

**Democratic Services**

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**Your ref:****Our ref:****Date:** 7 February 2012**E-mail:** [Democratic\\_Services@bathnes.gov.uk](mailto:Democratic_Services@bathnes.gov.uk)**To: All Members of the Development Control Committee**

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

**Permanent Substitutes:- Councillors:** Rob Appleyard, Sharon Ball, John Bull, Nicholas Coombes, Sally Davis, Malcolm Lees, Dine Romero and Jeremy Sparks

Chief Executive and other appropriate officers  
Press and Public

Dear Member

**Development Control Committee: Wednesday, 15th February, 2012**

You are invited to attend a meeting of the **Development Control Committee**, to be held on **Wednesday, 15th February, 2012 at 2.00 pm** in the **Brunswick Room - Guildhall, Bath**

The Chair's Briefing Meeting will be held at 10.00am on Tuesday 14<sup>th</sup> February 2012 in the Meeting Room, Lewis House, Bath.

The rooms will be available for the meetings of political groups. Coffee etc. will be provided in the Group Rooms before the meeting.

The agenda is set out overleaf.

Yours sincerely

David Taylor  
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.**

*This Agenda and all accompanying reports are printed on recycled paper*



## NOTES:

1. **Inspection of Papers:** Any person wishing to inspect minutes, reports, or a list of the background papers relating to any item on this Agenda should contact David Taylor who is available by telephoning Bath 01225 - 394414 or by calling at the Riverside Offices Keynsham (during normal office hours).
2. **Public Speaking at Meetings:** The Council has a scheme to encourage the public to make their views known at meetings. They may make a statement relevant to what the meeting has power to do. They may also present a petition or a deputation on behalf of a group. Advance notice is required not less than two full working days before the meeting (this means that for meetings held on Wednesdays notice must be received in Democratic Services by 4.30pm the previous Friday)

The public may also ask a question to which a written answer will be given. Questions must be submitted in writing to Democratic Services at least two full working days in advance of the meeting (this means that for meetings held on Wednesdays, notice must be received in Democratic Services by 4.30pm the previous Friday). If an answer cannot be prepared in time for the meeting it will be sent out within five days afterwards. Further details of the scheme can be obtained by contacting David Taylor as above.

3. **Details of Decisions taken at this meeting** can be found in the minutes which will be published as soon as possible after the meeting, and also circulated with the agenda for the next meeting. In the meantime details can be obtained by contacting David Taylor as above.

Appendices to reports are available for inspection as follows:-

**Public Access points** - Riverside - Keynsham, Guildhall - Bath, Hollies - Midsomer Norton, and Bath Central, Keynsham and Midsomer Norton public libraries.

**For Councillors and Officers** papers may be inspected via Political Group Research Assistants and Group Rooms/Members' Rooms.

4. **Attendance Register:** Members should sign the Register which will be circulated at the meeting.
5. THE APPENDED SUPPORTING DOCUMENTS ARE IDENTIFIED BY AGENDA ITEM NUMBER.
6. **Emergency Evacuation Procedure**

When the continuous alarm sounds, you must evacuate the building by one of the designated exits and proceed to the named assembly point. The designated exits are sign-posted.

Arrangements are in place for the safe evacuation of disabled people.

**Development Control Committee - Wednesday, 15th February, 2012**

**at 2.00 pm in the Brunswick Room - Guildhall, Bath**

**A G E N D A**

**1. EMERGENCY EVACUATION PROCEDURE**

The Chairman will ask the Committee Administrator to draw attention to the emergency evacuation procedure as set out under Note 7

**2. ELECTION OF VICE CHAIRMAN (IF DESIRED)**

**3. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

**4. DECLARATIONS OF INTEREST**

Members who have an interest to declare are asked to state:

(a) the Item No and site in which they have an interest; (b) the nature of the interest; and (c) whether the interest is personal or personal and prejudicial.

Any Member who is unsure about the above should seek advice from the Monitoring Officer prior to the meeting in order to expedite matters at the meeting itself.

**5. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN**

**6. ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS**

(1) At the time of publication, no items had been submitted.

(2) To note that, regarding planning applications to be considered, members of the public who have given the requisite notice to the Committee Administrator will be able to make a statement to the Committee immediately before their respective applications are considered. There will be a time limit of 3 minutes for each proposal, ie 3 minutes for the Parish and Town Councils, 3 minutes for the objectors to the proposal and 3 minutes for the applicant, agent and supporters. This allows a maximum of 9 minutes per proposal.

**7. ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS**

To deal with any petitions or questions from Councillors and where appropriate Co-opted Members

8. MINUTES: 18 JANUARY 2012 (Pages 9 - 46)

9. MAJOR DEVELOPMENTS

The Senior Professional – Major Developments to provide a verbal update

10. MAIN PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE (Pages 47 - 118)

The attached document is a revised version of the original published on 7 February 2012. It incorporates amendments to the “Reasons for reporting the Application to the Committee” in respect of two applications:

application1, The Bath Press, Lower Bristol Road, Westmoreland, Bath, (10/03380/EFUL)

application 3, Clearbrook Farm, Midford Hill, Hinton Charterhouse, Bath, (11/04422/FUL).

This revised document was published on 10 February 2012.

11. NEW PLANNING APPEALS LODGED, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES (Pages 119 - 122)

To note the report

The Committee Administrator for this meeting is David Taylor who can be contacted on 01225 - 394414.

## **Member and Officer Conduct/Roles Protocol\***

### **Development Control Committee**

**(\*NB This is a brief supplementary guidance note not intended to replace or otherwise in any way contradict Standing Orders or any provision of the Local Authorities (Mode Code of Conduct) Order 2001 adopted by the Council on 21<sup>st</sup> February 2002 to which full reference should be made as appropriate).**

#### **1. Declarations of Interest (Personal and Prejudicial)**

**- These are to take place when the agenda item relating to declarations of interest is reached. It is best for Officer advice (which can only be informal) to be sought and given prior to or outside the Meeting. In all cases the final decision is that of the individual Member.**

#### **2. Local Planning Code of Conduct**

- This document as approved by Full Council and previously noted by the Committee, supplements the above. Should any Member wish to state declare that further to the provisions of the Code (although not a personal or prejudicial interest) they will not vote on any particular issue(s), they should do so after (1) above.

#### **3. Site Visits**

- Under the Council's own Local Code, such visits should only take place when the expected benefit is substantial eg where difficult to visualize from the plans, or from written or oral submissions or the proposal is particularly contentious. Reasons for a site visit should be given and recorded. The attached note sets out the procedure.

#### **4. Voting & Chair's Casting Vote**

**- By law the Chair has a second or "casting" vote. It is recognised and confirmed by Convention within the Authority that the Chair's casting vote will not normally be exercised. A positive decision on all agenda items is, however, highly desirable in the planning context, although exercise of the Chair's casting vote to achieve this remains at the Chair's discretion.**

Chairs and Members of the Committee should be mindful of the fact that the Authority has a statutory duty to determine planning applications. A tied vote leaves a planning decision undecided. This leaves the Authority at risk of appeal against non-determination and/or leaving the matter in abeyance with no clearly recorded decision on a matter of public concern/interest.

The consequences of this could include (in an appeal against "non-determination case) the need for a report to be brought back before the Committee for an indication of what decision the Committee would have come to if it had been empowered to determine the application.

## **5. Officer Advice**

- Officers will advise the meeting as a whole (either of their own initiative or when called upon to do so) where appropriate to clarify issues of fact, law or policy. It is accepted practice that all comments will be addressed through the Chair and any subsequent Member queries addressed likewise.

## **6. Decisions Contrary to Policy and Officer Advice**

- There is a power (not a duty) for Officers to refer any such decision to a subsequent meeting of the Committee. This renders a decision of no effect until it is reconsidered by the Committee at a subsequent meeting when it can make such decision as it sees fit.

## **7. Officer Contact/Advice**

- ***If Members have any conduct or legal queries prior to the Meeting, then they can contact the following Legal Officers for guidance/assistance as appropriate (bearing in mind that informal Officer advice is best sought or given prior to or outside the Meeting) namely:-***

1. Maggie Horrill, Planning and Environmental Law Manager  
Tel. No. 01225 39 5174
2. Simon Barnes, Senior Legal Adviser  
Tel. No. 01225 39 5176

- General Member queries relating to the Agenda (including Public Speaking arrangements for example) should continue to be addressed to David Taylor, Committee Administrator Tel No. 01225 39 4414

**Planning and Environmental Law Manager, Planning Services Manager,  
Democratic Services Manager, Solicitor to the Council  
April 2002**

### **Site Visit Procedure**

- (1) Any Member of the Development Control or local Member(s) may request at a meeting the deferral of any application (reported to Committee) for the purpose of holding a site visit.***
- (2) The attendance at the site inspection is confined to Members of the Development Control Committee and the relevant affected local Member(s).
- (3) The purpose of the site visit is to view the proposal and enhance Members' knowledge of the site and its surroundings. Members will be professionally advised by Officers on site but no debate shall take place.
- (4) There are no formal votes or recommendations made.
- (5) There is no allowance for representation from the applicants or third parties on the site.
- (6) The application is reported back for decision at the next meeting of the Development Control Committee.
- (7) In relation to applications of a controversial nature, a site visit could take place before the application comes to Committee, if Officers feel this is necessary.



**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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<b>Bath &amp; North East Somerset Council</b>	
MEETING:	<b>Development Control Committee</b>
MEETING DATE:	<b>15th February 2012</b>
RESPONSIBLE OFFICER:	Lisa Bartlett, Development Manager, Planning & Transport Development (Telephone: 01225 477281)
TITLE:	<b>APPLICATIONS FOR PLANNING PERMISSION</b>
WARDS:	ALL
BACKGROUND PAPERS:	
<b>AN OPEN PUBLIC ITEM</b>	

## BACKGROUND PAPERS

List of background papers relating to this report of the Development Manager, Planning and Transport Development about applications/proposals for Planning Permission etc. The papers are available for inspection online at <http://planning.bathnes.gov.uk/PublicAccess/>.

- [1] Application forms, letters or other consultation documents, certificates, notices, correspondence and all drawings submitted by and/or on behalf of applicants, Government Departments, agencies or Bath and North East Somerset Council in connection with each application/proposal referred to in this Report.
- [2] Department work sheets relating to each application/proposal as above.
- [3] Responses on the application/proposals as above and any subsequent relevant correspondence from:
  - (i) Sections and officers of the Council, including:
    - Building Control
    - Environmental Services
    - Transport Development
    - Planning Policy, Environment and Projects, Urban Design (Sustainability)
  - (ii) The Environment Agency
  - (iii) Wessex Water
  - (iv) Bristol Water
  - (v) Health and Safety Executive
  - (vi) British Gas
  - (vii) Historic Buildings and Monuments Commission for England (English Heritage)
  - (viii) The Garden History Society
  - (ix) Royal Fine Arts Commission
  - (x) Department of Environment, Food and Rural Affairs
  - (xi) Nature Conservancy Council
  - (xii) Natural England
  - (xiii) National and local amenity societies
  - (xiv) Other interested organisations
  - (xv) Neighbours, residents and other interested persons
  - (xvi) Any other document or correspondence specifically identified with an application/proposal
- [4] The relevant provisions of Acts of Parliament, Statutory Instruments or Government Circulars, or documents produced by the Council or another statutory body such as the Bath and North East Somerset Local Plan (including waste and minerals policies) adopted October 2007

### **The following notes are for information only:-**

- [1] "Background Papers" are defined in the Local Government (Access to Information) Act 1985 do not include those disclosing "Exempt" or "Confidential Information" within the meaning of that Act. There may be, therefore, other papers relevant to an

application which will be relied on in preparing the report to the Committee or a related report, but which legally are not required to be open to public inspection.

- [2] The papers identified or referred to in this List of Background Papers will only include letters, plans and other documents relating to applications/proposals referred to in the report if they have been relied on to a material extent in producing the report.
- [3] Although not necessary for meeting the requirements of the above Act, other letters and documents of the above kinds received after the preparation of this report and reported to and taken into account by the Committee will also be available for inspection.
- [4] Copies of documents/plans etc. can be supplied for a reasonable fee if the copyright on the particular item is not thereby infringed or if the copyright is owned by Bath and North East Somerset Council or any other local authority.

