
Bath & North East Somerset Council

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, 16th December, 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

If you need to access this agenda or any of the supporting reports in an alternative accessible format please contact Democratic Services or the relevant report author whose details are listed at the end of each report.

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BATH AND NORTH EAST SOMERSET COUNCIL

Planning Committee

Date 16th December 2020

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

ITEMS FOR PLANNING PERMISSION

Item No.	Application No.	Address
Site Visit 01 PM	19/05534/FUL	Telecommunication Mast, Woolley Lane, Charlcombe

Two additional representations have been received objecting to the proposals. The representations do not raise any significantly new issues that have not already been discussed in the committee report, but they focus on health concerns related to the use of 5G technology.

As set out in the committee report, the position of national government as expressed through the NPPF on this matter is clear:

- 116. Local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure.*

The representations received include references to various studies which it is claimed provide evidence of harm arising from 5G technology. None of these provide evidence which is more compelling than that presented by the recent ICNIRP guidelines which set the health safeguards referred to in paragraph 116 of the NPPF.

The current application complies with the ICNIRP public exposure guidelines and is therefore not considered to pose a threat to health or safety. The recommendation is therefore unchanged.

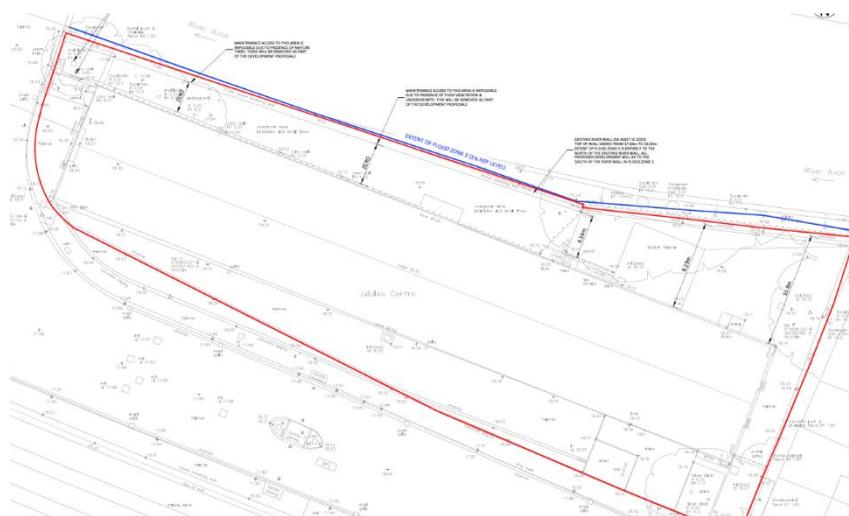
Item No.	Application No.	Address
004 AM	20/01794/FUL	Jubilee Centre Lower Bristol Road Twerton Bath Bath And North East Somerset BA2 9ES

The committee reports states on page 147 ‘This is a resubmission of a proposal to redevelop an industrial site on Lower Bristol Road in Bath currently occupied by a local charity Mercy in Action.’ This is an error; the proposal is not technically a resubmission. This application was formulated by the new site owner who instructed a completely new consultant team. Of course, the site history is a material planning consideration.

The committee report refers to the site being in flood zone 2 and 3a. The agent considers the redline extent of the application site lies wholly within FZ2.

The environment Agency stated in their comments; “Contrary to the statement in the FRA, while the majority of this site is in Flood Zone 2, there are parts of this site located in Flood Zone 3. Therefore, the site should be considered as a Flood Zone 3 site. This does not mean that the entire site is Flood Zone 3, as stated in the first sentence, we are in agreement that the majority of the site is in Flood Zone 2.”

Then the following plan was provided with the revised flood risk assessment



The committee report correct states; The 2008 Strategic Flood Risk Assessment (SFRA) shows the application site is entirely within Flood Zone 2 with the edge to the riverside falling within Flood Zone 3a.

However, in the following paragraphs it states; The Flood Risk Vulnerability and Flood Zone 'Compatibility' Table within the NPPG indicates that 'more vulnerable' development can be appropriate in Flood Zone 3a, provided that the Sequential Test and Exception Test are passed.

This should be amended as follows;

The Flood Risk Vulnerability and Flood Zone 'Compatibility' Table within the NPPG indicates that 'more vulnerable' development can be appropriate in Flood Zone 2, provided that the Sequential Test is passed.

The report goes onto say; It is also considered that ruling out all sites which are within or partly within Flood Zone 2 fails to capture all sites which would be sequentially preferable to the application site. The application site is within Flood Zone 2 and 3a. Alternative sites which are only or partly within Flood Zone 2 should also be included within the area of search as these would represent sequentially preferable sites.

