

## **DRAFT MINUTES PENDING CONFIRMATION AT THE NEXT MEETING**

### **BATH AND NORTH EAST SOMERSET**

#### **MINUTES OF DEVELOPMENT CONTROL COMMITTEE**

Wednesday, 18th January, 2012

**Present:-** Councillor Gerry Curran in the Chair

Councillors Lisa Brett, Neil Butters, Liz Hardman, Eleanor Jackson, Les Kew, David Martin, Douglas Nicol, Bryan Organ, Martin Veal, David Veale and Brian Webber

Also in attendance: Councillors Rob Appleyard, Charles Gerrish, Robin Moss, June Player and Tim Warren

#### **105 EMERGENCY EVACUATION PROCEDURE**

The Senior Democratic Services Officer read out the procedure

#### **106 ELECTION OF VICE CHAIR (IF DESIRED)**

A Vice Chair was not required

#### **107 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were no apologies for absence

#### **108 DECLARATIONS OF INTEREST**

Councillor Eleanor Jackson referred to matters relating to the planning application at the Alcan Factory, Nightingale Way, Midsomer Norton (Item 2, Report 11) which she considered were not declarations of interest. Councillor Gerry Curran stated that, with regard to the application at Bath Press, Lower Bristol Road, Bath (Item 1, Report 11) he had performed an opening ceremony at the Tesco store in Englishcombe Lane, Bath, in his capacity as an employee of a local respite care home. However, he felt that this did not affect his ability to judge the application and he would therefore speak and vote on the matter.

#### **109 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There were no items of Urgent Business

#### **110 ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS**

The Senior Democratic Services Officer informed the meeting that there were various members of the public etc. wishing to make statements on planning applications in Reports 10 and 11 and that they would be able to do so when reaching those items on the Agenda. He stated that, in view of the number of speakers objecting to the application on the Bath Press site, the Chair had extended

the speaking time to 2 minutes each making a total of 8 minutes and the same total amount of time would be given to the speaker in favour.

#### **111 ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS**

There were no items from Councillors

#### **112 MINUTES: 14TH DECEMBER 2011 AND 5TH JANUARY 2012**

The Minutes of the meetings held on 14<sup>th</sup> December 2011 and 5th January 2012 were approved as correct records and signed by the Chair

#### **113 MAJOR DEVELOPMENTS**

The Senior Professional – Major Developments updated Members on (1) the Radstock Regeneration Scheme on which there would be changes to the highway details and he would report further to a future Committee meeting; and (2) Kraft Keynsham Regeneration Scheme where Taylor Wimpey had been selected by the owners as developers for the Scheme and that meetings would be held to agree a programme for submitting a planning application.

Members noted the update.

#### **114 SITE VISIT LIST - APPLICATION FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE**

The Committee considered

- a report by the Development Manager on a planning application at Fairash Poultry Farm, Compton Martin Road, West Harptree
- an oral statement by a member of the public speaking against the proposal, the Speakers List being attached as *Appendix 1* to these Minutes
- a statement by the Ward Councillor Tim Warren

**RESOLVED** that, in accordance with their delegated powers, the application be determined as set out in the Decision List attached as *Appendix 2* to these Minutes.

**Fairash Poultry Farm, Compton Martin Road, West Harptree – Erection of 7 dwellings following demolition of existing poultry farm** – The Team Leader – Development Management reported on this application and the recommendation to refuse permission. The public speaker made her statement against the proposal and the Ward Member made a statement.

Members discussed the proposal. Councillor Eleanor Jackson considered this was a prominent site in the AONB and moved the Recommendation to Refuse. This was seconded by Councillor Liz Hardman.

Members debated the motion. It was generally considered that the proposed development in the middle of open countryside would be contrary to policy and would detrimentally affect the character of the AONB.

The motion was put to the vote and was carried, 11 voting in favour and 0 against with 1 abstention.

## **115 MAIN PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE**

The Committee considered

- A report by the Development Manager on various applications for planning permission etc
- Oral statements by members of the public etc on Item Nos 1-3, the Speakers List being attached as *Appendix 1* to these Minutes
- An Update Report by the Development Manager on Item Nos 1-3, a copy of which is attached as *Appendix 3* to these Minutes

**RESOLVED** that, in accordance with their delegated powers, the applications be determined as set out in the Decisions List attached as *Appendix 4* to these Minutes.

**Item 1 Former Bath Press, Lower Bristol Road, Bath – Mixed use redevelopment comprising 6,300sqm of retail (Class A1), 4,580sqm of creative workspace (Class B1), 2,830sqm of offices (Class B1), 10 residential houses, car park, landscape and access (including realignment of Brook Road)** – The Case Officer, the Senior Professional - Major Developments and the Council's Retail Consultant reported on this proposal which was the subject of an appeal against non-determination. The Recommendation was that, if the Council had been in a position to make a decision, the recommendation would be to refuse permission for the reasons set out in the Report. It was pointed out that the appellants had submitted an earlier application which was broadly similar to this proposal except for omitting some office accommodation (but including community space) and providing information regarding an approach towards addressing the Health and Safety Executive (HSE) objections regarding the proximity to the operational gas holder site. That application had not been appealed and is likely to be reported to Members at the February meeting of the Committee.

The Update Report gave Officers' comments on various issues that had been raised. The Senior Transport Planner reported on the highway aspects of the proposal. The Senior Professional – Major Developments advised Members that, in the last 24 hours, Heads of Terms had been received from the appellants in connection with the earlier application and regarding a contract between various parties to secure the decommissioning of the gas holder site. He advised Members that, whilst the Heads of Terms were not legally binding and had been submitted in connection with the earlier application, they were material to the consideration of the appealed application as they did indicate that the parties were working to resolve the issue. However, at this time, the Officers were not satisfied that the gas holder issue was resolved and would continue discussions with the appellants and the HSE in this

regard. The Council's Retail Consultant provided responses to Members' questions and explained the background to his advice to the Council on this proposal.

Members asked questions about the proposal for clarification to which officers responded. The public speakers then made their statements followed by a statement by the Ward Councillor June Player speaking against the proposal.

Councillor Martin Veal considered that there were many anomalies about the proposal and many issues had not been resolved. He felt that there should be continuing dialogue with the appellants and moved the Recommendation which was to refuse permission had the Council been in a position to make a decision. This was seconded by Councillor Liz Hardman.

Members debated the motion. Various issues were discussed including the retail impact on local shopping areas, the problems associated with the nearby gas holders and the impact on the already congested junction with Windsor Bridge Road. The Members agreed that these were complex major issues. It was hoped that negotiations could continue with the appellants and that these issues could be made clearer when Members come to consider the earlier application.

The Development Manager commented on permissions issued for other retail units and the impact on shopping areas. Regarding the appellants' agent's request to defer consideration of this report, she advised that the Council had to comply with the Planning Inspectorate's timetable but Officers would continue negotiations with the appellants.

The Chair summed up the debate and the motion was put to the vote. Voting: 11 in favour and 1 against. Motion carried.

(Note: After this item at 4.32pm, there was a comfort break for 10 minutes.)

