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# Bath & North East Somerset Council

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## Improving People's Lives

### To: All Members of the Planning Committee

**Bath and North East Somerset Councillors:** Matt McCabe (Chair), Sally Davis (Vice-Chair), Vic Clarke, Sue Craig, Lucy Hodge, Duncan Hounsell, Shaun Hughes, Eleanor Jackson, Hal MacFie and Manda Rigby

### Co-opted Voting Members:

Chief Executive and other appropriate officers  
Press and Public

Dear Member

### Planning Committee: Wednesday, 18th November, 2020

Please find attached a **SUPPLEMENTARY AGENDA DESPATCH** of late papers which were not available at the time the agenda was published. Please treat these papers as part of the agenda.

Papers have been included for the following items:

### UPDATE REPORT

Yours sincerely

Marie Todd  
for Chief Executive

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**BATH AND NORTH EAST SOMERSET COUNCIL**

**Planning Committee**

**Date 18<sup>th</sup> November 2020**

**OBSERVATIONS RECEIVED SINCE THE PREPARATION OF THE MAIN  
AGENDA**

**ITEMS FOR PLANNING PERMISSION**

<b>Item No.</b>	<b>Application No.</b>	<b>Address</b>
001	20/01408/VAR	Building Between The House And Old Orchard The Street Ubley Bristol

This application was presented to Committee on the 21<sup>st</sup> October 2020. The committee resolved to have a site visit in order that the proposal could be fully assessed. Concerns were raised particularly in relation to the accuracy of the plans and the nature of the application i.e. should it be considered as a variation to the previous permission granted.

A virtual site visit was carried out on the 9<sup>th</sup> November 2020. In order to help the Committee members consider the proposal the corners of the proposed dwelling have been marked out on site. At the site visiting meeting Committee members asked for further photographs of the street so they could fully appreciate the character of the locality in which the site is situated.

These further photographs will be included in the power point presented to the Committee on the 18<sup>th</sup> November along with photographs taken from the neighbour's balcony.

At the Committee meeting on the 21<sup>st</sup> October there was a verbal update that an informative in respect of the site owners' riparian responsibilities in respect of the water source on the site was necessary and such an advice has been added to the current report.

In addition, clarification in respect of a VARIATION application has been outlined within the report.

In response to comments raised by the Committee members in respect of the scale of the development the applicant has submitted amended plans which indicate that the proposed single storey rear extension has been removed from the scheme. The addition information submitted by the agent indicates that the scheme as reduced further in size represent a 16% increase in volume from the permitted scheme 17/00295/FUL.

The relevant plans now are as follows:

**A104**  
**A101 REV G**  
**A102 REV A all dated 6<sup>th</sup> November**

Further plans have been submitted by Cllr Vic Pritchard raising concerns in respect of the accuracy of the plans submitted. It should be noted these plans have no north point and are not scaled. These plans indicate the amended location of the water feature on the site. This plan appears supports the differences in respect of the water feature as the plan submitted by the agent

The previous scheme 17/00295/FUL drawings as approved have been measured in terms of the distance from The House the closest neighbour to the proposed dwelling and it is confirmed that these measurements concur with the measurements shown on the submitted plans for this application. There is no reason therefore to consider that the submitted plans now submitted are incorrect.

Further comments have been received from Ubley Parish Council:

-Site location plan indicating Cerisdell

Officer comments: The site location plan submitted meets with the requirements of identifying the site as required for an application to be registered. The impact of the development on Cerisdell has been considered.

-The first scheme submitted was for a larger unit than that now being considered so not a variation application.

Officer comments: The issue of the type of application is covered in the Committee report and are relevant to both the original scheme and the scheme as amended. The scheme as originally submitted was larger than that now proposed but the reduction in scale has been as a result of negotiations in respect of the material considerations of the scheme not the type of application.

- The building will be too close to the adjacent dwelling and is too large for the site.

Officer comment: These matters have been addressed within the committee report.

A further comment from a neighbour has been received requesting a condition requiring a third-party surveyor be employed to ensure no damage is caused to the adjacent dwelling.

Officer comment: A retaining wall is proposed on the boundary of the site. The level of excavation is limited and not to be of a scale that is considered reasonable to require such a condition however, an advice has been

proposed to draw the applicant's attention to their civil responsibilities in respect of the boundary.