## INDEX

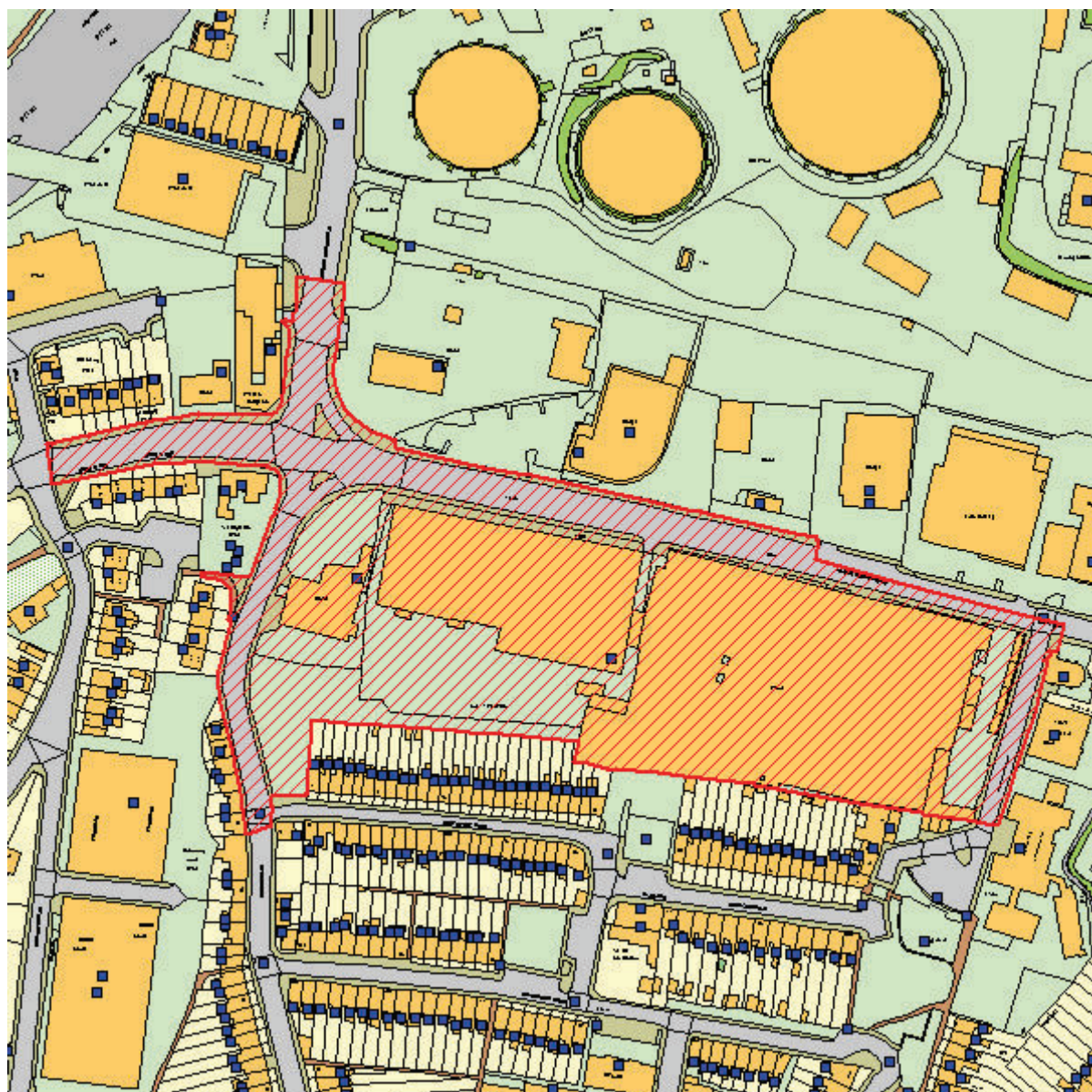
ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
01	10/03380/EFUL 9 December 2010	St James's Investments Limited & Tesco Stores Limited The Bath Press, Lower Bristol Road, Westmoreland, Bath, Bath And North East Somerset Mixed-use redevelopment comprising 6,300sqm of retail (Class A1), 4,580sqm of creative work space (Class B1), 2,610sqm of offices (Class B1), 220sqm of community space (Class D1/D2), 10 residential houses, car park, landscape and access (including realignment of Brook Road)	Westmoreland	Sarah James	REFUSE
02	10/04475/FUL 4 February 2011	Sainsbury's Supermarket Ltd Sainsburys Supermarkets Limited Green Park Station, Green Park Road, City Centre, Bath, Bath And North East Somerset Erection of extension to foodstore to provide additional retail floorspace and warehouse floorspace. Alterations to car park layout and engineering works to the southern bank of the River Avon to provide flood storage compensation.	Kingsmead	Geoff Webber	Delegate to PERMIT
03	11/04422/FUL 23 January 2012	Native Woodland Ltd. Clearbrook Farm, Midford Hill, Hinton Charterhouse, Bath, Bath And North East Somerset Use of agricultural land as a natural burial ground (revised resubmission).	Bathavon South	Gwilym Jones	REFUSE



04	10/04399/FUL 16 February 2011	Avon Wildlife Trust Folly Farm, Folly Lane, Stowey, Bristol, Bath And North East Somerset Change of use from Class C2 to Mixed Use combining Classes C2/ D2 for residential education, wedding ceremonies and receptions with ancillary cafe, teaching and workshop facilities (Retrospective)	Chew Valley South	Andy Pegler	PERMIT
05	11/04867/VAR 10 January 2012	Partridge Homes (Cotswolds) Ltd Former Allotment Gardens, Southbourne Gardens, Fairfield Park, Bath, Bath And North East Somerset Variation of condition 2 (plans list) of application 10/03251/VAR (Variation of condition 2 of application 07/01598/FUL to allow a variation to the design of house type A (Plots 1-8))	Walcot	Andy Pegler	PERMIT

**REPORT OF THE DEVELOPMENT MANAGER OF PLANNING AND TRANSPORT**  
**DEVELOPMENT ON APPLICATIONS FOR DEVELOPMENT**

**Item No:** 01  
**Application No:** 10/03380/EFUL  
**Site Location:** The Bath Press, Lower Bristol Road, Westmoreland, Bath



**Ward:** Westmoreland      **Parish:** N/A      **LB Grade:** N/A  
**Ward Members:** Councillor S Ball      Councillor June Player  
**Application Type:** Full Application with an EIA attached  
**Proposal:** Mixed-use redevelopment comprising 6,300sqm of retail (Class A1), 4,580sqm of creative work space (Class B1), 2,610sqm of offices (Class B1), 220sqm of community space (Class D1/D2), 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>	9th December 2010
<b>Case Officer:</b>	Sarah James

## REPORT

### REASON FOR REPORTING APPLICATION TO COMMITTEE:

The application is a major development which is contrary to the councils adopted Policies and has complex planning considerations. The Development Manager therefore has requested that the application be determined by the Development Control Committee in line with the provisions of the Councils scheme of delegation.

### DESCRIPTION OF SITE AND APPLICATION:

The site is located approximately 1 km to the west of Bath City Centre within the area of East Twerton. It covers an area of 3 approx hectares. The site is bounded to the north by Lower Bristol Road (A36), by residential properties to the south and the residential streets of Brook Road and Dorset Close to the west and east respectively. The site is within the City of Bath World Heritage Site.

Opposite the site, on the northern side of Lower Bristol Road, is a series of garages, beyond which is the former gas works site and the River Avon. The former gas works and adjacent developed and undeveloped land north of Lower Bristol Road form the area of the proposed Bath Western Riverside development. There are existing residential properties to the south of the site which have frontages onto South View Road and Denmark Road. Oldfield Park Infant School is located along Dorset Close to the east of the site. The site is bound on its west side by Brook Road. Residential properties and the Royal Oak public house front onto Brook Road.

The last use of the majority of the site was as a print works (Bath Press), which ceased operations in 2007. On the western half of the site there are two warehouse buildings associated with the former printing activities, and a tyre depot on the corner of Lower Bristol Road and Brook Road. Located on the eastern half of the site is the main former Bath Press building.

It is proposed to demolish the existing buildings on-site whilst retaining the historic print works facade fronting Lower Bristol Road. The facade would be retained by a steel frame, and would in part be tied back to the new buildings. The existing fenestration would be partially removed and replaced with new infills. The existing factory chimney would also be retained. The building would be developed with a mix of uses comprising of retail floor space, creative work units, Offices (B1) 10 houses and a small museum.

### The Proposed Retail Store

The proposed retail store would be located within the central part of the site facing the Lower Bristol Road. It would have 6,300 m<sup>2</sup> (gross internal area) floorspace. The application states that there would be a net sales floorspace of 3,383 m<sup>2</sup> (excluding checkouts, lobby areas, customer toilets and other space not accessible to the customer) to be used for food (2,414 sq.m) and (969m<sup>2</sup> sq.m) non food sales (based upon the

Competition Commission method of classifying net retail sales area). A café would be located in the north east corner of the store and staff rooms canteens offices and general storage located in the southern end of the building. Warehouse and refrigeration areas would be located to the west and to the west of this would be an external enclosed loading bay. This would receive all store deliveries with access from Brook Road. Pedestrian access would be from the Lower Bristol Road to the north and a pedestrianised space to the east. A travelator adjacent to these entrances would provide access to a basement car park located below the store. A separate staff entrance would be located in the south western corner of the building leading out onto Brook Road.

It is proposed that the store would be open from 06:00 to midnight Monday to Saturday and 10:00 to 16:00 on Sundays (outside of these hours there would be staff working within the building). It is estimated by the applicant that the retail store would create 350 full time (equivalent) posts.

The building would be single storey and have a low pitch roof. It would be approx 7.5 metres high with ventilation additions to the roof that would reach a maximum approximate height of 11 metres. The building would be located behind the existing Bath Press façade which would be retained. There would be a pedestrian walkway between the retained facade and the new building. The new building would be clad in Bath stone, with glazing around the main entrance onto Lower Bristol Road.

#### Creative work units

An L-shaped building containing work units within B1 of the Use Classes Order is proposed to wrap around the north west corner of the store so as to address the Lower Bristol Road and Brook Road and the prominent junction. The building would be three storey facing onto the north western corner of the site. A two storey terrace would be located to the east of the store. The total proposed B1 work unit floorspace would be 4,580 m<sup>2</sup>.

The three storey unit is designed as a series of vertical Bath stone columns which span two storeys. Above the columns a horizontal Bath stone beam would align with the retained façade. At second floor level the building would be set back and made up of lightweight glass and steel reducing the dominance of this upper storey. The two storey terraced building is designed with gable fronted units to accord with the design of the dwelling terrace and the building would overlook an area of public space. The facades comprise of a combination of brick and glass.

#### Offices

2610m<sup>2</sup> of office space is proposed in a part 2 and part 3 storey block at the eastern end of the site. It would have a maximum building height of 10 metres. The office building facing the Lower Bristol Road would comprise Bath stone and vertical glazing in keeping with the treatment of the retained façade. Along its eastern and western edge a more industrial treatment has been adopted comprising primarily red brick.

#### Museum and Community Space

A one storey museum and two storey community hall are proposed in the east of the site integral to the office block. One person is likely to be employed in the museum.

#### Residential



Ten two-storey houses are proposed in the south east of the site along the south boundary. The residential dwellings would be traditional in appearance similar to dwellings in Denmark Road to the south. They would be faced in Bath stone with red brick to the rear façade. The dwellings would have pitched roofs and be approximately 9 metres from ground to ridge. They would have small south facing gardens and front courtyards. The houses would have solar panels on the roofs.

#### Highways and access

The main pedestrian access onto the site is proposed from the Lower Bristol Road utilising the walkway provided behind the retained façade. A further pedestrian route is proposed from Lower Bristol Road to Dorset Close.

A new principal vehicular access is proposed off a realigned Brook Road in the west of the site. This would provide the main service access into the retail store service yard. Deliveries for other uses would be via a lay by in Dorset Close or via the basement car park.

#### Parking

The basement car park would be excavated to a depth of approximately 4 m below ground level. The proposed basement car park would be 13,330 m<sup>2</sup> and would accommodate 425 car parking spaces, including 399 spaces for the store and 26 spaces for the offices and work units. The basement car park would be protected by a flood gate at the entrance.

Some existing residential parking use of the former Bath Press Yard would be re-provided and this would be accessed from Brook Road. 9 spaces for the new residential units and one car club space would be provided at street level adjacent to Dorset Close and 7 spaces would be provided in the service yard for staff at the retail store. 29 spaces would be provided for existing local residents in the south west of the site. Cycle parking would comprise of 24 stands to serve the food store, 10 stands for the offices and work units and one cycle parking space per dwelling. Six of the 24 store stands would be allocated for staff use.

#### Landscape works

A new square of public open space would be created between the office building and the supermarket. Stone paving is proposed to reflect the materials within the retained facade and new buildings with some block paving. Street tree planting would be introduced around the square with planters along some site boundaries such as the edge of the front gardens of the proposed dwellings. An existing red brick retaining wall along the south east of the site, bordering the rear gardens of properties on Denmark Road, would be retained. A landscaped boundary fence would be provided in the south west of the site, to the north of the existing residents' parking area, to provide an acoustic and visual barrier to the proposed car park ramp and service yard.

#### Sustainability

A range of technologies have been employed within the scheme including sustainable ventilation, roof lights, solar panels, air source heat pump, and a combined heat and power unit. The office buildings are specified to reach beyond the requirements of Building Regulations Part L and the residential units have been designed to achieve code level 3 for Sustainable Homes.

The application is accompanied by an Environmental Impact Assessment with the following Technical Appendices submitted - Scoping, Air Quality, Site Description, Cultural Heritage, Landscape and Townscape Visual Assessment, Traffic and Transport, Ground Conditions, Natural Heritage, Noise and Vibration, Water Environment. An Environmental statement Addendum has also been submitted. The following additional documents accompanied the application - Environmental Assessment (non technical summary) Planning Statement, Design and Access Statement and Addendum, Bat Survey, Sustainability and Energy Statement, Retail Assessment, Historic Appraisal, Statement of Community Involvement, Building Condition and repair Survey, Utility Report, Flood Risk Assessment, Topographical Drawings, Outline Travel plan, Buchanan Technical Notes and supporting highways information, Regeneration Statement, Gas holder Decommissioning Statement, Proposals to address HSE Objection.