**Item 2 Site of Alcan Factory, Nightingale Way, Midsomer Norton – Residential-led mixed use redevelopment comprising of the erection of 176 dwellings, community facilities, offices, town centre link, formal green space and associated works** – The Case Officer reported on this application and his recommendation to (A) Authorise the Planning and Environmental Law Manager to secure an Agreement under Section 106 of the Town and Country Planning Act 1990 to secure (1) Affordable Housing; (2) On-site Employment; (3) Off-Site Employment; (4) Transport; (5) On-Site Green Space; (6) Off-Site Green Space and Play; (7) Education Contributions; and (8) Administration Fee; and (B) upon completion of the Agreement, authorise the Development Manager to Permit the application subject to numerous conditions. The Update Report made reference to the number of dwellings being altered to 169 and gave the Case Officer's comments on consultation responses. Members asked questions to which Officers responded. The public speakers made their statements in support of the application which were followed by statements by the Ward Councillors Rob Appleyard and Robin Moss also in support.

Councillor Eleanor Jackson commented on the proposal which she supported and she therefore moved the Officer Recommendation. After a response by the Case Officer, the motion was seconded by Councillor Bryan Organ. Members debated the motion. Councillor Martin Veal raised issues of young apprenticeships being included within the scheme and contractors' vehicles being kept on site. Councillor David

Martin drew attention to energy issues and queried whether the photo voltaic panels indicated on the drawings could be the subject of a condition. Councillor Eleanor Jackson queried whether a contribution could be made to the No 782 bus and included in the S106 Agreement. The Case Officer responded to these queries. He considered that a condition could be imposed regarding the photo voltaic panels (the mover and seconder agreed), a condition had been included in the Recommendation for a construction management plan which could include controlling the parking of contractors' vehicles, the youth apprenticeship issue would be raised with the applicants in the discussions over the S106 Agreement, and a bus subsidy could not, in his view, be requested at this stage.

The amended motion was then put to the vote and it was carried unanimously.

(Note: Councillor Lisa Brett left the meeting after this item.)

**Item 3 Land at rear of Nos. 2 - 20 High Street, Keynsham – Erection of 3 storey building to provide 14 residential apartments and associated landscaping and car parking (including re-provision of car parking to existing High Street properties** – The Case Officer reported on this application and her recommendation, namely (A) subject to receipt of a Unilateral Legal Agreement being completed to the satisfaction of the Planning and Environmental Law Manager to cover financial contributions to (a) formal, natural and allotment green space provision, and (b) strategic highways; and (B) upon completion of the Agreement, authorise the Development Manager to Permit subject to various conditions. The public speakers made their statements on the application and the Ward Councillor Charles Gerrish made a statement against the proposal.

Councillor Les Kew stated that this was a brownfield site in a sustainable location and was an appropriate town centre use. The proposal included a typical town house design. He therefore moved the Officer recommendation which was seconded by Councillor Liz Hardman.

Members asked questions to which the Case Officer responded. Members supported the proposal and considered that this derelict site was an ideal location for residential development. There were no highway objections and it had a pleasing design which did not have an overbearing impact on adjoining development. The Development Manager commented that affordable housing was not included in the scheme but the development may appeal to first time buyers.

The motion was put to the vote and was carried unanimously.

#### **116 TREE PRESERVATION ORDER - 29 FLATWOODS ROAD, CLAVERTON DOWN, BATH**

The Senior Arboricultural Officer submitted a report which requested Members to confirm, with a modification to alter the schedule to 14 Beech, the Tree Preservation Order entitled "Bath and North East Somerset Council (29 Flatwoods Road, Claverton Down, Bath No 267) Tree Preservation Order 2011" to protect a group of trees which make a significant contribution to the landscape and amenity of the area.

Councillor Les Kew moved that the Recommendation be approved which was seconded by Councillor Eleanor Jackson. Members debated the motion.

**RESOLVED** to confirm the Tree Preservation Order entitled “Bath and North East Somerset Council (29 Flatwoods Road, Claverton Down, Bath No 267) Tree Preservation Order 2011” with a modification to alter the schedule to 14 Beech.

**117 QUARTERLY PERFORMANCE REPORT - JULY TO SEPTEMBER 2011**

The Committee considered a report which provided Members with performance information across a range of activities within the Development Management function during the period 1<sup>st</sup> July to 30<sup>th</sup> September 2011.

**RESOLVED** to note the report and thank Officers for their hard work and efforts in achieving the reported performance.

**118 NEW PLANNING APPEALS LODGED, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES**

**RESOLVED** to note the report and commend Officers on their success rate of appeals being dismissed.

The meeting ended at 6.15 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

**SPEAKERS LIST  
BATH AND NORTH EAST SOMERSET COUNCIL  
DEVELOPMENT CONTROL COMMITTEE**

**MEMBERS OF THE PUBLIC ETC WHO MADE A STATEMENT AT THE  
DEVELOPMENT CONTROL COMMITTEE AT ITS MEETING ON  
WEDNESDAY 18<sup>TH</sup> JANUARY 2012**

**SITE/REPORT                      NAME/REPRESENTING                      FOR/AGAINST**

<b>SITE VISIT REPORT 10</b>		
Fairash Poultry Farm, Compton Martin Road, West Harptree (Pages 39 - 45)	Cherry Daly	Against
<b>MAIN PLANS LIST REPORT 11</b>		
Former Bath Press, Lower Bristol Road, Bath (Item 1, Pages 49 - 70)	(1) David Redgewell, SW Transport Network (2) Patrick Rotheram (Vineyards Residents Association) (3) Henry Brown(Federation of Bath Residents' Associations) (4) Paul Newman  Christopher Borkowski (Applicants' Agent)	Against – Up to 2 minutes each          For – Up to 8 minutes
Site of Alcan Factory, Nightingale Way, Midsomer Norton (Item 2, Pages 71 - 110)	Chris Beaver, GLHearn (Applicants' Agents) <u>AND</u> Bill Stevenson (Alcan Mardon Social Club)	For – To share 3 minutes
Land rear of Nos 2 – 20 High Street, Keynsham (Item 3, Pages 111 - 124)	Mrs Marsh  Chris Hays, WYG Planning & Design (Applicants' Agents)	Against  For

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**BATH AND NORTH EAST SOMERSET COUNCIL**

**DEVELOPMENT CONTROL COMMITTEE**

**18th January 2012**

**SITE INSPECTION DECISIONS**

<b>Item No:</b>	01	
<b>Application No:</b>	11/03843/OUT	
<b>Site Location:</b>	Fairash Poultry Farm, Compton Martin Road, West Harptree, Bristol	
<b>Ward:</b> Mendip	<b>Parish:</b> West Harptree	<b>LB Grade:</b> N/A
<b>Application Type:</b>	Outline Application	
<b>Proposal:</b>	Erection of 7no. dwellings following demolition of existing poultry farm.	
<b>Constraints:</b>	Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Water Source Areas,	
<b>Applicant:</b>	Mr Peter Wood	
<b>Expiry Date:</b>	22nd November 2011	
<b>Case Officer:</b>	Alice Barnes	

**DECISION** REFUSE for the following reasons:

1 The proposed development has been located outside of the housing development boundary, remote from existing settlements and poorly served by public transport. The housing will not be used for either forestry or agriculture. The proposed development is therefore contrary to policy HG.10 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007. Planning Policy Statement 7 (PPS7) and Planning Policy Statement 3 (PPS3).

2 The proposal is located remote from services, employment opportunities and is not well served by public transport. It is contrary to the key aims of Planning Policy Guidance Note 13 which seeks to reduce growth in the length and number of motorised journeys. The proposal is therefore contrary to policy T.24 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007.

3 The provision of housing within the open countryside will harm the natural beauty of the surrounding Mendip Area of Outstanding Natural Beauty. The proposed is therefore contrary to policies Ne.1 and Ne.2 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007.