For ease of reference the previous update report included the following:

*To clarify this site is not within the Conservation Area and s72 only applies to sites within Conservation Areas (CA).*

*The setting of the CA is a material consideration and this proposal due to its mass bulk siting and design is not seen to have a detrimental impact on the setting of the Conservation Area.*

*A further letter of objection has been received:*

*Points raised in summary:*

- Development too large in the AONB, out of character and is a 5 bedroomed house.*
- Contrary to the mission statement, aims and objectives set out in the CVNP.*
- The application is not a variation.*

*These points have been raised in the committee report.*

#### **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

*The list of main issues raised should include*

- Inaccurate site boundary*
- loss of amenity for neighbours due to flue.*
- Noise disturbance particularly during construction*

*Concerns have been raised in respect of noise disturbance. It is recognised that a three bedroomed house will be likely to have a higher number of occupants than a two bedroomed house but once built it is not considered that the proposed 3 bed house would result in an unacceptable level of noise disturbance to the neighbours*

*There will be a period of disturbance, particularly from noise, during the construction period for neighbours, however this matter would not justify refusal of this application.*

*The flue that was shown on the submitted plans and was a concern raised by an interested party has been removed from the proposal.*

*Additional notes and the removal of the flue have been shown on amended plans submitted.*

*In the section Impact on the character and appearance of the locality and AONB and Impact on amenity it should read 300mm.*

*A letter has been received from applicant in support of the scheme:*

*Main issues raised:*

*In principle residential is acceptable in this RA2 village outside the greenbelt and conservation area.*

*This application description is the same as that permitted in 2017.*

*This variation application seeks to amend the approved plans and as a s73 application goes through a thorough and robust consideration process.*

*The amendments are relatively small*

*The garage remains as permitted*

*The materials are stone render and timber*

*The roof is raised by 300mm*

*The property proposed is a 3-bed dwelling*

*The distances to the boundaries east west remain as permitted*

*The proposal is neighbourhood plan compliant*

*Parking access and drainage agreed by Consultees*

*No objections raised by Council Consultees*

*The modest proposal has been amended to reflect concerns raised.*

Item No.	Application No.	Address
01	20/02787/VAR	Bath Quays North Development Site Avon Street Bath

Planning Policy comments – not acceptable in current form. Raise a number of concerns regarding the proposed changes and dispute the Applicant’s justification for them.

Officer Recommendation - following a review of legal interests in the land comprising the application site Officers recommend that the financial review mechanism is secured by way of a planning condition which obliges the parties to enter into a s106 agreement prior to commencement of development. This is as provided for in the outline planning permission granted in April 2019. The practical effect is the same as originally recommended in this Committee report.

1. Delete Recommendation A
2. Amend Recommendation B as follows:  
PERMIT subject to the following conditions
3. Additional condition as follows:

“No development shall commence on any part of the land to which this planning permission relates until a planning obligation in the form annexed to this permission at Annex A, or such amended form that secures the same obligations, has been completed with the Local Planning Authority binding that part of the land to be developed to the obligations contained therein and the Local Planning Authority has given written notification to the persons executing the planning obligation that the land has been bound to the satisfaction of the Council.

Reason: To ensure that the appropriate obligations necessary to make the development acceptable in planning terms are entered into in respect of each part of the land affected by the planning permission before any development commences on that part of the land”

4. Amend Condition 38 and 39 as follows:  
38 Sustainability

Each reserved matters application shall be accompanied by an Energy and Sustainability Statement setting out full details of the measures to achieve a reduction in CO2 emissions for that part of the site of not less than 30% over Part L of the Building Regulations (2013) and not less than a 50% reduction based on an equivalent Part baseline calculated using SAP 10.1 calculations carbon emission factors. No above ground works shall commence until the Energy and Sustainability Statement has been approved in writing by the Council and the measures for each building as approved shall be implemented in full prior to occupation of that building. The measures shall be maintained thereafter for the duration of the development.

Reason: To ensure the implementation of the development and energy and sustainability outcomes in accordance with the application.

- 39 Biodiversity

Each reserved matters application shall be accompanied by an Biodiversity Statement demonstrating that the development will achieve a biodiversity net

gain for that part of the site of at least 30% over the existing condition. No above ground works shall commence until the Biodiversity Statement has been approved in writing by the Council and the measures for each building as approved shall be implemented in full prior to occupation of that building. The measures shall be maintained thereafter for the duration of the development.

Reason: To ensure the implementation of the development and biodiversity improvements in accordance with the application.

5. Amend Condition 40 as follows:

40 Design Codes

Prior to submission of any reserved matters application detailed Design Codes and Design Guidelines incorporating 'Roofscape – Design Codes and Guidelines Addendum' (AHMM, 20 October 2020) shall be submitted and approved in writing by the Local Planning Authority. The reserved matters shall be in accordance with the Design Codes as approved.

Reason: To ensure the detailed design of the development enhances the character and appearance of the Conservation Area and setting of listed buildings and does not detract from the Attributes of the World Heritage Site.