An application to extend the existing Sainsbury store at Green Park is currently under consideration. It is relevant to the consideration of this application and that relevance is addressed in this report. The application is under Planning Reference 10/04475/FUL for Erection of extension to foodstore to provide additional retail floorspace and warehouse floorspace and alterations to car park layout. The proposals comprise of 1,448sq m of shop floor area and 963sqm of additional net retail sales floorspace, split between additional convenience (food) and comparison (non-food) goods sales.

Officer Assessment:

#### PLANNING CONSIDERATIONS:

**APPEAL APPLICATION:** Application 11/02674/EFUL is subject to an appeal for non determination. In January 2012 the Development control committee resolved that had it had an opportunity to determine the application it would have refused the development on 5 grounds relating to gas risk, retail impact, sequential approach to development and highway impact.

The application the subject of this report includes 220sqm of community/museum space (Class D1/D2) in place of that same amount of office space whereas the appeal development proposals did not. The application the subject of this report has included within it documents that make proposals to decommission the Gas Tanks. At the time the appeal was made it did not include those proposals however measures to address gas risk were submitted to the Inspector in connection with the appeal.

**DEPARTURE:** The proposal includes retail development in a location that is 'out of centre' and is not in accordance with Development Plan for the area and exceeds the 5,000 square metres floorspace referred to in relevant guidelines. Consequently if Members were minded to approve the application it would be necessary in accordance with the Town and Country Planning (Consultation) (England) Direction 2009 to refer the decision to the Secretary of State.

**LOSS OF EXISTING USE:** The Local Plan forecasts the need for a managed reduction of industrial-type floorspace (B1c/B2/B8), which is incorporated into Policy ET.1 as indicative guidance on the scale of change appropriate. Policy ET.1 indicates a net reduction in Bath of 17,500sqm from 2001 to 2011.

Broadly speaking, during the Local Plan period there has been a net reduction in industrial floorspace within Bath of about 15,000 sq.m against the indicative managed reduction limit of 17,500 sq.m. Policy ET.3 states that the loss of land and floorspace for non-office development will be judged against the extent of positive or negative progress being made in achieving the managed net reduction set out above, and also against the following criteria: whether the site is capable of continuing to offer adequate accommodation for potential business or other similar employment uses; or whether continued use of the site for business or other similar employment uses would perpetuate unacceptable environmental or traffic problems; or whether an alternative use or mix of uses offers community benefit outweighing the economic or employment advantages of retaining the site in business or other similar employment uses.

Policy B1 (2e) of the Core Strategy continues the theme of a managed reduction of industrial floorspace. Broadly speaking the loss of 40,000 sq.m industrial floor space will be required in order to deliver the regeneration objectives for the River Avon Corridor. Policy B3(4aiii) requires that proposals for the loss of industrial land and floorspace at Twerton Riverside be assessed against evidence of current and future demand, the availability of suitable alternative provision within Bath for displaced occupiers and the benefits of the alternative uses being proposed. Policy B3(4aiii) serves as a check/balance to ensure proper consideration of industrial losses at any point in relation to actual evidence on the ground and/or unforeseen or changing circumstances.

The loss of industrial floorspace on this site would mean that the total managed loss referred to in policy ET.1 is exceeded but this is considered to be acceptable due to the proposed new employment uses (B1 and offices) that form part of the proposal and the current evidence in relation to demand. After considering the Local Plan and the Employment land and site specific policies of the Submission Core Strategy policy for the Twerton Riverside it is considered that the loss of the existing employment use is acceptable in principle.

**HOUSING:** Housing is in principle acceptable within the City limits subject to other policies of the development plan. The application proposes a small amount of housing (10 units) and this is acceptable in principle. This would be located near the school and other residential housing, is set back from the road and is in keeping with the locality in respect of its appearance. The design and location of the housing is considered therefore to be acceptable.

**OFFICE:** The site is located so as to be associated with the central area of Bath and it is also located on a key transport route into and out of the city. The principle of new office uses are therefore acceptable under the terms of Policy ET.2. The B1 use is acceptable to be located alongside residential uses as has been proposed and the office proposals are also acceptable in principle.

**RETAIL:** The Local Planning Authority commissioned a retail specialist to update its Retail Floorspace Quantitative Need Assessment in 2011. That update is publicised on the Council's website and will be used in the consideration of The Bath & North East Somerset Local Development Framework incorporating the Core Strategy and relevant documents of the Regeneration Delivery Plans. The data is the most up to date retail

information for the District that is now used to inform Development Management planning application decisions.

The applicant has submitted a retail assessment in support of their application that in broad terms suggests that the proposed store will provide needed competition, reduce shopping leakage out of Bath, will not have any significant harmful retail impact and would provide a number of benefits cited to be sustainability benefits that will reduce travel.

However the independent evidence base prepared on behalf of Bath and North East Somerset Council does not agree with the applicant's submission. The analysis carried out for the Council concludes as follows:-

### Sequential Approach

#### Site Location

Within the Local Plan, the Tesco application site is not allocated for any specific land uses and lies outside of any defined centre. The nearest centres are located along Lower Bristol Road (to the east) and Moorland Road district centre (to the south). Both of these centres are beyond 300 metres walking distance and therefore, under PPS4 guidance, the Tesco site can be classified as an out of centre site.

It is of relevance to this consideration to note that the Sainsburys site does not lie within a defined centre. The closest defined centre is the city centre which lies to the east of the site. The walking distance between the eastern edge of the Sainsburys car park and the edge of the Primary Shopping Area ('PSA') is around 250 metres and the distance between the Sainsburys store and the PSA is around 300 metres. On this basis the Sainsburys store is an edge of centre location.

In accordance with PPS4 a sequential approach to site selection should be followed. Adopting a sequential approach to selecting sites means wherever possible seeking to focus new development within existing defined centres, or failing that on well located sites on the edge of existing defined centres. Only if town centre or edge of centre sites are not available will out of centre locations be likely to be appropriate in policy terms, provided that they are well served by alternative means of transport, and are acceptable in all other respects including impact. In considering the sequential approach to site selection a number of factors have been looked at (in accordance with the guidance within PPS4 ) including site availability and suitability, and the full and detailed assessment of all the relevant considerations is available within the retail consultants' report on the Council's web site.

In conclusion if the Green Park area is a suitable location for additional supermarket retail development then the Tesco proposal does not demonstrate compliance with the sequential approach to site selection. Beyond the expansion of the Waitrose store, the Green Park area (and the Sainsburys site in particular) is the next best 'in principle' alternative to accommodate new supermarket development and meet the identified need. Even if the Green Park / Sainsburys area were to be discounted then the Tesco proposal would still conflict with the sequential approach given the potential of the Western Riverside East area to accommodate new retail development in a location which is closer to the city centre.



Therefore, the Tesco proposal fails to comply with the sequential approach in PPS4 because there are up to two sequentially preferable locations where the need for additional retail floorspace which the proposal seeks to address could be met.

#### Convenience Goods

Following the grant of planning permission for a new Sainsburys store at Odd Down (and its recent opening), along with a certificate of lawfulness which will enable a significant expansion of the Waitrose store in the city centre and a resolution to grant planning permission for a Lidl foodstore on Lower Bristol Road (this is delegated to permit and awaiting completion of a s106 planning obligation), there is limited current quantitative capacity to support new convenience goods floorspace in Bath. Forecasts suggest that in the short to medium term, the area is capable of supporting only a modest sized foodstore or extensions to existing facilities by 2016. To put this into context the proposed Sainsbury extension could be regarded as a modest sized extension whereas the Tesco proposal would far exceed the retail capacity available. Larger levels of capacity only arise from 2021 onwards but even then, a large new foodstore would be likely to have some adverse impacts on existing facilities and the impact of proposed development would need to be assessed carefully. These impacts would be greater if a large new store was opened at an earlier date. Based upon the available data there is insufficient quantitative capacity to accommodate the proposed Tesco store in addition to those for which planning permission has been granted or resolved to be granted.

#### Comparison Goods

The evidence confirms that the Southgate development has soaked up previously identified capacity for additional comparison goods floorspace in Bath and part of the expenditure growth between 2011 and 2016. Given the scale of the Southgate development, the new retailers which it has attracted to the City, and churn effect (i.e. this is the natural and ongoing in and out migration of occupiers of existing sites which release those sites for new occupiers to enter) it will cause on existing property across the City there is no need to plan for any significant new comparison goods floorspace in Bath until after 2016. Additional capacity could be required in the future and this potential is being appropriately planned for within the Core Strategy via small to medium sized retail development (as referred to in policy B1). This retail development would need to be accommodated in accordance with the sequential approach, where first priority is given to sites within the city centre, followed by edge-of-centre sites. The current Tesco application is in an out-of-centre location. It is anticipated that sites will be considered and allocated for further comparison retail development through the Placemaking Plan.

#### Convenience Goods Impact

The District Centre of Moorland Road is located approximately 400 metres south of the current application site. If permitted the Tesco store would have a significant adverse impact upon the vitality and viability of the Moorland Road District Centre due to the lack of quantitative capacity to sustain the additional retail store in this location. It is indicated (based upon the Consultants' report for BANES) that the proposed Tesco store would have a significant financial impact upon the Co-op store with £2.4m diverted from that store. In addition, £0.2m would be diverted from the Sainsburys Local and £0.1m from other convenience stores in the centre. This diversion alone would reduce the Co-op's turnover by one quarter although when assessed alongside other commitments the Co-op would stand to lose almost 40% of its turnover. These estimates of impact are based upon a higher turnover level for the Co-op than given in the assessments supporting the Tesco

and Sainsburys applications and therefore could be seen as an optimistic view of the likely impact upon this store. If the alternative turnover levels for the Co-op are adopted then the store could stand to lose as much as 50% of its total turnover. Faced with such a large financial impact, and a residual turnover level which could be well below the average Co-op company performance, it is likely that the future of the Co-op will be uncertain. Indeed, closure of this store, given the scale of reduction in its turnover and ongoing competition from the nearby Tesco, is a very real possibility. The closure of the Co-op would lead to the significant adverse impact upon the health of Moorland Road district centre. As the centre's anchor store, it attracts a significant amount of shopping trips to the centre, and these would be lost. In addition to the impact on the Co-op, other parts of Moorland Road's convenience goods retail sector would see a reduction in their turnover levels. Whilst not as severe as the Co-op impact, the Sainsburys Local would experience a 19% impact and other smaller convenience goods stores would lose 8% of their 2016 turnover. Broadly half of this impact is attributable to the proposed Tesco store alone. Indeed, whilst the scale of financial impact upon these other stores is lower than the Co-op, store closures cannot be ruled out due to the proximity and trading strength of the proposed Tesco store, which stores in Moorland Road would find hard to compete with. The consequential effect of the impact of the Tesco on Moorland Road would be to reduce choice and competition in the district centre and the range of goods which it is able to offer to visitors.

It has also been considered whether there could be any positive benefits associated with the Tesco proposal in terms of linked trips with Moorland Road district centre which could mitigate the direct financial impact suffered by existing stores. Taking into account the distance between the Tesco site and Moorland Road, the intervisibility between the two locations, the barriers to movement and the attractiveness of the route it is unlikely that there would be any significant linked trips between these two locations. The length and character of the route which shoppers would have to negotiate would not be attractive and it is very likely that shoppers visiting the Tesco store would simply use it as a stand-alone shopping destination.

This is contrary to policy S4 of the Adopted Local Plan and national policy set out in PPS4. It would also be detrimental to the retail strategy/hierarchy of centres serving Bath as this vibrant District centre plays an important role in that hierarchy.

Consideration of the impact of the proposed Sainsburys Extension on Moorland Road District centre.

Whilst the Sainsbury application will need to be assessed on its own merits, it is of relevance to this application and can be afforded some weight since it has also been assessed in light of the updated Retail Floorspace Quantitative Need Assessment 2011.

In this regard, the Sainsburys store at Green Park is in reasonably close proximity to the District Centre and this is likely to result in a small financial impact upon the district centre. Whilst these financial impacts are a negative aspect of the Sainsburys extension proposal they are not considered significant enough to cause concerns over the future trading performance of stores on Moorland Road. In particular, the role and function of the Co-op store is unlikely to be affected. In terms of the other aspects of the extension's impact on the health of Moorland Road, it is not considered that footfall in the centre would be substantially affected, nor investment in the centre and vacancy levels. Overall, whilst the

Sainsburys store is also unlikely to provide any positive impacts upon Moorland Road district centre, the assessment of the wider impacts associated with the Sainsburys extension indicates that the vitality and viability of the centre would not be affected to any significant extent.

#### Cumulative Retail Impact.

The retail analysis carried out by the appointed consultant takes into account any current retail commitments i.e. developments that either have planning permission or a resolution to grant. Account also needs to be taken of the current application for a proposed extension to the Sainsbury store, as mentioned above. In light of the Sainsburys proposal it was felt appropriate to commission a further piece of work from the Council's retail consultants in order to understand the cumulative retail impact of both the proposed Sainsburys and Tesco stores were they both to be permitted and this is discussed below.