4 The use of the existing sub-standard access to serve the development, together with the generation of conflicting traffic movements close to an existing junction, would be prejudicial to road safety. The application is therefore contrary to policy T.24 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007.

**PLANS LIST:** Existing and proposed site plan layouts, 3832/101, rev A, date stamped 27th September 2011

**BATH AND NORTH EAST SOMERSET COUNCIL**

**Development Control Committee**

**18 January 2012**

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

**ITEM 11**

**ITEMS FOR PLANNING PERMISSION**

<b>Item No</b>	<b>Application No</b>	<b>Address</b>	<b>Page No</b>
<b>01</b>	<b>11/02674/EFUL</b>	<b>The Bath Press, Lower Bristol Road, Bath</b>	<b>49</b>

**The Health and Safety Executive (HSE) Objection**

In order to overcome the objection to the application that has been made by the HSE, the applicant has recently proposed Heads of Terms for a legal agreement and a Grampian condition with a view to ensuring that the risks associated with the existing Windsor Gas Holder Station a short distance to the north of the appeal site are appropriately managed. The HSE themselves raised the possibility of using a Grampian condition in their original letter of objection.

A Grampian condition is a negatively worded condition which prevents the development (or its occupation) from taking place until a specified action has been taken: for example, such a condition might prevent the commencement or occupation of a development until certain off-site roadworks have been carried out, or until a particular highway has been stopped up. They are generally used in relation to works that need to be carried out on land outside of the applicant's control, and can allow planning permission to be granted for development which would otherwise be unacceptable. The nature of this approach means that care must be taken to ensure that any Grampian condition actually secures what is necessary, and it is important that such conditions are drafted on a case-by-case basis.

In the present case, the primary purpose of a Grampian condition and/or planning obligation would be to prevent the occupation of the proposed Tesco store, and other elements of the development, until the Gas Holder Station has been decommissioned.

It is the Secretary of State's policy, as set out in paragraphs 39-41 of Circular 11/95 relating to Planning Conditions, that there should be a reasonable prospect of the action required by any such condition being undertaken within the lifetime of the permission. The converse is that, if there is no reasonable

prospect of the condition being fulfilled within that timeframe, then (whilst it would not be unlawful to grant permission subject to such a condition) the condition should not be imposed and the planning application should be refused.

Similar considerations would in the view of officers apply regarding the provisions of any S106 obligation which sought to achieve the same objective. The principal underlying purpose of the Secretary of State's policy is to avoid the accumulation of unimplemented planning permissions, so it would be reasonable for members to consider whether there is a reasonable prospect of the Gas Holder Station being decommissioned within the lifetime of the permission both in the context of a proposed planning condition and a proposed planning obligation.

The Grampian Condition proposed by the Appellants is: "St James Investments and Tesco Stores limited will not commence development of the Bath Press Site until it has entered into a binding contract with Crest Nicholson/ Wales and West Limited to give effect to the decommissioning works to the Windsor Bridge gas tanks holders".

The Heads of Terms suggested by the Appellants propose that:

1. "Tesco stores and St James Investments will not commence work on the Bath Press Site until they have entered into a binding contract with Crest Nicholson to pay for the Decommissioning Works with a view to bringing forward the redevelopment of the gas holder site and any other Bath Western Riverside redevelopment sites and such contract has become unconditional."; and
2. "Tesco stores will not open for trade until the gas holder is lowered to the ground, purged of gas, and the gas delivery pipe is removed for a length of at least 1 metre".

As previously mentioned, the HSE have also said that a Grampian condition could be acceptable to them, and have now suggested the following condition: "No occupation of any habitable development, or development of any permanent building designed for occupation shall take place within the Inner or Middle Consultation Zones shown on the attached plan provided by the Health and Safety Executive entitled "Windsor House Holder Station reference HSE HID CI5 Ref: H 1596" until Windsor Gas Holder Station has been permanently decommissioned to the satisfaction of the local planning authority and the hazardous substances consent applicable to the three gas holders has been removed". The imposition of this condition could meet the HSE's public safety concerns.

The above condition is based very closely upon a Grampian condition agreed with the HSE and imposed by this Council in respect of the Bath Western Riverside development.

### **Officer response**

The key considerations in relation to the above are whether either the Grampian conditions and/or the Heads of Terms suggested by the Appellants

are sufficient in this case to ensure the decommissioning of the Gas Holder Station prior to the occupation of the appeal scheme. The Appellants' proposed Heads of Terms relate only to the non-occupation of the retail store, and it is not yet clear whether the HSE would be prepared to agree to other parts of the scheme (e.g. the residential units) being occupied in advance of the decommissioning of the Gas Holder Station. Further discussions will be needed with the HSE in order to clarify their approach to this mixed use development in this regard.

### **The Tesco Condition and Heads of Terms**

The wording of the Heads of Terms and Condition proposed by the Appellants' team is flawed and fails to meet the relevant tests. Firstly it only relates to named companies ("Tesco stores and St James Investments"), and would not seem to prevent occupation by anyone else. Secondly, the trigger proposed is inadequate as it only requires a contract to have been entered into for the decommissioning works, and that contract might (for instance) specify a date for the decommissioning of the Gas Holder Station that is so far in the future that the development will already be occupied before it happens. The second of the Heads of Terms quoted above goes further in that regard as it refers to the store not opening for trade. Thirdly it would appear that there is land owned by other third parties that would be required in order to secure the decommissioning of the Gas Holder Station, and the planning implications of any such involvement remain unknown. Fourthly it is not certain that there are no other potential developers who may in due course be capable of bringing forward the decommissioning benefit. These latter two points are considered further below.

### **The Grampian condition suggested by the HSE**

The Condition suggested by the HSE is an improved version to that proposed by the Appellants as it refers to No Occupation which is considered to be the correct trigger in this case. As indicated above, it is a similar condition to that used in respect of the Bath Western Riverside Development. However Members are advised that the wording of the Condition in this case would not bring about the same level of certainty and it is in this regard relevant that the Gas Holder Station (unlike with Bath Western Riverside) is outside the current application site. In the present case, if the development were ready for occupation and the decommissioning had not taken place, there could be considerable pressure on the Council to agree to a relaxation of the relevant condition/obligation, especially if any perceived delay in the decommissioning is outside the Appellants' control. The risk of this happening would be mitigated to a degree by the first of the obligations proposed by the Appellants, but again it should be noted that the Appellants' Heads of Terms relate only to a specific named occupier ("Tesco stores"), and would not appear to cover occupation by any other organisation.

The precise wording of any planning condition(s) and/or planning obligations is not however a critical consideration, since this may prove capable of resolution in discussions between the Appellants, the HSE and the Council. Of greater significance are:

- (i) Whether there is a reasonable prospect of the Gas Holder Station being decommissioned before the expiry of any planning permission that may be granted for the appeal development;
- (ii) What weight should be given to the Appellants' offer in part to fund the decommissioning through an agreement between themselves, Wales and West Utilities (the gas supply company) and Crest Nicholson (the developers of BWR).

As to (i), little information has been provided by the Appellants to assist the LPA with this judgment. The provision of an alternative gas supply infrastructure to replace the Gas Holder Station would appear to require the provision of new equipment both on that site and (it is understood by Officers) on land owned by the Council at the current waste management site between Midland Road and Upper Bristol Road, as well as the laying of considerable lengths of additional pipework and potentially other works under or on land owned by other third parties. The limited information provided by the appellant renders it impossible to be clear as to exactly what works might be required or what consents might be needed (and from whom) for those works to take place. As things stand, therefore, Officers are of the view that the Council cannot be satisfied that there is a reasonable prospect that the decommissioning of the Gas Holder Station will take place - thus enabling the occupation of the appeal development to take place - before the expiry of any planning permission granted in that behalf.

