not strongly contribute to purposes (a), (b) or (d) in paragraph 143 of the NPPF. The Planning Practice Guidance (Paragraph 005, Reference ID 64-005-20250225) directs that assessment to the contribution the land makes. The evidence quoted in the covering letter is against the applicant: the West of England Combined Authority Strategic Green Belt Assessment (2022) classifies the parcel containing the site (P57) as making a significant contribution to purpose (a), checking the unrestricted sprawl of large built-up areas, and a significant contribution to purpose (d), preserving the setting and special character of historic towns. Land on Bath’s rural eastern fringe, abutting the World Heritage Site boundary and rising towards Solsbury Hill, is close to the paradigm of land serving purpose (d).
- 5.3 The covering letter seeks to displace that assessment with the agent’s own unevidenced judgment that these contributions are “weak”, reasoning that a single dwelling would not itself cause sprawl or the merging of towns. That conflates two different questions: the contribution the land makes to Green Belt purposes, which is what the definition tests, and the impact of the particular proposal, which arises later. On the applicant’s approach no small site could ever strongly contribute to any Green Belt purpose, and the definition would collapse.
- 5.4 **The footnote 7 exclusion applies in any event.** Grey belt excludes land where the policies relating to the areas or assets in footnote 7, other than Green Belt, provide a strong reason for refusing or restricting development. The High Court in *Wrotham Parish Council v Secretary of State for Housing, Communities and Local Government* [2026] EWHC 165 confirmed that in decision-taking this is assessed against the development actually proposed. The development actually proposed here is the completion and retention of a very large dwelling together with the retention of Vine House: a net additional dwelling and its domestic curtilage within the National Landscape, adjacent to the World Heritage Site and in the setting of a Scheduled Monument. Paragraph 189 gives great weight to conserving the National Landscape. Officers concluded on the original applications that the Bath Springs dwelling would detract from the natural beauty of the AONB, and its acceptability was only ever established on the basis that Vine House would be removed. The covering letter’s assertion that it has “previously been concluded... that a dwelling in this location will not cause harm to the Cotswold National Landscape” mischaracterises the record: what was previously accepted, as a very special circumstances case, was a replacement dwelling net of the demolition of Vine House. No decision has ever accepted the landscape impact of both houses together; the 2020 decision expressly rejected it.

- 5.5 The agent's description of the proposal as "a modest single dwelling" is difficult to reconcile with the Design and Access Statement, which records a floor area of 556 square metres over two floors.
- 5.6 **Consequences.** The site is not grey belt, so the proposal is inappropriate development in the Green Belt. Paragraphs 152 and 153 of the NPPF require substantial weight to be given to the harm, and permission should be refused unless very special circumstances clearly outweigh it. None are advanced. The matters relied on, in substance the cost and convenience of retaining a building renovated at the applicant's own risk while subject to a demolition obligation, were considered and rejected in 2020: "the ability or otherwise of a private individual to raise finance for a construction project is not a material planning consideration". The 2020 report likewise records that the renovation works were undertaken entirely at the applicant's own risk, the demolition obligation having been freely and willingly entered into.
- 5.7 Even if the site were grey belt, paragraph 155 would render the development "not inappropriate"; it would not render it acceptable. The harm to openness from two dwellings where one was permitted, identified in unambiguous terms in 2020 as "a clear and obviously adverse effect upon the openness of the green belt", the harm to the visual amenities of the Green Belt, and the great weight owed to the National Landscape under paragraph 189, would each remain, and each independently justifies refusal under Policies CP6, CP8, GB1, NE2 and HE1 of the adopted development plan.

6. Housing land supply does not assist the applicant

- 6.1 The covering letter invokes the Council's housing land supply position, said by the applicant to be 2.5 years, both under paragraph 155(b) and to engage the tilted balance at paragraph 11(d) of the NPPF. Neither route works. Under paragraph 155, a demonstrable unmet need cannot cure a failure of the grey belt definition; every criterion must be met. Under paragraph 11(d)(i), the tilted balance is disapplied where policies of the NPPF protecting areas or assets of particular importance provide a strong reason for refusal; footnote 7 expressly includes both Green Belt and National Landscapes. They do so here.
- 6.2 In any event, the contribution of this proposal to housing supply is negligible: the new dwelling already has permission and is already being built. The only "additional" home this application would deliver is the retention of a house the applicant is legally obliged to demolish, that obligation having been the price of the permission he is now exercising. A district-wide shortfall is not a licence to convert planning obligations into optional extras.

7. Sustainability and waste: a dilemma of the applicant's own making

- 7.1 The covering letter argues under "Other Matters" that it is "far more sustainable to allow the present dwelling to be retained than for it to be demolished", invoking the Council's declaration of a climate emergency. The Parish Council does not doubt that the demolition of a sound building carries environmental cost, and nobody relishes it. But the argument is not new, it is self-inflicted, and its remedy lies in the applicant's own hands.