Item No.	Application No.	Address
02	20/02008/FUL	Unregistered Unit 1-4 Old Station Yard Avon Mill Lane Keynsham Bath And North East Somerset

1. One additional third-party comment received; full details of the objection is retained on file however the material planning considerations are summarised as follows:

- Application hasn't demonstrated use of site will adhere to acceptable noise levels
- Noise report didn't cover all activities at site
- Proposed condition for noise levels is lax
- Regular breaches of permit and conditions occur at the site

2. The committee report refers to S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. It should be noted that the site is not within the conservation area and as such the provisions of S72 do not apply in this instance. The effect on the setting of the CA is a material consideration as well as a planning policy consideration.

3. The committee report within the section 'Environmental Protection' refers to the Environmental Protection Act (EPA) and the applicant's best practical means (BPM) defence should action be taken under the provisions of the EPA. This is not a material planning consideration and Members are advised to disregard references to possible future enforcement action under the EPA and as such should determine the application based purely on its material planning considerations.

4. Conditions:

The wording of condition 2 has been amended to require the submission of an assessment to demonstrate the effectiveness of the sound attenuation.

2. Installation of fence (Bespoke condition)

Operation of the site between 6.30am to 7.30am Monday to Friday and 5.30pm to 6.30pm Monday to Friday shall not commence until the acoustic fences hereby approved have been fully erected and installed in accordance with the approved details and an assessment, undertaken by a suitably qualified person, in accordance with British Standard 4142:2019, has been submitted to and approved in writing by the local planning authority to demonstrate that the development has been constructed to provide the following sound attenuation against external noise:

07:30 - 18:30hrs Monday - Friday and Saturday 08:00 - 13:00hrs: Assessment Level <10dB

06:30 - 07:30hrs Monday - Friday: Assessment Level ≤5dB and L<sub>Amax,F</sub> 57dB at bedroom window

Reason: To ensure adequate safeguards are in place prior to the commencement of earlier operating hours in the interests of residential amenity in accordance with policy D6 of the 2017 Placemaking Plan.

Because of the amendment to condition 2, condition 3 has been amended to change the trigger for the commencement of the temporary period:

3. Temporary Permission - Use (Compliance)

The operation of the site between 6.30am to 7.30am Monday to Friday and 5.30pm to 6.30pm Monday to Friday shall expire one year after confirmation is received from the local planning authority that the required sound attenuation levels have been met as required by the details prescribed by condition 2, and the extended operating hours hereby permitted shall thereafter be discontinued.

Reason: To enable the Local Planning Authority to review the impact of the development.

Following the receipt of an amended Arboricultural Method Statement, the wording of condition 8 has been amended to:

8. Arboricultural Method Statement and Tree Protection Plan (compliance)

The development shall be carried out in accordance with the approved Arboricultural Method Statement and Tree Protection Plan dated as received 10<sup>th</sup> November 2020. Following the completion of the works a signed compliance statement from the appointed Arboriculturalist shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that trees to be retained are not adversely affected by the development proposals in accordance with Policy NE6 of the Bath and North East Somerset Placemaking Plan and to confirm that the approved method statement has been complied with.

Condition 9 has been deleted as the requirements of this condition are now included in the re-worded condition 8.

5. Plans list:

A revised section drawing has been received and therefore the approved plans list has been amended to include this plan:

This decision relates to drawings J7/01043 dated as received 18th June 2020, P19-1252\_05, P19-1252\_01C, P19-1252\_04A and P19-1252\_02C dated as received 2nd October 2020, Site Management Plan dated as received 2nd October 2020 and P19-1252\_03C dated as received 10<sup>th</sup> November 2020

<b>Item No.</b>	<b>Application No.</b>	<b>Address</b>
03	20/02926/FUL	Additional Development Area Holburne Park Bathwick Bath

An additional letter of objection has been received from Bath Preservation Trust.

The main issues raised were:

- Submitted application documents are insufficient to make a proper assessment of the proposal;
- Inadequate information regarding design and materials palette;
- Use of render of north elevation would be highly visible and inappropriate in the setting;
- Lack of affordable housing provision is contrary to policy;
- Has not suitable addressed the previous reasons for refusal

The matters raised have already been dealt with in the officer's report.

### **Recommendation**

A clarification to the proposed recommendation is provided below:

#### **DELEGATE TO PERMIT**

- 1.) Authorise the Director of Legal and Democratic Services to enter into the same Section 106 Agreement as application 20/02921/FUL which secures the following across the whole Holburne Park site:
  - a) 20 discounted market sale units (12 x 1-bed; 8 x 2-bed) offered to the market at 70% of full value capped at a £187,500 sale price for 1-bed dwellings (consistent with the agreed Section 106 discounted market unit cap) and capped at £316,000 sale price for 2-bed dwellings.
  - b) a viability review; to be carried out near the end of the development and any agreed proportion of any surplus profit to be provided as an additional financial contribution towards the delivery of affordable housing off-site.
  - c) all matters in the original s106 agreement except for the outstanding affordable housing contribution which will be replaced by the current affordable housing offer.

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