#### Cumulative City Centre Impact

The conclusions of that additional analysis are that both proposals would have a comparatively low impact upon the city centre, with an overall impact of 2% for Sainsburys and 4% for Tesco. The differences between the two schemes becomes more noticeable when the impact is based upon convenience goods expenditure alone, with the Tesco store having an 18% impact upon the city centre and the Sainsburys extension having a smaller 8% impact. For both schemes the cumulative impact is lower than the impacts directly associated with each scheme due to the commitment for an extended Waitrose store which will boost city centre turnover.

#### Cumulative Moorland Road Impact

There is a clear difference between the two proposals in terms of their individual impacts on Moorland Road, with the Tesco store being identified as having a significant adverse impact upon the viability of the Moorland Road shopping centre, in contrast to the much lower levels of trade diversion associated with the Sainsburys extension. The cumulative impact of the Tesco proposal and the Sainsburys extension would be greater than either proposal alone, thus reinforcing concerns over the future health of the District centre.

#### Planned Investment

Neither the Tesco or Sainsbury proposal has been proven to have a direct impact upon planned investment in the city centre or Moorland Road district centre although the higher financial impacts associated with the Tesco scheme may make investment in convenience goods floorspace in the city centre, such as the Waitrose extension, more marginal and also have the potential to influence future investment plans in Moorland Road.

#### Cumulative Retail Impact Conclusion

As a consequence of the above, it is not considered that there are grounds to resist the grant of permission for either or both of the Tesco and Sainsburys proposals based upon the level of impact on Bath City Centre. However, given that there are significant concerns over the impact of the Tesco store alone on the health of Moorland Road District Centre, approval of both schemes would exacerbate this impact even further. This is supported by the lack of available quantitative expenditure capacity to support both stores. The Tesco store would be unacceptable in terms of its impact irrespective of whether the Sainsbury store was permitted.

## COMMUNITY USE

The provision of community space/museum space is regarded as an overall benefit within the scheme subject to it being appropriately managed and controlled. Policy CF.1 of the Local Plan allows for new community facilities to be located within or well related to settlements. In this case the application site is located within Bath. Taking into account that the proposal to introduce community facilities would accord with a saved Development Plan policy there is not a requirement to consider the suitability of the use against PPS 4 policies. If the overall development were to be acceptable further details of that management and control might be appropriately sought.

## Waste

Further details on waste storage could be subject to a condition if the development were to be approved.

**HEALTH AND SAFETY:** The Health and Safety Executive (HSE) is a statutory consultee for certain developments within the Consultation Zones around Major Hazard Sites and pipelines. The application site falls within the HSE Consultation Zones around the Windsor Bridge Gasholder Station, and the application has consequently been considered using the PADHI+ planning advice software tool provided by the HSE for assessing gas generated risk. The advice of the HSE is that there are sufficient reasons, on safety grounds, for advising against the granting of planning permission in this case. Whilst it is recognised that the likelihood of a major accident occurring is small, the possibility remains that a major accident could occur at the installation and that this could have serious consequences for people in the vicinity. In particular with regard to the proposals there would be significant numbers of visitors and workers present within the development that could be at risk. In the event that this application is proposed to be permitted contrary to the advice of the HSE, they must be provided with 21 days notice to consider whether to request that the application is called in for determination by the Secretary of State.

In order to overcome the objection to the application that has been made by the HSE, the applicant has submitted supporting documentation and has 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 C15 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.

The key considerations in relation to the above are whether either the Grampian conditions and/or the Heads of Terms suggested by the applicant, taking in to account any other supporting documentation the applicant has in addition submitted, are sufficient in this case to ensure the decommissioning of the Gas Holder Station prior to the occupation of the scheme. The Applicants' 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 wording of the Heads of Terms and Condition proposed by the applicants' 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 Applicants' 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 Applicants' control. The risk of this happening would be mitigated to a degree by the first of the obligations proposed by the Applicants, but again it should be noted that the applicants' 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 development;
- (ii) What weight should be given to the applicants' 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).

Little information was provided by the applicants to assist the Local Planning Authority with making this judgment. The limited information provided by the applicant rendered 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 to (ii), the applicants position is 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 was provided with little information on the basis of which an informed judgment can be made. In these circumstances, it is difficult to give significant weight to the Applicants' argument in deciding whether or not to grant planning permission.

Officers have recently met with the applicant, and representatives from key parties with an interest in the gas risk site i.e Wales and West and Crest Nicholson. That meeting provided significant clarification as to the works that need to be carried out by whom, the timing for those works and the cost implications. In addition a further report has been submitted by the applicant at the time of writing this report.

Due to the timing of that meeting and the additional written information provided a considered assessment of that information has not been made at the time of writing this report. An update report on that issue will be provided to the committee to confirm Officers views. For clarity at the time of writing this report the gas risk issues have not been resolved and the Health and Safety Executive's objection remains.

**HIGHWAYS:** A Transport Assessment has been submitted. The Council's Traffic Signals Engineers are of the opinion that the proposed development will be detrimental to the operation of the Lower Bristol Road/Windsor Bridge Road/Brook Road junction, one of the most critical on the local network, exacerbating problems of capacity by increasing the level of overall saturation that would otherwise have occurred without both the development and the proposed mitigation works.

There are also safety issues associated with the proposed road layout. These are set out within the Highway Development Officer's consultation response in further detail. Taking account of the information submitted it is considered that the overall impact on the capacity of the junctions and the adverse impact on highway safety as a consequence of this development would be unacceptable.

It is material that 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. It is of significance that the applicants proposal is considered to be in conflict with the Councils own committed scheme for junction improvements as it seeks to address the traffic associated with the proposed development which has different priorities.

As can be seen from the series of highway comments reported above in this report there has been significant dialogue with the applicant on highway issues during the course of the current application. Since a similar application (reference 11/02674/EFUL subject to an appeal for non-determination) was considered at the committee in January 2012 Officers have continued to correspond and meet with the applicant on this issue.

At the time of writing this report no further highway matters have been resolved and there are no changes to the highway position since it was reported in January (on the similar appeal application). A further recent submission of information made by the applicant is currently being assessed and Officers are again meeting the applicant to discuss the most recent submission made. An update report to confirm the outcome of that meeting will be provided to the committee.

**AIR QUALITY:** There is an air quality concern due to the significant increases in nitrogen dioxide that would arise in the vicinity of the development. Whilst it is not considered appropriate to refuse the application on this basis it is considered that the issue is symptomatic of development that would not provide for efficient and sustainable transport. As already discussed within the report the development is out of centre, has limited opportunity for linked trips, is likely to be used as a stand alone destination and the levels of parking provision demonstrate that many of these trips will be by car rather than more sustainable travel modes. This issue is exacerbated by the difficulties associated with the poor operation of the junction discussed above. In contrast the Sequentially preferable sites (such as the site of the Sainsburys proposal) offer much better potential to encourage linked trips with the city centre and are more sustainably located.

**DRAINAGE:** A satisfactory flood risk assessment has been submitted and there are considered to be no flood risk or drainage issues arising from the development that cannot be appropriately and acceptably addressed through planning conditions in accordance with the advice of the Environment Agency and Highways Drainage Officer.

**ECOLOGY:** It has been suggested by the Councils ecologist that the scheme could do more to provide ecological enhancements. However, that would not warrant rejection of the scheme. The proposals are agreed not to harm any ecological interests, subject to the imposition of suitable planning conditions. Based upon the current evidence of ecology known to be on the site a licence from English Nature would not be required and there would be no significant effect on any European Site or local site of nature conservation importance.

**DESIGN AND LANDSCAPE:** The application has taken the approach of retaining and integrating the existing façade and chimney whilst demolishing the rest of the building. There are competing views on whether the design approach is appropriate particularly with regard to how much, if any, of the building should be retained. Design is a subjective matter and in this case the applicant has made a satisfactory case for the approach taken. However it would be appropriate, if the application were to be approved, that the repair and retention of the façade is secured within a section 106 planning obligation. The applicant has amended the design in response to concerns from Officers and on balance it is considered that in design terms the scheme is acceptable in terms of the design approach. Landscape opportunities within the site are limited. It is acknowledged that all trees within the site would be lost and that there are limited planting opportunities. However, this is an urban location and it is considered that, on balance, the development is acceptable and where opportunities for planting within the site exist this new planting can be conditioned and a scheme agreed to respond appropriately to the site and its context. It is considered that carriageway widening works outside of the site to the public highway would be visually detrimental in townscape terms as the highway would become more visually dominant, and this is to be regretted. However, it is considered that taking



account of the extent of the changes and the fact that highway works and improvements could take place outside of the scope of planning and in connection with any number of proposals for development these impacts do not provide the basis for a reason for refusal.

**CRIME PREVENTION:** The applicant has advised that the security strategy adopted is based on the principle of casual supervision. It is agreed that the arrangement of the mix of uses is generally helpful in securing natural surveillance and that there will be good permeability through the site. There will be some CCTV on site and particularly in basement areas this is considered appropriate. Whilst security measures have not been addressed in great detail in the submission it is considered that it would not be appropriate to refuse the application on these grounds. A condition requiring security details could be attached to any decision.

**EDUCATION:** If the application were to be found acceptable a sum by way of an education contribution would need to be agreed with the applicant in accordance with the Council's adopted Supplementary Planning Document. The absence of such a contribution would justify refusal. Notwithstanding the sum identified in September 2010 it is necessary to review figures periodically to take account of changes over time and in this case if the application were to be acceptable an updated figure should be sought.

**AFFORDABLE HOUSING:** The site would generate an affordable housing requirement in accordance with Policy HG8 of the adopted Local Plan. This has not been agreed with the applicant and no Heads of Terms have been provided. Therefore, if the application were to be found acceptable provision for affordable housing would need to be agreed with the applicant in accordance with the Council's adopted Supplementary Planning Document. The absence of such provision would justify refusal.

**ARCHEAEOLOGY:** There are no archaeological objections to the scheme, however, conditions to monitor development would be required.

**LAND CONTAMINATION:** There are no land contamination objections to the scheme, however, conditions would be required to investigate and assess risk.

**NOISE:** The applicants have not submitted a noise assessment that predicts the Noise level categories that the development would fall within. The applicant has advised that whilst the residential element of the scheme did not receive specific consideration within the Environmental Statement, the baseline noise survey does contain a measurement at a location near to their proposed location, off Dorset Close. This places the location on the boundary of NEC A and NEC B. Taking account of the fact that no new residential properties are proposed in the vicinity of Brook Road but only in the area off Dorset Close, and the fact that the new residential dwellings are set back into the site and partially screened from major roads by other buildings, the residential element of the scheme would not be subject to noise levels so significant so as to warrant refusal of permission.

**ADJOINING RESIDENTS:** The site in its current condition makes no contribution to the locality and its redevelopment would improve overall residential amenities. The proposed mix of uses is appropriate to the locality and overall it is considered that the proposal would improve the amenity of local residents. It would remove unsightly vacant buildings and bring forward uses onto the site that would generate less noise than the extant use

might generate and be more compatible with the local residential area and the adjacent school.

**OTHER MATTERS:** Concern has been raised with regard to seagull nuisance and if the scheme were to be permitted a condition could be attached to the decision to install necessary preventative measures. The applicant has confirmed this would be acceptable.

**JOB CREATION:** Based upon the figure stated on the application form the proposed development would create 643 jobs of which over half would be in the retail store. Whilst it is acknowledged that the proposal would have the potential to create new jobs for the local population (in retail and office development as well as during construction) it is also to be noted that job opportunities could be lost from other stores in Bath as a result of the diversion of trade to the new Tesco store. For example, significant amounts of trade would be diverted from the two Sainsburys stores, the Morrisons, the Waitrose in the city centre and the Co-op on Moorland Road. Whilst consideration has been given to job creation and some benefits are acknowledged it is considered that the benefits arising from this specific development are not so great so as to warrant significant positive weight being given to this aspect of the proposals so as to override other harmful impacts that would arise.

#### **ASSESSMENT OF ANY BENEFITS ASSOCIATED WITH THE DEVELOPMENT:**

The applicant has made a number of statements outlining what they regard to be the benefits of this proposal. In summary as set out within their planning statement the applicant is suggesting that the development will provide retail choice to the community, modern employment space generating jobs, and new community and residential accommodation.

Officers having carefully weighted up all of the information provided are of the view that whilst there may be some benefits associated with the development and these are discussed within the report it is the weight to be given to those benefits compared to what Officers consider to be the other very substantial adverse impact that is a key consideration. Officers are of the view that in this case the benefits would not outweigh the very significant level of harm caused in terms of the retail impact, highway impact and gas risk, that would arise if the development were to be permitted.

#### **ONGOING NEGOTIATIONS**

Officers have held meetings with the applicant (and have further meetings scheduled) to consider if areas of outstanding concern can be eliminated or overcome. There have been discussions held relating to highway matters and gas risk and following up on those discussions further information on highway matters and gas risk have been submitted. That information which has been very recently received is subject to the current consideration of Officers. It is advised therefore that an Update report will be provided to Members on that information.