This should be updated to;

It is also considered that ruling out all sites which are within or partly within Flood Zone 2 fails to capture all sites which would be sequentially preferable to the application site. The application site is wholly within Flood Zone 2. Alternative sites which are only or partly within Flood Zone 2 should also be included within the area of search as these would represent sequentially preferable sites.

A further paragraph states 'There is no methodology included within the document, and it has not been made clear why many of the sites are 'not sequentially more suitable' when, for example, some of them sit solely within flood zone 2, rather than 2 and 3a like this site does.'

This should be updated to 'There is no methodology included within the document, and it has not been made clear why many of the sites are 'not sequentially more suitable' when, for example, some of them sit partly within flood zone 2, rather than wholly within zone 2 like this site does.'

Additionally, mention of Flood Zone 3a has been removed from the reason for refusal.

These alterations do not change the outcome of the recommendation.

The agent has put forward a number of statements that comment on the procedure during the course of the application along with comments on the outcome of the sequential test. The officer does not consider that any of the statements would result in a different outcome to the sequential test, which is a matter of planning judgement.

Again, the agent has raised comments in respect to the contents of the officer's report in regards to heritage, visual design impact, and, trees and green infrastructure, the s106 and the reasons for refusal. The officer has written a report that is proportionate to the scheme and considers all material planning considerations have been appropriately covered. Again, this is a matter of planning judgement.

Item No.	Application No.	Address
006 PM	20/01765/FUL	Wansdyke Business Centre Oldfield Lane Oldfield Park Bath Bath And North East Somerset

On Friday 11 December additional information was received from the planning agent, including:

Letter from Colston and Colston
Letter from Knight Frank
Copy of Adult Social Cares consultation comments

The above has been added to the application file and is available for reading in full via the council's website.

The letter from Colston and Colston comments on the committee report, in particular the marketing and economic elements of the scheme, the letter provides arguments on these points, however no additional factual evidence is within the contents of the letter which would alter the officer decision to recommend refusal. I will not rebuke in detail but for example Colston and Colston state that there was demonstrably a period of marketing at the site between 2014-2018 and that tenants secured were poor quality. No evidence of marketing has been submitted with this letter, this is purely anecdotal, nevertheless clearly any be marketing worked and tenants were secured. To reiterate, the policy requires that 12 months marketing was undertaken prior to the application. any marketing that did happen in 2018 was still 2, nearly 3 years ago now.

The Knight Frank report further highlights the future demand for care bed spaces in Bath and provides context to the methodology and position. The future need is not disputed, however, as the report already covers, the benefits of providing care bed spaces does not outweigh the harm resulting in the loss of vital commercial industrial space of which there is a (growing) shortage in the city.

Additionally, a revised roof plan, along with revised elevations AA and BB have been received. This is to reflect the changes to the roof form of the retained engineering machine room and new element replacing the drawing room, previously agreed and shown on elevations GG and HH.

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BATH AND NORTH EAST SOMERSET COUNCIL

Planning Committee

16 December 2020

OBSERVATIONS RECEIVED SINCE THE PREPARATION OF THE MAIN AGENDA

ITEMS FOR PLANNING PERMISSION

Item No.	Application No.	Address
Site Visit 002	20/00259/FUL	Former Homebase store, Pines Way, Bath

Revisions are recommended to Conditions 26-28 in order to resolve issues relating to the phasing of construction and subsequent occupation. The recommended revised wording of those conditions is set out below (the reasons are unchanged):

Condition 26: Electric Vehicle Charging Points

No building or use hereby permitted shall be commenced until details of the total number of car parking spaces, the number/type/location/means of operation and a programme for the installation and maintenance of Electric Vehicle Charging Points and points of passive provision for the integration of future charging points has been submitted to and approved in writing by the Local Planning Authority. The Electric Vehicle Charging Points as approved shall be installed prior to occupation of that part of the scheme and retained in that form thereafter for the lifetime of the development.

Condition 27: Bicycle Storage

No occupation of the relevant part of the development shall commence until bicycle storage for at least 86 bicycles (43 stands) has been provided in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. The bicycle storage shall be retained permanently thereafter.

Condition 28: Residents Welcome Pack

A new resident's welcome pack shall be issued to the first occupier/purchaser of each residential unit of accommodation prior to first occupation of that unit. The new resident's welcome pack shall have previously been submitted to and approved in writing by the local planning authority and shall include information of bus and train timetable information, information giving examples of fares/ticket options, information on cycle routes, car share, car club information etc., to encourage residents to try public transport.