- 7.2 It is not new. The climate emergency was declared in March 2019, and this argument, including the embodied carbon of the existing structure, was put to the Council in 2020 and did not prevail. The 2020 report found that the environmental cost of demolition “would have been evident at the time of the original decision and would have formed part of the consideration of a proposal for a replacement dwelling”. It is not a change in circumstances; it is a change of tactics.
- 7.3 It is self-inflicted. The owners renovated and improved a building they had already undertaken to demolish; the 2020 report records that those works were carried out entirely at the applicant’s own risk, under an obligation freely and willingly given. A hardship generated by an applicant’s own conduct in the face of a subsisting obligation cannot sensibly amount to very special circumstances; were it otherwise, any obligation could be dissolved by the simple expedient of investing against it. The Parish Council understands that the site has changed hands since the 2020 decision. That strengthens the point rather than weakens it: the obligation runs with the land, was registered against the title when the present applicant acquired the site, and was renewed by fresh agreement in January 2025. A burden knowingly acquired is not a hardship; it is a term of the bargain.
- 7.4 And its remedy lies in the applicant’s own hands. The obligation to demolish Vine House bites only upon completion of the new dwelling, and nothing compels that completion. If demolition is as unconscionable as the application suggests, the applicant need not complete Bath Springs. What is actually sought is not the avoidance of waste but the retention of both houses. The Council is not being asked to prevent waste; it is being asked to reward the manufacture of a dilemma.
- 7.5 Finally, sustainability was the currency of the original bargain: it was the exceptional, exemplar carbon-neutral quality of the proposed dwelling that constituted the very special circumstances in 2008. To redeploy sustainability now as a reason to retain both dwellings inverts the basis on which permission was granted.

8. Precedent and public confidence

- 8.1 The wider consequence of a grant should be stated plainly. Section 106 obligations exist to make otherwise unacceptable development acceptable. If an owner may build out a permission and then, with the benefit banked, obtain a “fresh” permission for the same development shorn of the obligation, then no obligation entered into with this Council can be relied upon. Every restrictive obligation in the district, from occupancy ties to affordable housing requirements, would be vulnerable to the same device. The 2020 refusal held this line. The Council should hold it again.
- 8.2 Residents’ confidence in the consistency of planning control in this location has already been tested by the January 2026 approval of the barn conversion. To grant the present application would confirm a pattern in which the protections attaching to this hillside are dismantled application by application, in precisely the incremental manner that Green Belt and National Landscape designation exists to prevent.

9. Requests

- 9.1 The Parish Council requests that:

- (a) the application be refused;
- (b) if officers are minded to recommend approval, the application be referred to the Planning Committee for determination, with the Parish Council afforded the opportunity to speak;
- (c) the inaccuracies on the application form, in respect of the public right of way adjacent to the site and the agricultural status of the landholding, be corrected and the application re-publicised as necessary;
- (d) the pre-application response under 26/00852/PA02 be published;
- (e) any variation or discharge of the existing section 106 agreement be advertised and determined transparently alongside this application, as in 2020, and not effected administratively after any grant; and
- (f) should the Council nonetheless conclude that the dwelling is acceptable, any permission be made subject to a section 106 obligation in terms equivalent to the January 2025 agreement, requiring the demolition of Vine House on completion. The applicant maintains that this application is simply for the dwelling already approved; if so, identical terms can be no hardship. Anything less would confirm that the application's purpose is to defeat the obligation.

9.2 Finally, the Parish Council notes that the application claims exemption from the Community Infrastructure Levy and from the biodiversity net gain condition on self-build grounds. Given the construction history of the site, the Council will wish to satisfy itself that the statutory criteria for those exemptions are met.

10. Conclusion

10.1 This application asks the Council to confer, without the demolition of Vine House, a benefit that was only ever granted because of it. The grey belt argument fails on the evidence the applicant himself cites; the proposal is inappropriate development in the Green Belt for which no very special circumstances are advanced, the hardship relied upon being of the applicant's own making and its remedy in his own hands; it would harm the openness of the Green Belt, the scenic beauty of the Cotswolds National Landscape and the settings of the World Heritage Site and Solsbury Hill; and it conflicts with Policies CP6, CP8, GB1, NE2 and HE1 of the development plan and with the NPPF. It is also, in substance, indistinguishable from the application this Council refused in 2020 and from the obligation renewed in January 2025. The Parish Council urges refusal.

Yours faithfully

Richard Maccabee

Parish Clerk and Responsible Finance Officer
Batheaston Parish Council