As to (ii), the Appellants argue that, without their proposed contribution to the costs of the decommissioning works and the provision of the necessary new infrastructure, the decommissioning works are unlikely to take place for the foreseeable future. However, again, the Council has been provided with little information on the basis of which an informed judgment can be made. There are no details of the proposed agreement with Wales and West Utilities and Crest Nicholson, and it is possible in any case that the decommissioning works will be undertaken without the need for a financial contribution from the appeal development. The completion of BWR has always been dependent on the decommissioning of the Gas Holder Station, and the current proposals for the appeal site have only come along more recently. In these circumstances, it is difficult to give significant weight to the Appellants' argument in deciding whether or not to grant planning permission.

### **Conclusion**

Officers maintain their recommendation that planning permission would have been refused on grounds of risk to public safety. Your Officers' view is that the imposition of a negative condition and/or planning obligations would not, on present information, overcome this objection to the development. However, Officers intend to continue to work with the HSE and the Appellants in the period leading up to the public inquiry in order to see whether the provision of further information will enable this issue to be satisfactorily resolved.

## Highways

Members are advised that at the Appellants' request Officers met to discuss outstanding objections with the applicant on the 11<sup>th</sup> January 2012. At this stage there remain 2 areas of highway concern as reflected within the reasons for refusal.

Issue 1 – servicing for the creative workshop units at the western end of the site, adjacent to the A36 Lower Bristol Rd/A3604 Windsor Bridge Rd junction. There are currently proposals to service the creative workshop units from a service bay accessed from Brook Road. This is unacceptable for reasons identified within the main report. Officers however do consider that there is a potential solution to this issue which would be to service the units from the basement car park via loading bays, and this was put to the Appellants' representatives at the meeting on 11<sup>th</sup> January. The Appellants are considering this option, but no proposals have been received at the current time.

Issue 2 – Junction improvements. There are more complex concerns with regard to the operation of the A36 Lower Bristol Rd/A3604 Windsor Bridge Rd junction, which is currently one of the most congested junctions in Bath. It is Officers' view, as outlined within the main report, that the Appellants' proposals would increase the demand on this junction to unacceptable levels and create further congestion problems.

In recognition of the current congestion difficulties that will worsen once the Bath Western Riverside development is complete, the Council has sought funding for junction improvements to be made. That funding was secured as part of the Bath Transportation Package in December 2011. This means that funding will be committed subject to conditions, including any statutory procedures. It is advised by highway colleagues that following full approval, anticipated to be obtained in July 2012, the works would take place during 2013. Additional land is required in order to carry out those improvements and that land is currently in the control of third parties.

At the recent meeting the Appellants presented new traffic modelling information with a view to demonstrating that their scheme for the junction is acceptable. Regarding that information, it is to be noted that at the time of its presentation it was incomplete. Prior to officers being able to consider that information it will therefore need to be completed and accompanied by adequate information to enable it to be checked and validated. That checking and validation process may require taking advice from external consultants. At this stage, therefore, it remains the view of officers that the proposals for the junction which are put forward as part of the appeal application are unacceptable. It is possible that further progress will be made on this issue in the period leading up to the public inquiry, and officers intend to continue to co-operate with the Appellants in considering this matter.

It is also advised that the Appellants will need to consider the performance of the junction with both the development and the Council's improvement

scheme in place at 2020 (which is the relevant assessment year), and demonstrate that it will operate satisfactorily.

### **Conclusion**

Officers continue to recommend that planning permission would have been refused on the highway grounds identified in the main report.

### **Housing Services Consultation**

Strategic Housing Services have commented to advise that they cannot support this application as it fails to address B&NES adopted Planning Policy HG.8 in terms of the lack of provision of affordable housing.

### **Planning Officers Response**

The comments made are reflected in the report on the main agenda.

### **Third Party representations**

Objections made by the Federation of Bath Residents Associations (FoBRA) are listed in the main report as objections made by an individual. Further objections have now also been made by the FoBRA. In this regard it is advised that the FoBRA object to the scheme on the basis that traffic problems at the junction are acute and the proposals are so inadequate that they barely scratch the surface. Additional representations made are on the basis that the latest changes are difficult to understand as they consist of technical and individual alterations to several earlier documents, with no overall explanation or glossary, thus undermining the democratic process.

### **Officer response**

It is usual practice to report the objections of an organisation representing many individuals separately to the representations made by an individual as they have been reported. The objections made are therefore reported as those of an organisation in this update report. The highway objections made have already been considered as part of the main agenda report. Regarding the complexities of the technical submissions Officers advise that it is the nature of complex applications that they require specialist information to be submitted for assessment. Specialist advisors may be required to interpret and advise the Local Planning Authority on that information and that is unavoidable. Third parties are open to seeking their own specialist advice also. It is agreed that the applicant has not always provided sufficient clarity with regard to their submission and Officers have raised this with them repeatedly. Notwithstanding the applicant has fulfilled statutory requirements with regard to the submission as it is now made and the application must be considered in that light.

A letter of support for the application has been received on the basis that further retail choice should be provided and suggesting Moorland road would be unaffected.

### **Officer response**

Both of these issues have already been addressed in the main agenda.



## **Recommendation**

Members are advised there is no change to the recommendation on the main agenda.

<b>Item No</b>	<b>Application No</b>	<b>Address</b>	<b>Page No</b>
<b>02</b>	<b>11/01772/FUL</b>	<b>Site of Alcan Factory, Nightingale Way, Midsomer Norton</b>	<b>71</b>

## **Corrections**

The title page of the Committee report refers to 176 dwellings however the application has been amended to provide 169 dwellings.

The Plan List (Condition 32) should refer to:

10031(L)521 Revision F (Apartment Block 5 – Elevation)  
2154\_100\_Rev C (Landscape Masterplan)  
2154\_101\_Rev D (Town Centre Link Layout)  
2154\_102\_Rev A (Public Realm Adoption Strategy)  
2154\_200\_Rev B (Planting Plan)  
2154\_300\_Rev A (Town Centre Link Sections)  
LS19401\_4 (Lighting Project: Horizontal Levels)

## **Consultation Responses**

A written response has been received from Strategic Housing Development.

Strategic Housing Services support the application as planning Policy HG.8 is being maintained with the assistance of HCA grant aid. They support the use of HCA grant and the proposed 70/30 tenure split. They request a number of recommendations are included in the report to Development Control Committee and that if the Committee resolves to grant permission that these should be included as Heads of Terms in the s.106 Agreement. In summary they recommend that:

1. 35% of the overall residential provision is affordable, with a 70/30 split between Affordable Rent Tenure and Intermediate Market housing.
2. The affordable housing mix to be confirmed by Strategic Housing Services within the associated s.106 planning document.
3. The affordable housing obligation is secured in perpetuity within the section 106 Agreement.
4. Lift the stair casing restrictions for New Build Homebuy Lessees and instead ring fence the released equity.
5. The Council has full nomination rights as set out in the s.106 Agreement.
6. All the affordable housing units must fully comply with the current Homes & Communities Agency (HCA) 'Design and Quality Standards' and that the Code for Sustainable Homes (CSH) 3 will be achieved.
7. All the affordable housing units must fully comply with the B&NES SPD design, layout & construction standards.