Additional Conditions

The following *additional* conditions are recommended alongside those set out in the main report (as amended above):

35. Water Efficiency

The approved dwellings shall be constructed to meet the national optional Building Regulations requirement for water efficiency of 110 litres per person per day.

Reason: In the interests of water efficiency in accordance with Policy SCR5 of the Placemaking Plan.

36. Sustainable Construction

Prior to first occupation of any part of the development hereby approved the following tables (as set out in the Council's Sustainable Construction Supplementary Planning Document, Adopted November 2018) shall be completed in respect of the completed development, submitted and approved in writing by to the Local Planning Authority together with the further documentation listed below:

- Table 2.1 Energy Strategy (including detail of renewables);
- Table 2.2 Proposals with more than one building type (if relevant);
- Table 2.3 (Calculations);
- Building Regulations Part L post-completion documents for renewables;
- Building Regulations Part L post-completion documents for energy efficiency;
- Microgeneration Certification Scheme (MCS) Certificate/s (if renewables have been used)

Reason: To ensure that the approved development complies with Policy SCR1 of the Placemaking Plan (renewable energy) and Policy CP2 of the Core Strategy (sustainable construction).

The following late responses have been received since the publication of the main report; they are *summarised* as follows:

B&NES Parks & Open Spaces: No objection (subject to the below)

There will be an increase in population of 288 persons; the total demand for greenspace generated by this development equates to 8352m². The council's Green Space Strategy (2015) identifies a shortfall of 3.18ha in parks & green space and a shortfall of 0.68ha in amenity green space in Widcombe Ward. Elizabeth Park (on the nearby BWR development) which measures 0.9ha does not remove the shortfall.

No publicly accessible Green Space is to be provided on site and so a financial contribution is required as follows:

- Parks & Recreation £936 per person
288 residents x £936 = £269,568
- Natural/Amenity Greenspace £195 per person

288 residents x £195 = £56,160

Total: **£325,728**

These funds will be allocated to the nearby Waterspace River Park / River Line project

Federation of Bath Residents' Association: Recommend Refusal

The principle of providing some care community homes here is supported. There is concern however regarding the heights, density and mass of the buildings as well as harm to the World Heritage Site. There are also concerns regarding the lack of a more mixed type of residential dwellings and lack of affordable homes.

There is surprise that despite objections from Cllr June Player, Planning Policy, Urban Design, Housing and local residents' associations there is still no provision or recognition of the need for affordable housing.

The development does not address Policy C9 and SB7 and limits the development to Use Class C2 care community homes to avoid the CIL contribution? It is agreed that there is a need to develop this site but not at any cost and certainly not if this development contravenes the local authority's ability to meet its objectively assessed need for affordable housing.

Historic England: Concerns

The changes to the height of buildings A/B are significant and other alterations attempt to limit the visual impact of the proposed density; these provide minor enhancements but do not fundamentally change the impact that the scheme will have on the surrounding heritage assets. The overall height and scale of Buildings C and D and the visual density of the scheme as a whole will have a detrimental impact on the setting of the Grade II* listed buildings at Norfolk Crescent, the conservation area and the World Heritage Site.

The development continues to create a visual block or 'wall' that limits views towards the green bowl surrounding Bath, part of the WHS OUV. This creates a barrier of building form that will impose itself upon the edge of the conservation area and within the World Heritage site in a negative way.

Bath Preservation Trust: Objection

The reduction of the development's height by approximately 2.3-2.8m by the introduction of a much shallower roof pitch is an improvement however it will continue to be visually detrimental to its townscape setting and views into/across the WHS; this is due to its continued lack of contextually driven design and material texture.

Scale, massing and density when viewed from Stothert Avenue and Pines Way has not be adequately addressed. The development should be limited to four storeys plus a mansard as per the Bath Building Heights Strategy.

The proposed visual improvement created by the reduced massing of Building A in order to "*create a second viewing corridor to open up views from Bath Western*

Riverside/Stothert Avenue to the green hillsides beyond is not clearly shown; instead it appears to retain a bulky, monolithic presence.

The two-storey aspect of Building A/B is an inappropriate addition which results in a sharp variation in height; this is without precedent. This is a lost opportunity for a more interesting design. There is continued resistance to the incongruous use of brick and industrial-inspired design on this site with its lack of contextual referencing.

There are an increasing number of developments coming forward in Bath with an excessive use of brick; particularly on schemes along Lower Bristol Road; brick is unsuitable in this volume in Bath and is in sharp contrast to Bath stone which is a fundamental aspect of the materials, substance, Georgian architecture OUV of the WHS. The use of brick in this scheme will contribute cumulatively to the harm to the integrity and harmonious appearance of the WHS. Brick can be justified on some sites, such as those facing the river, but its widespread use is not justified independent of townscape context.