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

**PLANNING POLICY** - Comments made 25th May 2011 and 31st January 2012 confirm that there is no objection in principle to the loss of the primary use of the Bath Press site as a place of industrial enterprise. However based on the evidence, planning policy objects to the retail elements of the application on the basis of lack of capacity to support the proposal, the proposal is not compliant with the sequential approach to site selection and the serious harmful impact on the Moorland Road shopping area, .

HEALTH AND SAFETY EXECUTIVE - Comments generated through PADHI +, HSE's planning advice software tool 24th August 2010 - The assessment indicates that the risk of harm to people at the proposed development is such that the Health and Safety Executive's advice is that there are sufficient reasons, on safety grounds, for advising against the granting of planning permission in this case.

Comments made 17th January 2012 discuss the potential to overcome gas risk matters through the imposition of a suitably worded Grampian condition. A condition proposed by the applicant is confirmed to be unacceptable to meet the objectives of the HSE and they have proposed an alternative form of wording.

HIGHWAY DEVELOPMENT OFFICER - Comments made 20th September 2010 Object to the scheme on the basis of its impact on highway safety and the operation of and capacity on the public highway.

Further comments 29th March 2011- acknowledge some improvements and advise that further comments are sought from the signal engineers in respect of the junction.

Further comments made 1st April 2011 - We cannot accept the Lower Bristol Road/Brook Road/Windsor Bridge Road junction design, as the signal assessment has not been carried out correctly and we are not satisfied that this junction has adequate capacity.

Further comments made 6th April 2011 additional comments made by the Transportation Planning and Highway Electrical Teams identify a number of issues that would as a consequence have an unacceptable impact on both capacity and safety on the highway network

Further comments made August 2011 Request additional information that will be necessary to properly assess revised proposals that have been submitted.

Further comments made 22nd November 2011 Highway signal engineers have assessed submitted Technical files that are an improvement on previous assessments but still show a junction well over capacity on all approaches. In particular the improvement upon previously suggested performance has been achieved primarily by the staging structure adopted. Whilst the additional right turn lane exiting Brook Road offers extra capacity benefit, this is significantly reduced by the increased length of pedestrian crossing across it. The associated intergreen timings to and from it are very long also, which therefore reduces junction performance. The staging structure is one which we cannot support in this location.

Further comments made 23rd November 2011 confirm that having assessed the Transport Assessment and revised plans serious concerns about the proposed development and a highway objection remain. For the following reasons

- 1) The A36 Lower Bristol Road/A3064 Windsor Bridge Road/Brook Road junction is still shown to operate well over capacity on all approaches with the proposed development.
- 2) The proposed traffic signal staging structure adopted is unacceptable at this location, on highway safety grounds
- 3) Provision for westbound cyclists on A36 Lower Bristol Rd is unacceptable and a danger to cyclists
- 4) The Council does not control the land required to implement the necessary carriageway widening at the north west corner of the junction, as shown on the submitted plans. The applicant has not provided any evidence to indicate that they are able to acquire this land.
- 5) Given the proximity of the store access junction and the A36 Lower Bristol Rd/Windsor Bridge Rd junction, together with the likely queuing on Brook Rd, the operation of these junctions must be analysed as a complex junction. The necessary assessment has not been provided.

6) There will be a substantial generation of new trips and turning movements at the A36 Lower Bristol Rd/Windsor Bridge Rd junction, which has inadequate capacity to accommodate these traffic movements

7) Inadequate provision has been made for taxi pick up and drop off, within the development.

8) The delivery area for the workshops creates additional junctions in close proximity to the proposed access junction. This creates an unnecessary highway safety hazard for pedestrians and other road users.

9) No swept path analysis has been provided for servicing access to the Royal Oak Public House. Given the substantial increase in traffic flow in the vicinity of the access, as a result of the development, there will be increased conflict between vehicles serving the public house and other vehicles on the highway, to the detriment of highway.

Further comments made 25th November 2011 The submitted information lacks clarity however based on the information the proposals remain unacceptable.

Further comments made 21st December 2011 - 1) A36 Lower Bristol Rd/Windsor Bridge Rd junction

1a) Junction Capacity The Council proposes to improve the capacity of the A36 Lower Bristol Rd/Windsor Bridge Rd junction as part of the Bath Transportation Package, which achieved programme entry status on 14/12/11. The future base case (without development) is therefore no longer valid, since capacity improvements will be achieved without the proposed development.

1b) Traffic Signal Staging My concerns regarding item 1b above (21/11/11) remains. Whilst the proposed signal staging structure is used elsewhere in the UK, local circumstances, predicted traffic flows, turning movements and queues render it unsuitable at this location for the reason given previously. There is a particular concern that the proposal will increase the level of eastbound queuing on the A36 Lower Bristol Road, east of the junction, which will cause right turning traffic from Brook Road to block the junction.

1c) Cycle facilities on A36 Lower Bristol Road.

It is accepted that the safety of cycles traveling westbound can be improved by additional cycle markings to be agreed by way of a planning condition.

1d) Land at north-west corner of A36 Lower Bristol Rd/Windsor Bridge Rd junction.

The existing geometry at this junction does not provide sufficient width on Lower Bristol Road to provide three entry lanes (3m minimum) for eastbound traffic together with a 2m footway. In addition, it appears that the applicant has used Ordnance Survey (OS) data, rather than a topographical survey to indicate the proposed layout. The OS data does not show the correct position of existing kerb lines, so I cannot be confident that an acceptable geometric design can be achieved within the highway boundary and on land owned by the applicant.

1e) Junction Operation

I am satisfied that, at peak times, the proposed development provides sufficient queuing capacity within the site boundary.

2) Trip Generation I am satisfied that the trip generation estimates provide a sound basis for assessing the effect of the development.

3) Taxi Pick Up/Drop Off The applicant has provided a drawing to show a taxi pick up/drop off area within the basement car park area. This will provide an acceptable facility for taxis.

4) Workshop Delivery Area

The applicant has estimated that 15 light goods vehicles per day would use the proposed workshop delivery area, with access restricted by controlled bollards. The applicant has also confirmed that larger servicing vehicles would be able to use the foodstore service

yard by prior arrangement. I have reviewed my earlier objection to this layout but remain convinced that it would create an unacceptable highway safety hazard, for the reasons given previously (12/11/11).

5) Servicing Royal Oak Public House The applicant has provided a swept path analysis for vehicles servicing the Royal Oak public house. Given that servicing is currently undertaken by light goods vehicles, I am satisfied that the proposed layout does not create a highway safety hazard.

6) Right Turn from Brook Road The applicant has confirmed that vehicles will be able to turn right from Brook Road into the proposed development and this can be accommodated within the proposed scheme.

Further comments made 23rd December confirm no comments to make to the EA Addendum and Gas Holder remediation proposals. The Highway position remains one of Objection.

AIR QUALITY MONITORING OFFICER - comments made 15th December refer to comments made in respect of application 11/02674/EFUL as still being applicable. Those comments refer to errors within the report submitted and subsequently object over the effects of the development on air quality levels, particularly on Brook Road and South View Road where large increases in nitrogen dioxide concentrations are shown.

ENVIRONMENT AGENCY - Comments made 14th September 2010 Objection to the scheme -on the basis that the Flood Risk assessment submitted does not adequately address flood risk .

Further comments made 23rd June 2011 Based upon the additional flood risk information from Jubb Consulting Limited (FRA report ref; P9281/G202/F) no objection subject to conditions.

Further comments made 15th November 2011 and 21st December 2011 confirm no change to comments made in June 2011.

WESSEX WATER - Comments made 2nd September 2010 - Advise that public apparatus may be affected by the development and diversion or protections works may be required and are to be agreed and implemented before building works are started. A contribution to the cost of uprating the sewerage system may be required (if flows are increased). The developer will need to agree drainage matters further with Wessex Water and there have been discussions which are being considered.

Further comments made 16th November 2011 confirm no change to comments made in September 2011.

ECOLOGY - Comments made 15th March 2011 - Ecological surveys have been undertaken including full bat surveys. No significant habitats or issues were identified on the site, although the site was found to be used by foraging pipistrelle and noctule bats, and the existing buildings and vegetation offer some nesting and roosting habitats & opportunities. Equivalent and enhanced habitat replacement (roosting, nesting and foraging) should be incorporated into the new scheme. The lack of incorporation of green space, green roofs and other planting, and the lack of creation of opportunities for this within the scheme, is disappointing and could be improved for the benefit of both people and wildlife. In addition, all the recommendations of the Ecological reports need to be implemented. This can be secured by condition.



Further comments 2nd November 2011 confirm no change to comments made in March 2011.

NATURAL ENGLAND - Comments made 12th October 2010 - Bat Survey Report (dated September 2010) contains recommendations for enhancing the conditions on-site for bats. A condition requiring the preparation of an Environmental Management Scheme should be subject to the planning authority's approval and this approval must be obtained prior to commencement of development.

Further comments 16th December 2011 confirm no change to comments made in October 2010.

URBAN DESIGNER - Comments made 9th December 2010 - the scheme is considered to be unsatisfactory in design terms. It demonstrate poor integration with the surrounding neighbourhood; a poor response to level changes (which has the consequence of creating a physical and psychological separation between the external and internal public realm, and a barrier to pedestrian and cyclist movement through the site as well as working against providing a fully accessible environment); There is very limited permeability through the site; There is a dominance of blank frontages and lack of external facing entrances to all sides, including to Lower Bristol Road, which creates an unacceptable and negative response to the public realm; There is inadequate direct pedestrian access to the main use from the south and west; The proposed residential terrace lacks a positive relationship to the Plaza.

LANDSCAPE ARCHITECT - Comments made 9th December 2010- The retention of the façade is welcomed but it would be preferred if more of the building were retained. The proposals fail to maximise the opportunity for a strong appealing public realm and fail to provide sufficient space for trees to grow to a large size to contribute significantly to the wider area.

Further comments made March 29th 2011. Changes have been proposed which resolve some of the public realm concerns.

CONSERVATION OFFICER - Comments made 28th September 2010 - the Bath Press buildings are clearly of local historical and sentimental significance The exclusion of the site from the Conservation Area however means there is no straightforward means of resisting the demolition of the buildings. The preliminary proposals offer up a compromise in the form of retention of the façade of the main buildings and the stone boiler chimney. Facadism is rarely an appropriate means of conservation and the wall and chimney might appear visually incongruous being divorced from the host building. Ideally a better balance would be struck between preservation and the extent of new development. Considerable importance is attached to ensuring that the façade and chimney are retained and repaired and it is recommended that a formal agreement is needed to guarantee the desired outcome. the layout, massing and height of the new buildings appear reasonable but the architectural treatment is monolithic and dull. The road layout immediately surrounding the site is disjointed, and has the potential to appear as an unattractive, traffic dominated environment.

ENGLISH HERITAGE - comments made 8th September 2010 and 30th November 2011 confirm it is not necessary to consult English Heritage on the application.

COMMISSION FOR ARCHITECTURE AND THE BUILT ENVIRONMENT (CABE) - Comments made 21st March 2011 and 1st November 2011 due to resources CABE are unable to review the scheme.

ARBORICULTURAL OFFICER - Comments made 31st August 2010 - The current proposal results in a net loss of trees and general green infrastructure which currently contribute towards the public domain in this prominent location. The proposed indicative planting shown on the Proposed Site Plan does not appear to be planned or integrated. Space should be provided for large, long lived, land mark trees.

CRIME PREVENTION OFFICER - Comments made 1st October 2010 An objection is raised. A range of issues are identified including the design of the underground parking and access ramp, parking for disabled, cyclists and the proposed housing and some design features of the terrace housing and street furniture as they consider they could be used for purposes other than those for which they were designed.

ENVIRONMENTAL HEALTH OFFICER - Comments made 19th November 2010 - The applicant has carried out noise monitoring and should use this data to predict the likely noise exposure category (NEC) in accordance with Planning Policy Guidance note 24 (PPG 24) If the assessment shows that the site falls into NEC C or D then refusal of the application would be recommended. Conditions are suggested should the development be permitted.

CONTAMINATED LAND OFFICER - Comments made 15th July 2011 No Objection but conditions are recommended to carry out a site investigation and risk assessment.

BRITISH WATERWAYS - Comments made 13th September 2010 and 3rd November 2011 - No Objection subject to a condition to ensure that trolleys can not be taken beyond the site where they may be discarded into the waterway.

ARCHEOLOGICAL OFFICER - Comments made 22nd October 2010 A desk based archaeological assessment of the site, has been submitted and approved and no objections are raised subject to conditions.  
Further comments made 27th April and 2nd November 2011 confirm no change to comments previously made.

EDUCATION OFFICER - Comments made 3rd September 2010 - Sought a total contribution of £13,575.25 toward youth provision and school places.  
Further comments made November 2011 seek a contribution totalling £29,449.77 toward Early Years provision, school places and Youth provision

ECONOMIC DEVELOPMENT OFFICER - no comments made.

STRATEGIC HOUSING SERVICES - Comments made 11th January 2012 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.

WASTE SERVICES comments made 9th November 2011 request additional information for the waste storage.