8. To transfer the units to an approved partnering Registered Social Landlord (RSL) or other Affordable Housing Provider (AHP) as approved by the Council.
9. The affordable housing land is transferred to a RSL or AHP at nil cost.
10. Public subsidy (grant) will only be made available in the event that the RSL's or AHP's supportable deficit is insufficient to pay for the build costs. Grant will be subject to a comprehensive financial viability assessment.
11. A 'pepper potting' strategy in line with the B&NES PD requirements is included in the s.106 Agreement and that the development is tenure blind.
12. Phasing conditions on affordable housing triggers to be set out in the Section 106 Agreement.
13. The rent levels of the Affordable Rent tenure products to be capped to the Local Housing Allowance Limits or not more than 35% of the tenants outgoings to be spent on Housing related cost, whilst taking account of the affordability criteria of the Ark report`

### **Officer Comments**

The support of Strategic Housing Services to the application is noted. The specific recommendations generally relate to detailed matters, some of which are already addressed in the application proposals/Heads of Terms, and these will be taken into account by officers in the negotiations with the applicant during the drafting of the s.106 Agreement.

<b>Item No</b>	<b>Application No</b>	<b>Address</b>	<b>Page No</b>
<b>03</b>	<b>11/04325/FUL</b>	<b>Land at rear of 2-20 High Street, Keynsham</b>	

An objection has been received from Keynsham Town Council with the following comments.

The proposed application constitutes an over development of the site. The proposed development is out of keeping and the disproportional height is of an overbearing nature.

Concerns were raised in respect of problems of over shadowing, privacy and overlooking that it is envisaged that this development will create for adjacent properties in St. John's Court.

Highways issues as followings were highlighted as points of concern:

- On revised plan Drawing 1101 Revision D – there is no vehicular access shown to service parking spaces no. 19, 20, 21, 22 & 23.
- Provision of parking in terms of positing and sizing raises concerns for safety, as there is limited space for parking manoeuvres into the proposed bays.
- The most southerly vehicular access from the proposed development parking is positioned right next to a pedestrian crossing area and on the edge of a prioritised single traffic flow section of highway.

- The proposed development will restrict the sight line of motorists leaving the car parking area of the Tesco Store.

Concerns have been raised regarding the transparency of information provided by the applicants as:-

- They have chosen not to show the proximity of neighbouring residents' properties or the nearby listed buildings of The Old Manor House and Milward House.
- Scaled measurements provided on the plans (especially the revised plans) are of size impossible to read without the use of a magnifying glass.

Comments have been received from the Historic Buildings Officer who considers this is not the most context sensitive scheme in terms of either the design or use of materials. At three storeys it will tend to look overbearing in relation to the established townscape with a potentially adverse impact on the setting of nearby listed buildings.

### **Officers Response**

The proposal is considered to be an appropriate development in terms of its scale and mass in this urban location taking account of the context. The context in this case is the back of the High Street which comprises the rear of historic buildings and an eclectic and random series of spaces that are not well kept and unmanaged parking, a scattering of residential properties and in particular the large modern and recently completed Tesco store and its car park/access. It is considered that in this location a contemporary building, that backs onto the existing unkempt rear spaces enclosing those and which addresses the access and creates the opportunity for a new street frontage is an appropriate response to context. The Urban Design Officer comments that the creation of an urban block to enclose the rear courtyards of historic properties and create a new street edge is a robust approach to creating a new layer of development behind the Historic High Street. Those views are agreed with. Materials would be secured by planning condition.

Access to all parking spaces is available and the scheme was amended to satisfy the Highway officers concerns and there no Highway objections to the scheme.

Regarding the Town Councils objections on grounds of overdevelopment (which follows from previous support of the application), the development is unchanged in terms of its overall size and scale. The building has been re-positioned but relative to the scale of the development that repositioning is very minor and will be shown on plan for Members consideration and to provide clarity. It is considered that the repositioning would not have a greater adverse effect on shadowing privacy or overlooking taking account of the relationships of the existing and proposed development.

Regarding the submission made the plans as submitted by the applicant are fully compliant with planning requirements. The applicant is not required to

show the surrounding development as part of the proposals although that information is clearly shown on the OS plan submitted with the application. In addition the applicant did submit a drawing that responded to an objection letter which specifically showed the relationship of the development with properties off site to add further clarity to the situation. The drawings are to scale therefore there can be no ambiguity as to what is being considered. It is also to be noted that the applicant submitted amended drawings in response to the concerns of the Highway Officer and Urban Design Officer and this is not unusual practice.

**Recommendation**

As per the main agenda.

**BATH AND NORTH EAST SOMERSET COUNCIL**

**DEVELOPMENT CONTROL COMMITTEE**

**18th January 2012**

**DECISIONS**

<b>Item No:</b>	01	
<b>Application No:</b>	11/02674/EFUL	
<b>Site Location:</b>	The Bath Press, Lower Bristol Road, Westmoreland, Bath	
<b>Ward:</b> Westmoreland	<b>Parish:</b> N/A	<b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application with an EIA attached	
<b>Proposal:</b>	Mixed-use redevelopment comprising 6,300sqm of retail (Class A1), 4,580sqm of creative work space (Class B1), 2,830sqm of offices (Class B1), 10 residential houses, car park, landscape and access (including realignment of Brook Road).	
<b>Constraints:</b>	Agric Land Class 3b,4,5, British Waterways, Flood Zone 2, Forest of Avon, Hazards & Pipelines, Hotspring Protection, Tree Preservation Order, World Heritage Site,	
<b>Applicant:</b>	St James's Investments Limited & Tesco Stores Limited	
<b>Expiry Date:</b>	10th October 2011	
<b>Case Officer:</b>	Sarah James	

**DECISION**

If the Council had been in a position to make a decision on the application then the recommendation would be to REFUSE:

**REASON(S) FOR REFUSAL**

1 The proposed development would give rise to a potential danger to human lives by virtue of its proximity to the nearby operational gasholder site contrary to planning policy ES9 and ES13 of the adopted Bath and North East Somerset Local Plan and contrary to the advice of the Health and Safety Executive.

2 The proposed development would give rise to unacceptable highway safety hazards by virtue of the unacceptable revised road layout proposed traffic signal phasing and workshop servicing arrangements, contrary to Policies T24 and T26 of the adopted Bath and North East Somerset Local Plan.

3 The proposed development would result in an increased use of the A36 Lower Bristol Road/Windsor Bridge Road/Brook Road junction, where insufficient capacity exists to accommodate the increased use adversely affecting the efficient functioning of the road network contrary to Policies T1, T3, T5, T16 and T24 of the adopted Bath and North East

Somerset Local Plan and having regard to additional developments already committed in this part of Bath.

4 The proposed development is not in accordance with the requirements of the sequential approach to development contrary to EC15 of PPS4, Bath and North East Somerset adopted Local Plan Policy S4, Joint Replacement Structure Plan Policy 40 and Regional Planning Guidance Policy EC6. This would generate unsustainable travel patterns and be harmful to the Councils retail strategy.

5 The proposed development would give rise to an unacceptable and harmful impact on the vitality and viability of the Moorland Road District Shopping Centre contrary to Policies EC17.1 of PPS4, S1 and S4, of the adopted Bath and North East Somerset Local Plan, Joint Replacement Structure Plan Policies 40 and 41 and Regional Planning Guidance Policy EC6.