There appears to be discrepancies between the proposed and superseded visual montages with regards to colour, particularly the western view of the proposed avenue between Blocks C & D in which the proposed cladding is of a more bronze tone than previously proposed. Colour sections should be provided and revisions clarified.

Hillside views from Norfolk Crescent Green remain severely restricted by Buildings A and B. Part of Norfolk Crescent's (Grade II*) special architectural and historic interest is derived from its rural landscape views and the blending of town and countryside. The overall scale and density of the development will continue to result in the 'closing in' of Norfolk Crescent's immediate setting.

There is an absence of detailed VVMs taken from the Norfolk Green area which are required due to the high concentration of Grade II and Grade II* buildings here. Viewpoint 5 is from Grade II Nelson Place West rather than Norfolk Crescent, therefore conclusions regarding Norfolk Crescent and how it better connects with the hillside (as a result of the revisions) have not been evidenced. Additional VVMs should be submitted.

BPT is pleased to see that the revised scheme includes 253 mixed-type residential units alongside 35 care suites. The site however will retain a single C2 (Residential Institutions) residential usage which would limit the social and age range of potential residents (contrary to policy).

It is queried why a C3 use for the proposed residential units does not appear to have been considered. The lack of affordable or key worker housing provisions is unacceptable given the scale of the development and wider need for affordable housing in Bath.

This application is contrary to the Planning (Listed Buildings and Conservation Areas) Act 1990, Section 8, 12, and 16 of the NPPF, and Policies B1, B4, BD1, CP6, D1, D2, D3,

D4, HE1, NE2, CP7, and CP10 of the Core Strategy and Placemaking Plan, and should be refused or withdrawn.

Public Representations

One additional letter of objection has been received from a resident of Albert Crescent. Additional concerns have been raised in respect of the impact of the development on Albert Crescent. Block A is considered too big and obtrusive; it will be like facing the back of a fortress. The density is far greater than the adjacent Riverside development. Six storeys seems excessive for care facilities and there will be insufficient green space. Commercial requirements have been pushed beyond anything appropriate to the surroundings to the detriment of neighbouring residents. The impact on the Mews houses and the properties at the end of Albert Crescent will be wholly unreasonable. The development should be amended or residents compensated due to negative impact on property value as well as loss of light and view.

Clarification Regarding Harm v Benefit Balance

The main report makes reference to the 'less than substantial' harm caused by the development (to heritage assets) and the requirement for this to be weighed against any public benefit(s).

To be clear, NPPF paragraph 193 states that, "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".

Furthermore, as stated in the main report, "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" (NPPF Para 194).

The NPPF goes on to state (at Para.196) that, "where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use".

The proposed development will cause a degree of 'less than substantial' harm (as set out in the main report) and alongside that, will generate a number of public benefits; therefore, the aforementioned balancing exercise set out in NPPF Para 196 is necessary. It is important to note however that this not a simple balancing exercise, it must be approached in a manner which is consistent with the statutory obligations in Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. In undertaking the balancing exercise, the decision-maker must be mindful (and apply) the need to have "special regard" or "special attention" to the heritage assets as required by the Act. In effect, the question to be addressed is whether there is justification for overruling the statutory presumption in favour of preservation [of the conservation area and setting of the referenced listed buildings].

This approach has been followed by the case officer (indeed the statutory nature of the weight is referred to in the main report conclusion) but committee are reminded that this is correct approach and that, as with all material considerations, they must reach their own conclusions.

Case Officer Further Clarification and Discussion

The further comments received from Historic England, Bath Preservation Trust and FoBRA (since the publication of the main agenda) *et al* are noted but do not alter the conclusion or recommendation to permit. The comments reiterate previous concerns and/or are explored in the main report.

The new comments received from the council's Parks & Open Spaces Team (that a substantial financial contribution is required towards off-site enhancement of sports and recreation facilities etc) are noted. This issue, in particular the level of contribution requested, requires further investigation to establish whether the necessary tests for planning obligations have been met. Due to the late request it has not been possible to do so in advance of the meeting.

Accordingly, it is recommended that this matter be delegated to officers to resolve post committee in the event that it is resolved to grant permission. The recommended S.106 Agreement heads of terms are therefore amended to include a financial contribution towards sport/recreation/greenspace if deemed necessary, and if so at a level deemed necessary.

Revised Recommendation

DELEGATE TO PERMIT subject to the conditions set out in the main report, as amended and supplemented above, and subject to the prior completion of a S.106 Agreement as set out in the main report with the addition of a financial contribution towards green infrastructure if deemed necessary by officers.