## OTHER REPRESENTATIONS / THIRD PARTIES

The following Objections have been received:

Co-operative Group: There is no quantitative or qualitative need for the development and it is not sequentially an acceptable site. We have significant concern over the considerable impact that the proposed Tesco store will have upon the Co-operative store at Moorland Road.

Sainsburys Supermarket: The proposal fails the Sequential Test, would impact harmfully on Moorland Road, will divert expenditure from Central areas, and will jeopardize the regeneration of BWR and Green Park Station.

Royal United Hospital: The RUH appointed consultants to assess the impact on the hospital and it has been concluded that the traffic created would have an unacceptable impact on hospital traffic particularly emergency vehicles.

Bath Heritage Watchdog: There are a number of concerns raised with regard to the detailed design and the proposals for the retention and integration of the façade which do not go far enough. The proposals do not reflect the truly Important Local Building. The impact of traffic on historic buildings and structures is a concern.

Bath Preservation Trust: The Trust welcomes the intention to redevelop this important site for mixed uses but raise objection on various aspects relating to the design approach. It shares widespread concerns with regard to traffic impact.

Vineyard Residents Association: Object to this application due to the impact the development would have on traffic on the Lower Bristol Road (A36) (congestion and poor air quality raised as a concern) , Windsor Bridge and the Upper Bristol Road on the other side of that bridge, on traffic in the city more generally, and so on residential amenity.

Federation of Bath Residents Associations (FoBRA) comments made raise serious concerns about the volume of traffic, its management at the crossroads with Windsor Bridge, and severe congestion along the Lower Bristol Road (A36), Windsor Bridge Road and the Upper Bristol Road on the other side of the bridge.

SAVE object on the basis that the retention of the façade as proposed is a clumsy and unsatisfactory solution

A 40 page petition with in the region of 900 signatures have been submitted with an objection to the proposal on the grounds of the development would bring about the demise of Moorland Road adversely affecting the community, there would be traffic chaos and pollution, and anti social behaviour problems.

120 Residents have objected on the following grounds:

Tesco dominate the market

Impact on highway

Impact on hospital traffic impeding it/emergency vehicles

Impact on Moorland Road shopping area (business and social)



The location of the entrance and delivery yard will create traffic noise and disturbance to the detriment of residents nearby.

Road widening and roundabout

Proximity to other supermarkets

Seagull nuisance

There are existing empty facilities new ones aren't needed.

Noise and disturbance locally (during and after construction)

Affect on house prices

Wrong location

Traffic impact

Dull architecture

Loss of existing industrial fabric

Poor design approach

Inadequate residential provision

Poorly sized workshop units

Adverse impact on health and safety

Inadequate provision for pedestrians and cyclists

Poor air quality /pollution

Lack of demand

Highway safety impact

Overdevelopment

Inadequate parking

Impact on the structural integrity of bridges

Impact on local school children

Not sustainable as will encourage car use over sustainable transport

Inadequate details on drawings

Impact on residents due amenity, light, security and privacy

Inadequate provision for public transport

Inadequate detail of waste proposals

Recycling has not been sufficiently addressed

Opening hours will create traffic later in the evening when the area would usually become quieter

The community hall should be separated from the offices so it does not become part of that use

Unattractive affecting tourism

Concerns of combined effect with BWR development

Retail store is too big

The following support has been received.

Lack of green planting

Poor access

Loss of jobs

Consultation exercise carried out was flawed

Loss of local distinctiveness

Impact on the World Heritage Site caused by pollution

Safety and security issues

A further supermarket is not needed.

Bath Chamber of Commerce Support the application on the basis that notwithstanding the impact of the traffic imbalance the scheme would bring benefits to the area.

97 Residents have written to support the application on the following grounds

- Regeneration benefits
- Retention of the façade
- Mix of uses
- Need a supermarket
- Less travel to supermarkets out of Bath
- Job creation
- Re use of derelict site
- Choice and competition is required

The following have made general comments:

Oldfield Park School Chair of Governors comments that we are keen to see the Bath Press site developed, as the buildings and hoardings are deteriorating rapidly and are an eyesore both for us and for visitors to our school via Dorset Close. We would reiterate the need for consideration of the proximity of the school to the site and the effect this may have on our children's safety, noise levels and access to the school.

South West Transport Network have commented to say that the site should have less cars, more houses and jobs. Suggestions are made for contributions including public transport subsidies. They subsequently confirm their support more generally for regeneration of Lower Bristol Road.

8 Residents have commented as follows

- The development would remove an eyesore but access noise and privacy issues must be addressed
- The site will attract seagull nuisance which is a consideration to address
- Question should the Tesco be built so near to a Tesco Express
- Concern is expressed about fume pollution
- Benefits and disbenefits are noted
- Construction and delivery noise are a concern
- The development and its traffic would adversely affect residents
- Query if the site is too near Sainsbury.

RELEVANT PLANNING HISTORY:

11/02674/EFUL - 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). Appeal lodged against non-determination

## **POLICIES/LEGISLATION**

POLICY CONTEXT:

REGIONAL PLANNING GUIDANCE

Policy EC6 Town Centres and Retailing

## JOINT RELACEMENT STRUCTURE PLAN 2002 - saved policies

- 1 - Sustainable Development
- 2 - Locational Strategy
- 4 - Transport strategy
- 6 - Bath
- 30 - Employment sites
- 33 - Level and distribution of housing
- 38 - Town centres and shopping
- 40 - New Retail
- 41 - Local shopping
- 54 - Car parking
- 58 - Transport

## ADOPTED LOCAL PLAN

Bath & North East Somerset Local Plan (including Minerals and Waste policies) 2007

- IMP.1 Planning obligations
- SC.1 Settlement classification
- NE1 Landscape Character
- NE.11 Species and Habitats
- NE13A Bath Hot Springs Protection Area
- NE.14 Flooding
- HG..1 Meeting the District's housing need;
- HG.4 Housing Development
- HG7 Housing Density
- HG.8 Affordable housing
- D.2 General Design and public realm considerations
- D.4 Townscape considerations
- ES.1 Renewable energy Generation
- ES.2 Energy Use Reduction
- ES.4 Water Supply
- ES.5 Foul and surface water drainage
- ES.9 Pollution and Nuisance
- ES.10 Air Pollution
- ES.12 Amenity
- ES.13 Hazardous Substances
- ES.15 Contaminated land
- T.1 Travel and transport
- T.3 Pedestrians
- T.5 Cyclists
- T.6 Cycle Parking
- T.16 Transport infrastructure
- T.24 General Development control and access policy
- T.25 Transport assessments
- T.26 On-site parking and servicing provision
- ET.1 Employment Land Overview
- ET.2 Office Development B1a and B)
- ET.3 Non Office Business Development
- BH.1 World Heritage Site

BH.5 Local List of Buildings  
BH.12 Archaeology  
BH.22 External lighting  
CF.2 Community facilities  
SR.3 Provision of recreational facilities to meet the needs of new development  
S.1 Retail Hierarchy  
S.4 Retail Development outside Shopping Centres

#### Supplementary Planning Document Planning Obligations

Bath and North East Somerset Submission Core Strategy (May 2011) is currently subject to Examination and the Hearings are due to take place in January 2012. Therefore it can only be given limited weight for development management purposes. The following policies should be considered

CP2: Sustainable construction  
CP3: Renewable Energy  
CP5: Flood Risk Management  
CP6: Environmental Quality  
CP7: Green Infrastructure  
CP10: Housing Mix  
CP12: Centres and Retailing  
CP13: Infrastructure provision  
DW1: District-wide spatial Strategy  
B1: Bath Spatial strategy  
B3: Twerton and Newbridge Riverside Strategic Policy  
B4: The World Heritage Site and its setting

#### NATIONAL POLICY

PPS1 Delivering Sustainable Development  
PPS3 Housing  
PPS 4: Planning for Sustainable Economic Growth  
PPS.5 - Planning For the Historic Environment  
PPS9 Biodiversity and Geological Conservation  
PPG13 Transport  
PPS25 Development and Flood Risk

DRAFT NATIONAL PLANNING POLICY FRAMEWORK (undergoing a consultation exercise and should only therefore be afforded limited weight)

#### **OFFICER ASSESSMENT**

Whilst the scheme has some accepted benefits there are very significant concerns raised from a Health and Safety, Highway and Retail impact perspective. It is considered that the harmful impacts identified clearly outweigh any benefits and refusal is recommended on these grounds.

#### **RECOMMENDATION**

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.

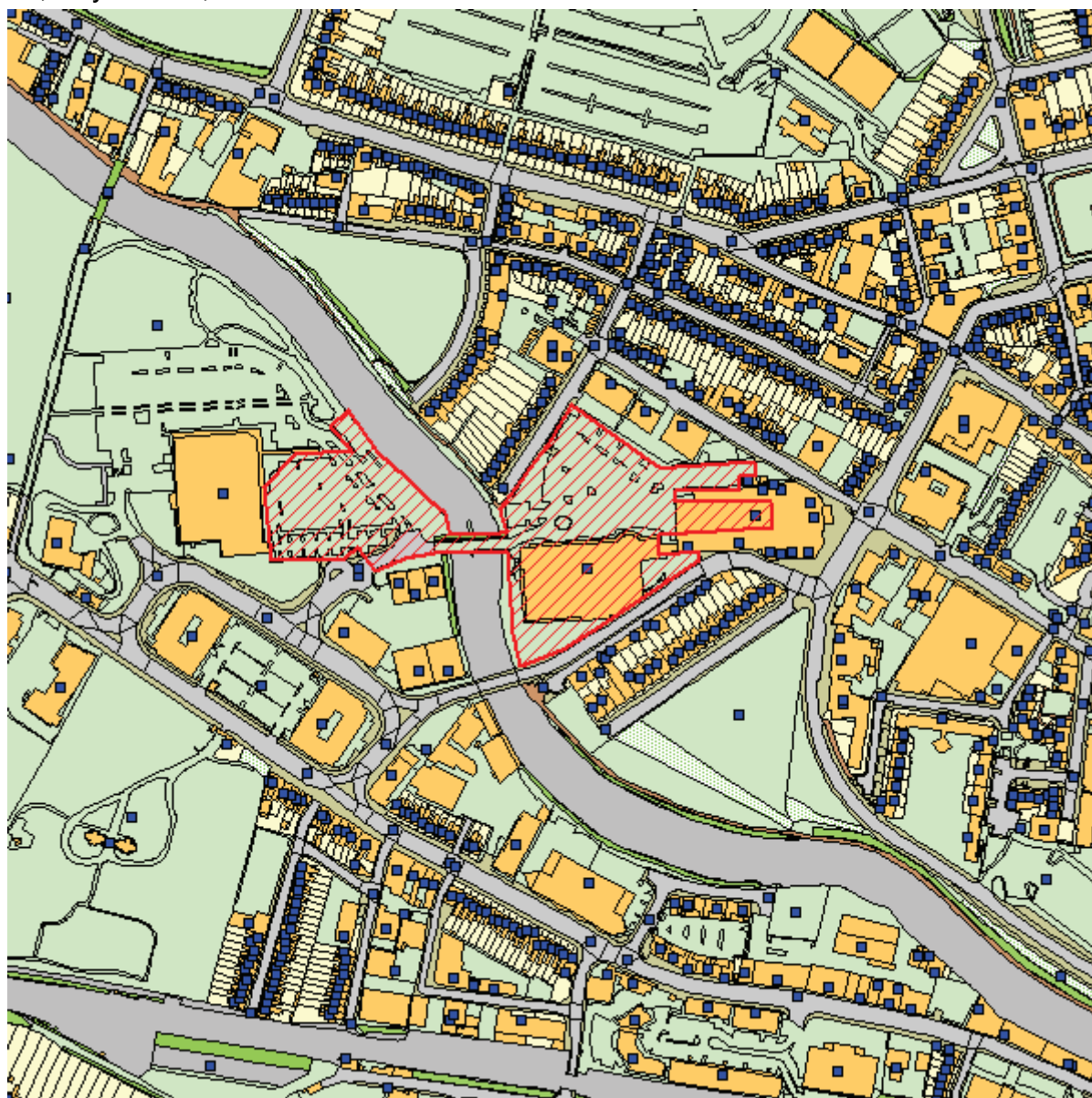
3 The proposed development would result in an increased use of the A36 Lower Bristol Road/Windsor Bridge Road/Brook Road junction, where insufficient capacity exists to accommodate the increased use adversely affecting the efficient functioning of the road network contrary to Policies T1, T3, T5, T16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

**PLANS LIST:** Due to ongoing submissions of Plans the final Plans list is not included.

**Item No:** 02  
**Application No:** 10/04475/FUL  
**Site Location:** Sainsburys Supermarkets Limited Green Park Station, Green Park Road, City Centre, Bath



**Ward:** Kingsmead      **Parish:** N/A      **LB Grade:** N/A  
**Ward Members:** Councillor Douglas Nicol      Councillor A J Furse  
**Application Type:** Full Application  
**Proposal:** Erection of extension to foodstore to provide additional retail floorspace and warehouse floorspace. Alterations to car park layout and engineering works to the southern bank of the River Avon to provide flood storage compensation.  
**Constraints:** Agric Land Class 3b,4,5, Article 4, British Waterways, Conservation Area, Cycle Route, Floodplain Protection, Flood Zone 2, Flood Zone 3, Flood Zone 3, Forest of Avon, General Development Site,



	Hotspring Protection, Listed Building, Sites of Nature Conservation Imp (SN), Sustainable Transport, World Heritage Site,
<b>Applicant:</b>	Sainsbury's Supermarket Ltd
<b>Expiry Date:</b>	4th February 2011
<b>Case Officer:</b>	Geoff Webber

## REPORT

### REASON FOR REPORTING APPLICATION TO COMMITTEE:

This application and the as yet undetermined proposals for a mixed use development incorporating a substantial retail store on the former Bath Press site share the Council's current and emerging retail strategy as a material consideration and it is important that each proposal is assessed and determined with appropriate regard to the other.