<b>Item No:</b>	02	
<b>Application No:</b>	11/01772/FUL	
<b>Site Location:</b>	Site Of Alcan Factory, Nightingale Way, Midsomer Norton, BA3 4AA	
<b>Ward:</b> Westfield	<b>Parish:</b> Westfield	<b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application	
<b>Proposal:</b>	Residential-led mixed use redevelopment comprising of the erection of 169no. dwellings, community facilities, offices, town centre link, formal green space and associated works.	
<b>Constraints:</b>	Agric Land Class 3b,4,5, Coal - Standing Advice Area, Core Employment Area, Forest of Avon, Housing Development Boundary, Public Right of Way, Sites of Nature Conservation Imp (SN), Tree Preservation Order,	
<b>Applicant:</b>	Linden Homes Western Ltd	
<b>Expiry Date:</b>	16th August 2011	
<b>Case Officer:</b>	Gwilym Jones	

## **DECISION Delegate to PERMIT**

(A) Authorise the Planning and Environmental Law Manager to secure an Agreement under Section 106 of the Town and Country Planning Act 1990 to secure:

### **1. Affordable Housing**

Provision of 35% (up to 59 dwellings) of affordable housing (with HCA grant) at a tenure mix of 70%(41 dwellings) affordable rent 30% (18) intermediate/shared ownership  
60% of the affordable housing to be constructed to Lifetime Homes Standards  
10% of the affordable housing to additionally meet wheelchair standards

## 2. On Site Employment

Provision of an employment/community building of approximately 1,620m<sup>2</sup> (Gross Internal Area) comprising:

- Ground floor community use (Class D1)
- First and second floor offices (Class B1)

The community use space to be available at negligible cost

The employment/community building to be managed by a community trust for the benefit of residents and the surrounding community

The employment/community building to be available for occupation to shell and core specification (details to be agreed) prior to the occupation of more than 50 residential dwellings

## 3. Off Site Employment

Applicant to use reasonable endeavours to provide off site employment facilities in the form of a Business Hub facility for small and medium size enterprises and start-ups, such provision to be capped at £445,000

In the event that the contract to provide these facilities is not agreed by the occupation of 75% of the residential dwellings then the sum of £445,000 shall be paid to the Council for the provision of off-site employment

## 4. Transport

Provision of a town centre footpath/cycleway link to be provided as a publicly maintainable highway or permissive path linking the site to the town centre to be completed prior to occupation of the first dwelling

A strategic transport contribution of up to £221,000 to include:

- construction of new pedestrian/cycle link to Chaucer Road to be completed prior to occupation of the first dwelling
- contribution of £75,000 for the Introduction of a 'Toucan' crossing on Silver Street or, in the event that programming results in the crossing being installed by others, appropriate alternative measures to promote sustainable travel
- provision of 'Keep Clear' or yellow-box markings at Charlton Road/Silver Street junction, with any associated advance warning sign considered appropriate
- financial contribution of £10,000 for monitoring/future improvements to Charlton Road/Fosseway junction
- financial contribution of £9,000 toward local public transport infrastructure on Longfellow Road.

Submission and approval of Travel Plan(s) for the community and office space

Payment of a commuted sum for non-standard highway materials

All costs in respect of the diversion of the PROW to be met by the applicant

## 5. On Site Green Space

On site provision of 5,400m<sup>2</sup> of on-site formal green space

The on-site formal green space to be managed by a management company but with unrestricted public access

## 6. Off Site Green Space and Play

Contribution toward the provision, enhancement and maintenance of off-site Public Open Space and the provision of play services of £223,983

7. Education contributions

Contribution toward primary education of £184,234 and youth services of £27,214

8. Administration fee

Payment of £5,000 monitoring fee

(B) Upon completion of the Agreement authorise the Development Manager to PERMIT the application subject to the following conditions:

**CONDITIONS**

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permissions.

2 No development shall commence until a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces of buildings, including roofs, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the details so approved.

Reason: In the interests of the appearance of the development and the character and appearance of the area.

3 No development, including site preparation work, shall commence until a Construction Management Plan including but not limited to details of working methods and hours, deliveries (including storage arrangements and timings), contractor parking and traffic management has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved Construction Management Plan.

Reason: To safeguard the amenities of adjoining residential properties and ensure the safe operation of the highway.

4 No development shall be commenced until a hard and soft landscape scheme has been first submitted to and approved in writing by the Local Planning Authority, such a scheme shall include details of all walls, fences, trees, hedgerows and other planting which are to be retained; details of all new walls, fences and other boundary treatment and finished ground levels; a planting specification to include numbers, density, size, species and positions of all new trees and shrubs; details of the surface treatment of the open parts of the site; and a programme of implementation.

Reason: To ensure the provision of an appropriate landscape setting to the development.

5 All hard and/or soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority. Any trees or plants indicated on the approved scheme which, within a



period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the Local Planning Authority. All hard landscape works shall be permanently retained in accordance with the approved details.

Reason: To ensure that the landscape scheme is implemented and maintained.

6 No development shall take place until an Arboricultural Method Statement with tree protection plan identifying measures to protect the trees to be retained has been submitted to and approved in writing by the Local Planning Authority. The statement shall include proposed tree protection measures during site preparation, construction and landscaping operations. The statement should also include the control of potentially harmful operations such as the position of service runs and soakaways, storage, handling and mixing of materials on site, location of compound and movement of people and machinery.

Reason: To ensure that no excavation, tipping, burning, storing of materials or any other activity takes place which would adversely affect trees to be retained on the site.

7 No development activity shall commence until the protective measures as stated in the approved Arboricultural Method Statement are implemented. The local planning authority is to be advised two weeks prior to development commencing of the fact that the tree protection measures as required are in place and available for inspection.

Reason: To ensure that the trees are protected from potentially damaging activities.

8 No development shall take place within the site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work should provide a controlled watching brief during ground works within the previously undeveloped areas of the site, with provision for excavation of any significant deposits or features encountered.

Reason: The site is within an area of potential archaeological interest and the Council will wish to examine and record items of interest discovered.

9 An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination

(ii) an assessment of the potential risks to;  
- human health,

- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters, (g) ecological systems,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

10 Prior to commencement of development and subject to the findings of the reports submitted under Condition 9, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

11 The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

12 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken

in accordance with the requirements of condition 9, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 10, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in any approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 11.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

13 A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of 5 years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

14 The development shall not be commenced until a foul and surface water drainage strategy has been submitted to and approved in writing by the Local Planning Authority in consultation with Wessex Water.

The drainage scheme shall be completed in accordance with the approved details and to a timetable agreed in writing with the Local Planning Authority.

Reason: To ensure that proper provision is made for sewerage of the site and that the development does not increase the risk of sewer flooding to downstream property.

15 No development shall commence until details of the proposed estate roads, footways, footpaths, verges, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the details so approved.

Reason: To ensure that the roads are laid out and constructed in a satisfactory manner.

16 No part of the development hereby permitted shall be occupied until junctions on the internal access roads serving the relevant part of the development have been constructed with no obstruction to visibility at or above a height of 900mm above the nearside

carriageway level. The visibility splays shall thereafter be maintained free of obstruction at all times.

Reason: In the interests of highway safety.

17 The proposed parking and turning areas for each dwelling shall be constructed in such a manner as to ensure that before it is occupied each dwelling shall be served by a properly bound and compacted footpath and carriageway to at least base course level between the dwelling and existing highway.