With this in mind, Members have had an opportunity to visit both sites prior to the meeting, and to view the locations of the two proposed developments in the contexts of their relationships with their respective surrounding areas.

### DESCRIPTION OF SITE AND APPLICATION:

The application proposes an extension to the existing Sainsbury's store adjoining Green Park Station, and the site is located within the Bath World Heritage Site and the Conservation Area immediately to the west of Midland Bridge Road and (for the most part) north of the River Avon. Whilst the former railway station is a Listed Building, the existing Sainsbury's store has remained physically separate from the station structure and so Listed Building Consent issues do not apply to the current proposal.

The existing retail store is on two levels, with its main entrance and retail floorspace at the upper level, accessed from the car parking area to the west of the store. On the eastern side, the store adjoins Midland Bridge Road, but has no public access on that elevation. The road is set at a lower level, and provides access to the store's service yard and deliveries area, which is at a lower ground floor level, with service areas, storage, etc. being located within the existing building but underneath the retail floorspace. In this way, the store optimises the potential of its site, allowing a substantial floorspace to be accommodated within a relatively restricted site.

The existing store was constructed during the 1980's and its design and materials are very much a product of their time, using a panelised approach that is unlike the other, traditionally constructed buildings in this part of the Conservation Area. The appearance of the existing store does little or nothing to generate a sense of place in this prominent location within central Bath. The store has been extended in the past, but the extensions have tended to maintain the character and appearance of the originally constructed building, using materials that are a close match to the original. The character of the store building is less significant when viewed from the west, largely because the ground here is at the higher level and as a result the store is seen as a single storey building that is subservient to the immediately adjoining larger Listed former railway station. The roof of the original Sainsbury's store is of an unusual (and undesirably prominent) conical design, and this is the most conspicuous feature in views from the west. From Midland Bridge Road to the east, however, the full two storey height, together with the prominent roof, produces an unrelenting and almost featureless structure, where the building has little

detailing, and its horizontal nature dominates and significantly detracts from the character of the street scene.

Midland Bridge Road is set at an angle to the side wall of the store, and this provides for a triangle of land to remain undeveloped between the store and the road, immediately to the north-east of the Midland Bridge across the River Avon, and set about two metres below the level of the road. This triangle of land is grassed and contains a number of trees which have the effect of softening the relationship of the retail store building with Midland Bridge Road, but not to the extent that it diminishes its dominance in the character of this section of the road. This view from the east is also that which is seen from the rear windows of the tall terrace of residential properties on the western side of Green Park, the rear elevations of which overlook the Sainsbury's site across the top of the line of smaller commercial premises along Green Park Mews.

Whilst the trees in the undeveloped area are clearly visible from the surrounding area, the grass itself remains largely invisible in public views, except from the immediately adjacent section of the footway along the western side of the road, from where it can be seen over the relatively low roadside wall. To the north, the store comes right up to the back of the footway alongside Midland Bridge Road, and this close relationship is continued by the former railway station which adjoins the road right up to its junction with Green Park Road.

Between the existing store and the river is an unattractive and unhelpfully enclosed section of river bank and towpath, which provides a route for part of the Bath to Bristol strategic cycle route and a pedestrian route along the northern river bank. This section of the towpath lies between Midland Bridge and a second bridge about 50 metres to the west, which provides vehicular access from Pinesway into the Sainsbury and Green Park Station customer parking area. The towpath passes beneath both the bridges, with very poor access up to the higher developed area immediately to the north. The enclosure of this section of river bank ' sandwiched as it is between the river and the two storey retail store, and by the two bridges ' creates a section of the riverside towpath that is not well overlooked, and where the existing overhanging trees and riverside vegetation combine to give the area an unkempt and inhospitable character, not assisted by the presence of the closed rear elevations of commercial premises immediately opposite on the southern river bank.

As mentioned above, the main store car park is at the higher level to the west of the store, along the line of the former railway, and the access bridge from Pinesway is also along that alignment. On the southern side of the river, but off to the western side of the access route, is the existing Homebase store, which also has a substantial car parking area. Part of the Homebase parking area has in the past been acquired by Sainsbury's, and is formally included within Sainsbury's operational site (and also the site edged in red in the current Planning application). The Sainsbury's store currently benefits from 458 parking spaces, of which 165 are provided within the Homebase parking area. Whilst the existing parking areas are not directly affected by the proposed extension, the proposal incorporates a redesign of the parking layout that is aimed at repositioning disabled and parent/child parking spaces more conveniently, closer to the store main entrance. This redesign will result in the total car parking capacity being reduced to 429 (that is an overall reduction of 29 spaces, but incorporating an increase of 9 in the number of disabled spaces).



### The Proposed Extension

The extension the subject of the current application is proposed to be sited utilising the triangular undeveloped area between the existing store and Midland Bridge Road. The existing store has a gross internal floorspace of 6,335 sq. metres (over the two floors combined), and the extension will increase this by 1,693 (27%) to a new total of 8,028 sq. metres, again over the two floor levels combined.

The net retail trading area as existing is 3,057 sq. metres, and the extension will increase this by 963 (32%) to a new figure of 4,020 sq. metres, all of which is on the upper floor level within the building.

These figures are all taken from Sainsbury's submitted documents, and demonstrate that the extension will facilitate a proportionally larger increase in net retail floorspace, by allowing some of the existing 'back of house' areas at the rear of the existing upper floor level to be relocated to the lower ground floor level within the extension.

The application does not propose changes to the existing store's opening hours, but the supporting documents explain that the proposed extension has been designed to maximise the retail floorspace on this site, and is aimed at addressing the fact that the store has for some years been 'over-trading' by comparison with typical trading figures from stores of a similar size. The Applicant's documents indicate that the operator has struggled to keep the display shelves replenished, because there is comparatively insufficient storage space provided by the limited on-site warehousing and by the constrained shelf space within the retail area. The increased storage and support space within the lower floor area of the extension is as important in this regard as the increased net retail floorspace on the upper level.

The proposed extension will facilitate the holding of larger stocks on the site, and whilst there will be an expansion in the number of lines to be offered, the main target is to achieve a higher level of customer satisfaction and to eliminate shortages of stock as far as possible. The opening of the Sainsbury's store at Odd Down during 2011 has inevitably reduced the number of customers (and the turnover) at Green Park. However, the Applicants forecast that the proposed extension will not increase the number of customers above that which existed prior to the Odd Down opening, but will mean that a similar number of customers can be served more effectively, with bigger average spends. It is on this basis that the Applicants have argued that the existing car parking provision (see above) will remain adequate to meet the needs of the enlarged store.

### Other Elements of the Proposed Development

The scale and location of the proposed extension have not changed since the current application was submitted in November 2010. Since that time, however, there have been significant amendments to the detailing of the scheme in terms of the external appearance of the store, and of the layout and detailing of its curtilage. Some of these changes have been secured through negotiations between your Officers and the Applicants, but others have emerged from discussions between the Applicants and the Environment Agency. The amendments are incorporated into the description that follows, but many of these changes are best shown with the aid of the submitted plans, and will be explained to Members during the Officer presentation at the meeting.

The amended application now incorporates a number of additional elements that have been designed to enhance the site in the short term, whilst not prejudicing the future regeneration of the wider Green Park site as part of any larger scheme that may come forward in the future. The scope of the proposals is set out in an updated and reworked Design and Access Statement submitted by the Applicants.

The current proposals now include significant alterations to the existing store building, in terms of the re-cladding of the visible elevations to the south-west (towards the river), the south-east (towards Midland Bridge Road), and part of the north-eastern elevation which faces Green Park Station, but which is partially visible from Midland Bridge Road. These elevational changes were not part of the application as originally submitted, and have been designed to improve the character of the building's more prominent elevations, thereby benefitting the surrounding area, and providing a more fitting neighbour to the Listed former railway station. In effect, the proposed extension is being used to 'seed' an improvement to the overall appearance of the store, rather than following the originally-proposed approach of mimicking the design and appearance of the existing building. The elevations of the existing store and of the extension will be given new glazed elements, and will be broken into a series of Bath stone coloured rendered panels, separated by metal pilasters, with a new metal-clad fascia above. The panels in these elevations have been designed to give references to the similar sectional appearance of the former Green Park Station, where the structural metalwork of the station building is highlighted externally by the use of prominent downpipes and other features that serve to break up what would otherwise be an extremely large and featureless elevation. The roof of the Sainsbury's store is not intended to be changed as part of this proposal.

A further enhancement of the existing retail store building comes in its elevation facing towards the river, where glazed sections are proposed to the new stairwell linking the two floors, and also at the western end of the elevation at upper floor level, adjoining the checkouts internally. At the lower level, new windows are to be inserted, in order to provide greater overlooking and therefore supervision of the towpath where it passes the store. Associated with this, the towpath area itself is to be remodelled and replanted in order to improve its appearance and attractiveness to users.

The access arrangements between the store car park and entrance area (at the upper floor level) and the towpath are also to be improved. The application includes a proposed improved link from the car park and from Norfolk Buildings to the towpath just west of the bridge accessing the store car park, and also enhanced access allowing customers (including cyclists) to gain access between the towpath and the store adjacent to the store building itself. For the first time, cycle parking facilities will be provided at towpath level, alongside the store, and there will also be a 'cycle gully' alongside new steps providing better access up to the store entrance level. A small landscaped and tree-planted area will be retained by virtue of a chamfered south-eastern corner to the proposed extension immediately adjacent to Midland Bridge. In this area the new extension will link visually to the towpath, and the scheme will also facilitate the provision of better pedestrian access in the form of a new stepped access between the western side of Midland Bridge Road and the towpath, whereas at present the only access between the towpath and Midland Bridge Road is to the east, away from the store.

The store's existing service yard area adjacent to Midland Bridge Road will not be altered, but between the yard entrance and Midland Bridge the existing stone roadside boundary

wall will be extended. This has been designed to enhance the character of the street scene, and to promote a perception of the extended store building being set behind and below the roadside wall, rather than extending right up to the footway.

Finally, the proposed development includes alterations to the southern bank of the river to the west of the access bridge from Pinesway. These alterations are not cosmetic they involve the excavation of additional flood storage capacity in order to address the loss of capacity associated with the construction of the proposed extension. The details of this element of the proposals have only recently been finalised following prolonged negotiations between the Applicants' Agents and the Environment Agency, but the engineering works provide an opportunity for enhancing the planting and thereby the appearance of this section of river bank which is prominent in views from the bridge and which is also accessible to the public from the Homebase car park area.

The southern river bank between the two bridges and opposite the Sainsbury's store building is not part of the application site, and no alterations are proposed in that area.

#### Sustainability

Although the current proposal is principally an extension to the existing store, the Applicants have indicated that the construction of the extension will allow the energy usage of the entire store to be reviewed and minimised through the application of new lighting wherever possible (including LED lighting), more efficient refrigeration and re-use of chilled air for cooling elsewhere in the building, and the introduction of a full-store Building Management System. Rainwater will be harvested for use in public and staff toilets, and on-site recycling bank facilities will be maintained. The store's own waste is already managed and handled through Sainsbury's national adoption of waste reduction and recycling initiatives. A more wide-ranging sustainability review can only realistically be adopted as part of any longer term proposals for the site.

#### Applicant's Supporting Documents

The Applicant's Agents have submitted a range of detailed supporting documents, including a Design and Access Statement that reflects the amended proposals described above, and a Planning Statement (with subsequent correspondence) which sets out their assessment of the Green Park site as an edge-of-centre site in contrast with the current proposals for the Bath Press site, which is argued to be out-of-centre. The submitted Transport case seeks to demonstrate that the existing car park arrangements are adequate in size to cater for the enlarged store.

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

**PLANNING POLICY:** Discussions have taken place with the Council's Planning Policy Team, and these have concluded that as the application proposes an extension to an existing retail store in an edge-of-centre location, it raises no specific Policy considerations other than a requirement for an assessment in terms of the Council's Retail policies and the provisions of Government policy. These issues have been addressed by GVA Grimley, who have been instructed by Officers to provide a retail assessment of the current proposals for this site and for the former Bath Press site, and their assessment is summarised later in this report. The officer presentation at the meeting will explain the Council's adopted retail locational strategy to Members with reference to plans taken from the Council's policy documents.

The Planning Policy Team have, however, recommended the continuation of the 80% / 20% split between the floor areas used for food goods and non-food goods (controlled by a Condition attached to the 1997 planning permission for the previous extension to the store), in order to limit any adverse effect upon the vitality and viability of the city centre in terms of Comparison Goods trading.