Reason: To ensure that the development is served by an adequate means of access.

18 No part of the development identified on the submitted plan for shared parking and turning shall be brought into use unless and details of their construction have been submitted to and approved in writing by the Local Planning Authority. Thereafter they shall be kept clear of obstruction and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.

Reason: In the interests of amenity and highway safety.

19 The areas allocated for cycle parking on the submitted plan shall be kept clear of obstruction and shall not be used other than for the parking of cycles in connection with the development hereby permitted.

Reason: In the interests of sustainable development.

20 The garaging hereby approved shall be retained for the garaging of private motor vehicles associated with the dwelling and ancillary domestic storage and for no other purpose without the prior written permission of the Local Planning Authority.

Reason: To retain adequate off-street parking provision

21 Prior to the commencement of the development a Parking Management Plan for the community and office buildings shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the details so approved.

Reason: To retain adequate off-street parking provision.

22 No part of the development hereby permitted shall be occupied until details of the pedestrian/cycle links identified on the submitted plans and a programme for their implementation have been submitted to and approved in writing by the Local Planning Authority. The links shall thereafter be maintained free of obstruction at all times.

Reason: In the interests of amenity and sustainable development.

23 Before any dwelling is first occupied new residents Welcome Packs, the content of which shall have been approved in writing by the Local Planning Authority, shall be issued to occupiers of the property. The Packs should include information of bus and train timetable information, information giving examples of fares/ticket options, information on

cycle routes, a copy of the Travel Better, Live Better publication, car share, car club information, together with complimentary bus tickets for each household member to encourage residents to use public transport.

Reason: In the interests of sustainable development.

24 No works associated with the Town Centre Link shall commence until a detailed method statement for the construction of the boardwalk has been submitted to and approved by the Local Planning Authority. The details so approved shall be implemented in full and thereafter be maintained in accordance with the approved details.

Reason: To prevent or minimise any adverse impact on a main badger sett located adjacent to the Link.

25 No works associated with the Town Centre Link shall commence until details of the design including landscaping works and a woodland management plan together with a construction method statement (including a Tree Protection Plan) has been submitted to and approved by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the details so approved.

Reason: To ensure that the trees and are protected from potentially damaging activities.

26 No works associated with the Town Centre Link shall commence until details of lighting columns including their precise quantity and locations, method of illumination and lux levels have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall not be used between the 30th March and 26th October inclusive.

The details so approved shall be completed prior to the use of the Link or in accordance with a detailed programme to be agreed in writing by the Local Planning Authority.

Reason: To prevent or minimise any adverse impact on bats using the site and its surroundings.

27 The planting of trees and shrubs along the northern boundary of the site shall be completed by 15th March 2012 or in accordance with a detailed programme to be agreed in writing by the Local Planning Authority, and where lighting along the northern boundary of the site is required for public safety reasons lighting levels shall be a maximum of 2 lux.

Reason: To prevent or minimise any adverse impact on bats using the site and its surroundings.

28 Construction of the replacement roost shall be as detailed in the Bat Mitigation Strategy (October 2011) and shall be completed by 15 March 2012 or in accordance with a detailed programme to be agreed in writing by the Local Planning Authority.

Reason: To prevent or minimise any adverse impact on bats using the site and its surroundings.

29 The business floorspace of the live/work units shall be finished ready for occupation before the residential floorspace is occupied and the residential use shall not precede commencement of the business use. Thereafter the live/work units shall be used solely as a live/work space and for no other purpose including solely for residential or employment use.

Reason: To ensure the provision of live/work units in accordance with submitted application.

30 The business floorspace of the live/work unit shall not be used for any purpose other than for purposes within Class B1 in the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: To safeguard the amenities of neighbouring residential properties.

31 All affordable dwellings shall achieve Level 3 of the Code for Sustainable Homes and no affordable dwelling shall be occupied until a final Code Certificate certifying that Code Level 3 has been achieved has been submitted to the Local Planning Authority.

Reason: In the interests of securing the sustainable development of the site.

32 The development/works hereby permitted shall only be implemented in accordance with the plans as set out in the plans list below.

Reason: To define the terms and extent of the permission.

#### **PLANS LIST:**

10031(L)100 Rev. C; 10031(L)101 Rev. B; 10031(L)221 Rev. AG; 10031(L)303 Rev. B; 10031(L)304 Rev. B; 10031(L)305 Rev. B; 10031(L)306 Rev. A; 10031(L)307 Rev. A; 10031(L)402 Rev. F; 10031(L)403 Rev. D; 10031(L)404 Rev. G; 10031(L)405 Rev. H; 10031(L)406 Rev. B; 10031(L)407 Rev. G; 10031(L)408 Rev. E; 10031(L)409 Rev. C; 10031(L)410 Rev. B; 10031(L)412 Rev. G; 10031(L)413 Rev. F; 10031(L)414 Rev. C; 10031(L)415 Rev. E; 10031(L)416 Rev. D; 10031(L)417 Rev. E; 10031(L)419 Rev. D; 10031(L)420 Rev. F; 10031(L)421 Rev. F; 10031(L)422 Rev. G; 10031(L)423 Rev. E; 10031(L)426 Rev. F; 10031(L)427 Rev. E; 10031(L)428 Rev. E; 10031(L)430 Rev. D; 10031(L)431 Rev. B; 10031(L)432 Rev. C; 10031(L)433 Rev. C; 10031(L)434 Rev. C; 10031(L)435 Rev. C; 10031(L)436 Rev. C; 10031(L)500 Rev. H; 10031(L)502 Rev. E; 10031(L)503 Rev. C; 10031(L)504 Rev. E; 10031(L)505 Rev. E; 10031(L)506 Rev. E; 10031(L)507 Rev. F; 10031(L)508 Rev. E; 10031(L)509 Rev. D; 10031(L)510 Rev. B; 10031(L)512 Rev. E; 10031(L)513 Rev. E; 10031(L)514 Rev. E; 10031(L)515 Rev. D; 10031(L)516 Rev. E; 10031(L)517 Rev. E; 10031(L)519 Rev. E; 10031(L)520 Rev. E; 10031(L)521 Rev. E; 10031(L)522 Rev. F; 10031(L)523 Rev. E; 10031(L)526 Rev. E; 10031(L)527 Rev. E; 10031(L)528 Rev. F; 10031(L)530 Rev. C; 10031(L)533 Rev. C; 10031(L)534 Rev. C; 10031(L)535 Rev. D.

The applicant is advised that approval of the proposed layout of the site does not amend or extinguish any existing public rights of way that exist on the site or adjacent to it and

any works affecting public rights of way will require a separate application to be submitted to and approved by the Council before such works are undertaken.

**Reasons for Granting Permission:**

The decision to recommend approval has taken account of relevant policies set out in the Development Plan and approved Supplementary Planning Documents, and national guidance in PPS1, PPS3, PPS4, PPG13, PPS23 and PPS25. The decision has also been taken into account other material considerations including emerging local and national planning policy and guidance and the responses from statutory consultees and those from other interested parties including local residents.

The proposals are contrary to Policies ET.3 and HG.4 of the Local Plan however it is considered that a departure has been justified in this case in the light of the specific characteristics of the application site that is its location, surrounding uses, brownfield status, and its acknowledged unsuitability for large scale industrial use. In this context the redevelopment of this site for residential, commercial and community use purposes is considered appropriate.

The proposal will result in an increase in peak hour traffic on the local road network however it has been demonstrated that this will not have a significant detrimental effect on the operation of local junctions. Mitigation is proposed to address local highway impacts and to promote sustainable forms of travel.

The layout of the site has been designed to integrate with adjoining built and the proposed development makes provision for improved pedestrian and cyclist connections with the local area. The design of the buildings is of a high quality and will not result in significant harm to neighbouring amenity.

The site is the location of a bat roost. The Council is satisfied that the requirements of the Habitats Directive have been met and that the application makes appropriate provision for replacement of the roost and safeguarding of the dark corridor.

The proposed development is in accordance with Policies IMP.1, D.2, D.4, CF.1, CF.3, ES.15, NE.9, NE.10, NE.14, HG.7, HG.8, T.3, T.5, T.6, T.24, T.25 and T.26 of the Bath & North East Somerset Local Plan (including minerals and waste policies) 2007.

<b>Item No:</b>	03		
<b>Application No:</b>	11/04325/FUL		
<b>Site Location:</b>	Land At Rear Of 2-20, High Street, Keynsham,		
<b>Ward:</b> Keynsham North	<b>Parish:</b> Keynsham Town Council	<b>LB Grade:</b> N/A	
<b>Application Type:</b>	Full Application		
<b>Proposal:</b>	Erection of three storey building to provide fourteen residential apartments and associated landscaping and car parking (inc. re-provision of car parking for existing high street properties)		
<b>Constraints:</b>	Agric Land Class 3b,4,5, City/Town Centre Shopping Areas, Conservation Area, Forest of Avon, General Development Site, Housing Development Boundary,		
<b>Applicant:</b>	Deeley Freed (Charlton Road)		
<b>Expiry Date:</b>	12th January 2012		
<b>Case Officer:</b>	Sarah James		

## **DECISION Delegate to PERMIT**

A. Subject to receipt of a Unilateral Legal Agreement completed to the satisfaction of the Planning and Environmental Law Manager to cover the following

- 1) A contribution totalling £48,503.28 toward formal, natural and allotment green space provision.
- 2) A Strategic Highway Contribution based upon the Highway Officers advice of £1,402.38.

B. Upon completion of the Agreement authorise the Development Manager to PERMIT with the following conditions

## **CONDITIONS**

1 The development hereby approved shall be begun before the expiration of three years from the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 and to avoid the accumulation of unimplemented planning permissions.

2 Prior to the commencement of development, a sample panel of all external walling materials to be used shall be erected on site, approved in writing by the Local Planning Authority, and kept on site for reference until the development is completed.

Reason: In the interests of the appearance of the development and the surrounding area.

3 No development shall commence until samples of the roofing material to be used on the development have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure satisfactory development



4 No development shall be commenced until a hard and soft landscape scheme has been first submitted to and approved in writing by the Local Planning Authority; such a scheme shall include details of all walls, fences, trees, hedgerows and other planting which are to be retained; details of new walls, fences and other boundary treatment and finished ground levels; a planting specification to include numbers, density, size, species and positions of all new trees and shrubs; details of the surface treatment of the open parts of the site; and a programme of implementation.

Reason: To ensure the provision of an appropriate landscape setting to the development.

5 All hard and/or soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the Local Planning Authority. All hard landscape works shall be permanently retained in accordance with the approved details.

Reason: To ensure that the landscape scheme is implemented and maintained.

6 No site works or clearance shall begin until a scheme for protection of trees and other existing or proposed landscape areas to British Standard 5837:2005 has been submitted to and approved in writing by the Local Planning Authority. The approved protection scheme shall be implemented before the development is begun and shall not be removed until the development has been completed. Protected areas shall be kept clear of any buildings, plant, material, debris and trenching. Existing ground levels maintained within protected areas. There shall be no entry to protected areas except for approved arboricultural or landscape works.

Reason: To safeguard the areas to be landscaped and the existing trees and planting to be retained within the site.

7 An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

a survey of the extent, scale and nature of contamination;

an assessment of the potential risks to:

human health,

property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,

adjoining land,

groundwaters and surface waters,

ecological systems,

archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

8 A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

9 The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

10 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 7 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition no. 10 which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition no. 9

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

11 A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of 5 years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11.'

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

12 On completion of the works but prior to any occupation of the approved residential development, the applicant shall submit to and have approved in writing by the Local Planning Authority, an assessment from a competent person to demonstrate that the development has been constructed to provide sound attenuation against external noise in accordance with BS8233:1999. The following levels shall be achieved: Maximum internal noise levels of 40dBLAeq,T for living rooms and bedrooms. For bedrooms at night individual noise events (measured with F time-weighting) shall not (normally) exceed 45dBLAmax.

Reason: To protect residents from external noise nuisance

13 No development shall take place within the site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work should provide a controlled excavation of all significant deposits and features which

are to be disturbed by the proposed development, and shall be carried out by a competent person(s) and completed in accordance with the approved written scheme of investigation. Thereafter the building works shall incorporate any building techniques and measures necessary to mitigate the loss or destruction of any further archaeological remains.

Reason: The site is within an area of significant archaeological interest and the Council will wish record and protect the archaeological remains.

14 No development shall take place within the site (including any site clearance or demolition works) until the applicant, or their agents or successors in title, has produced detailed drawings of all underground works, including foundations, drainage and those of statutory undertakers, which have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the location, extent and depth of all excavations and these works shall be carried out and completed in accordance with details as approved.

Reason: The site is within an area of significant archaeological interest and the Council will wish to protect the archaeological remains.

15 The development shall not be brought into use or occupied until the applicant, or their agents or successors in title, has secured the implementation of a programme of post-excavation analysis in accordance with a publication plan which has been submitted to and approved in writing by the Local Planning Authority. The programme of post-excavation analysis shall be carried out by a competent person(s) and completed in accordance with the approved publication plan, or as otherwise agreed in writing with the Local Planning Authority.

Reason: The site may produce significant archaeological findings and the Council will wish to publish or otherwise disseminate the results.

16 Prior to occupation of the dwellings the access, parking and turning areas shall be properly bound and compacted (not loose stone or gravel) in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority. These areas shall be kept clear of obstruction and shall not be used other than for the access, parking and turning of vehicles in connection with the development hereby permitted.

Reason: In the interests of highway safety.

17 Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

18 The area allocated for cycle parking on the submitted plan shall be kept clear of obstruction and shall not be used other than for the parking of cycles in connection with the development hereby permitted.

Reason: In the interests of sustainable development.

19 The areas allocated for parking and turning on the submitted plan shall be kept clear of obstruction and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.

Reason: In the interests of amenity and highway safety.

20 Before the dwellings are first occupied, new resident's welcome packs shall be issued to purchasers which should include information of bus and train timetable information, information giving examples of fares/ticket options, information on cycle routes, a copy of the Travel Better publication, car share, car club information etc., together with complimentary bus tickets for each household member to encourage residents to try public transport. The content of such packs shall have been approved in writing by the Local Planning Authority.

Reason: In the interests of sustainable development.

#### **PLANS LIST:**

2663 1101 REV C, 2663 2100 REV D, 2663 2101 REV C, 2663 2102 REV C, 2663 2103 REV C, 2663 3000 REV C, 2663 3001 REV C, 2663 3010 REV D, 2663 3020 REV C.

#### **REASONS FOR GRANTING APPROVAL**

The proposed development would enhance the Conservation Area. It would create no unacceptable highway impact. It has no impact on ecology including any European Sites. It would provide needed new residential housing and would not be harmful to the amenities of existing residential occupiers.

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