HIGHWAY DEVELOPMENT OFFICER: Following receipt of this application in late 2010, the Highway Development Officer objected on the grounds that inadequate supporting information had initially been submitted to enable a proper assessment to be made of the highway impacts of the proposed development.

However, since that time there have been further submissions and prolonged negotiations.

The Highway Development Officer has very recently confirmed that following assessment of the additional clarification and data provided by the Applicants he is satisfied that the level of parking proposed is adequate to cater for the customer demand generated by the extended store. A developer contribution has been agreed, in line with the Council's SPD, to mitigate the effect of the proposed development with regards to the demands on the public highway, and Conditions are needed requiring the submission of a Construction Management Plan and a Travel Plan to address staff journeys to and from the site. In addition, a further Condition is needed to ensure that the proposed enhanced pedestrian access routes and cycle facilities are provided.

The Highway Development Officer also comments that 'the proposed development, with amendments to the existing car parking, whilst doing nothing to accommodate the Council's wishes to extend the proposed public transport route crossing the Western Riverside site to enable it to connect to James St West in the vicinity of Green Park Station, does nothing to further prejudice such future provision when compared to the existing development on the site.'

ENVIRONMENT AGENCY: The Environment Agency has confirmed that acceptable alternative flood storage provision has been designed in discussion with them and has been incorporated into the proposed development. Accordingly they have No Objections, subject to appropriate conditions, provided that the LPA is satisfied that the Sequential Test required by PPS25 has been undertaken. Details of the required Condition are the subject of on-going discussions and any further comments or advice will be reported at the meeting.

ECOLOGY: The Council's Ecologist has not formally objected but has recommended that the scheme should be revised to enable retention and creation of green space and trees; to prevent loss of habitat and provide net ecological gain. Of particular concern is the loss of trees and the effects upon the river corridor. The revised plans have provided some limited enhancement but have not materially addressed the underlying concerns.

CONSERVATION OFFICER: Comments that 'this is perhaps one of those cases where some form of development could help make more efficient use of the land but in order to be successful I would recommend that attention is given to restoring an improved sense of place. I feel that this could be achieved by greater use of locally distinctive external materials and by providing the south elevation of the structure with greater articulation. In particular I would suggest that there is a physical separation between the extension and the existing skew wall of the supermarket fronting the highway, and by recessing the acute corner of the extension where it would be closest to the river corridor and Midland Road Bridge.' These comments have in part been addressed in the amended plans.

ENGLISH HERITAGE: Indicate that in terms of the proposals as originally submitted they could not advocate approval, but they have not formally objected. Their comments encourage the redesign of the scheme to retain trees because of their screening value, and to improve the overall relationship of the proposed development with its prominent roadside historic setting at an important entrance into central Bath. These comments have been addressed in the amended plans, and any further comments received will be reported at the meeting.

ARBORICULTURAL OFFICER: Objected to the scheme as originally submitted because of the undesirable loss of trees. The amended proposals, incorporating the final results of negotiations with the Environment Agency regarding the southern river bank provide enhancements to planting that in part take account of the comments made.

ENVIRONMENTAL HEALTH OFFICER: No Objections, subject to the imposition of appropriate Conditions to control nuisance during the construction works.

CONTAMINATED LAND OFFICER: LAND CONTAMINATION: There are no land contamination objections to the scheme, however, standard conditions will be required to investigate and assess risk.

BRITISH WATERWAYS: No comments made.

ARCHEOLOGICAL OFFICER: No Objections subject to appropriate Conditions.

ECONOMIC DEVELOPMENT OFFICER: no comments received.

URBAN DESIGNER: The Council's Urban Design Officer raised significant objections to the scheme as originally submitted, on the basis that a more comprehensive design approach was needed in order to take the opportunity presented by this application for significant improvements to the existing poor quality and appearance of the store, and of its relationship with its setting. The prominent elevations should be reworked so that the extension does not perpetuate the existing problem, but rather becomes the means of improving the store's sense of place.

Following receipt of these comments and in the light of complementary comments received from other consultees, the Urban Designer was involved in detailed negotiation with the Agents. As a result the significant enhancements set out earlier in this report were agreed in principle and subsequently submitted. The Urban Designer has advised that whilst he still has concerns regarding the quality of the store as a whole, he does not now object to the amended Extension proposals, which in his view do just enough to address the previous concerns.

The Urban Design Officer has commented that the proposals are 'not really looking to future proof the building for the next phase of its life as the only central Sainsbury store', but that 'the list of improvements are possibly proportionate to the scale and impact of the extension'. The Agents have accordingly been advised that significant environmental enhancements are likely to be sought in respect of any further scheme for developing or redeveloping the Green Park site.

#### OTHER REPRESENTATIONS /THIRD PARTIES

The following representations have been received:

BATH PRESERVATION TRUST: Two separate submissions have been made, the first of which appears to relate erroneously to the Sainsbury's store at Odd Down, and this has been disregarded. The second Objects to the current proposal on the grounds that it does



not preserve or enhance the character or appearance of the Conservation Area, and is detrimental to the street scene in Midland Bridge Road, particularly through the loss of the triangular landscaped area on which the extension would stand. The proposal does not complement its surroundings or contribute to local distinctiveness, and is therefore contrary to Local Plan policies.

**BATH HERITAGE WATCHDOG:** Objects on similar grounds to the Bath Preservation Trust. Additional procedural matters are raised, but also the view is expressed that this is a short-term approach to design that falls short of what might be expected. The materials and design perpetuate the character of the existing building. The proposal does not adequately address Flood Risk issues.

**THE BATH SOCIETY:** Comments that the proposal will result in the loss of the triangular landscaped area.

**TESCO STORES / ST JAMES' INVESTMENTS** are the intending developers of the former Bath Press site in Lower Bristol Road. Their proposals for that site are reported elsewhere in the papers for the meeting, but they have submitted a detailed critique of the conclusions reached by the Council's specialist retail consultants (details of GVA's advice to the Council is summarised later in this report) in respect of both their own proposals and the current (Sainsbury's) application. In particular, Tesco / St James Investments argue that the Green Park site should be regarded as out-of-centre, but that in any case the proposed Tesco store and the proposed Sainsbury's extension are very different in character and should not be compared against one another on a like-for-like basis.

**5 INDIVIDUAL RESIDENTS** Object or Comment on the following grounds:

- Noise, dust, vibration and environmental damage, especially during construction, but also from delivery vehicles.
- Additional traffic generation.
- Loss of landscaped area.
- Design and Materials should be of a higher quality than proposed.
- Delivery Management Plan needed to address operational effects of Service Access.
- Sainsbury's should take some responsibility for the towpath adjoining the store and also provide better access from the towpath to the site. The proposed car park and internal pedestrian access arrangement is an improvement, but lighting should be installed alongside pedestrian routes.
- Enlarged store may be used to provide a wider range of non-food goods and services, which are not necessarily acceptable in this location.

## **POLICIES/LEGISLATION**

### **RELEVANT PLANNING HISTORY:**

The site is the subject of existing controls by virtue of Conditions and Agreements associated with the previous Planning permissions for the development of the site. These need to be safeguarded in any new permission that may be granted. The proposed development will not prejudice the operation of the existing S106 Agreement relating to the site, but a Condition is necessary in connection with the comments made by the Planning Policy Team (see above).

POLICY CONTEXT:

REGIONAL PLANNING GUIDANCE

Policy EC6 Town Centres and Retailing

JOINT REPLACEMENT STRUCTURE PLAN 2002 - saved policies

1 Sustainable Development

2 Locational Strategy

6 Bath

30 Employment sites

38 Town centres and shopping

40 New Retail

41 Local shopping

54 Car parking

58 Transport

ADOPTED LOCAL PLAN

Bath & North East Somerset Local Plan (including Minerals and Waste policies) 2007

IMP.1 Planning obligations

NE. 11 Species and Habitats

NE.14 Flooding

D.2 General Design and public realm considerations

D.4 Townscape considerations

ES.1 Renewable energy

ES.2 Energy Use Reduction

ES.5 Foul and surface water drainage

ES.9 Pollution and Nuisance

ES.10 Air Pollution

ES.12 Amenity

T.1 Travel and transport

T.3 Pedestrians

T.5 Cyclists

T.6 Cycle Parking

T.16 Transport infrastructure

T.24 General Development control and access policy

T.25 Transport assessments

T.26 On-site parking and servicing provision

BH.1 World Heritage Site

BH.6 Development within or affecting conservation areas

BH.12 Archaeology

BH.22 External lighting

S.1 Retail Hierarchy

S.4 Retail Development outside Shopping Centres

GDS1/B1 Bath Western Riverside

SUPPLEMENTARY PLANNING DOCUMENTS:

S106 Planning Obligations

Bath Western Riverside

BATH AND NORTH EAST SOMERSET DRAFT CORE STRATEGY (May 2011):

This is currently subject to Examination and the Hearings are due to take place in January 2012. Therefore it can only be given limited weight for development management purposes. The following policies should be considered



CP2: Sustainable construction  
CP3: Renewable Energy  
CP4: Flood Risk Management  
CP5: Environmental Quality  
CP12: Centres and Retailing  
CP13: Infrastructure provision  
DW1: District-wide spatial Strategy  
B1: Bath Spatial strategy  
B3: The World Heritage Site and its setting  
NATIONAL POLICY  
PPS1: Delivering Sustainable Development  
PPS 4: Planning for Sustainable Economic Growth  
PPS.5: Planning For the Historic Environment  
PPS9: Biodiversity and Geological Conservation  
PPG13: Transport  
PPS25: Development and Flood Risk

#### **DRAFT NATIONAL PLANNING POLICY FRAMEWORK**

This is undergoing a consultation exercise and should only therefore be afforded limited weight at present.

#### **OFFICER ASSESSMENT**

It is essential that this application is determined solely on the basis of the Planning merits of the scheme that is detailed in the submitted plans and documents. As advised above, Members should have no regard to other proposals that the Applicant may bring forward in due course, or to the Council's ownership interest in this site.

Your Officers have considered this proposal in the light of all material considerations, including the detailed arguments submitted on behalf of the Applicants and of Tesco / St James Investments in respect of the interpretation of retail policy considerations. Whilst the scheme has some accepted negative environmental impacts ' particularly associated with the loss of trees within the part of the site to be occupied by the extension ' the amendments that are now incorporated into the scheme secure valuable improvements to the relationship of the existing store with its sensitive and historically important surroundings, and to its accessibility for pedestrians and cyclists.

Your Officers conclude that this proposed extension to an existing retail store in an edge-of-centre location is not prejudicial to the Council's retail and other policies for this part of Bath, that the parking facilities are adequate and that the proposed extension can be supported, subject to appropriate Conditions and a S106 Agreement as detailed above.

#### **RECOMMENDATION**

(A): Authorise the Planning and Environmental Law Manager to secure an agreement under S106 of the Town and Country Planning Act 1990 to secure a strategic transport contribution of £302,721.00.

(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 additional drawings at a scale of not less than 1:50 showing details (including sections) of the external walls and fenestration of the proposed extension and of the alterations to the elevations of the existing building 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 surrounding part of the Conservation Area and World Heritage Site.

3 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 surrounding part of the Conservation Area and World Heritage Site.

4 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.

5 Notwithstanding the information submitted as part of the application, no development shall be commenced until a detailed 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.

6 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.

7 Notwithstanding the information submitted with the application, no development shall take place until an Arboricultural Method Statement with a 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.

8 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.

9 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.

10 No development shall commence until the applicant, or their agents or successors in title, has presented the results of the archaeological field evaluation to the Local Planning Authority, and has secured the implementation of a subsequent programme of archaeological work in accordance with a written scheme of investigation which has first been agreed and approved in writing by the Local Planning Authority. The agreed programme of archaeological work shall be carried out by a competent person and completed in accordance with the approved written scheme of investigation.

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

11 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.

12 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,
  - ecological systems,
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposed 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

13 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

14 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

15 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 12, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 13, 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 14.

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.

16 A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation 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

17 The development hereby permitted shall not be constructed other than in accordance with a Construction Management Plan, including management of development traffic, deliveries, parking of associated contractors vehicles and travel of contractors personnel to and from the site, That shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and operation.

18 The development hereby permitted shall not be occupied or used until a Servicing Management Plan, including management of delivery vehicles visiting the store has been submitted to and approved in writing by the Local Planning Authority. The store shall thereafter not be serviced other than in accordance with the approved Servicing Management Plan unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of highway safety and operation and of the amenities of nearby residents.

19 The development hereby permitted shall not be occupied until a Staff Travel Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the site shall not be occupied other than in accordance with the provisions of the approved Travel Plan.

Reason: In the interests of sustainable travel and the operation of the public highway.

20 The development hereby permitted shall not be occupied until improved access has been afforded between the site and the existing riverside cycle path, and safe, secure cycle parking facilities are available for use by staff and customers, in order to encourage increased travel to and from the site by sustainable means. Notwithstanding the information shown on the plans submitted as part of the application, no work shall commence on site until further detailed plans of the new cycle and pedestrian facilities, to include appropriate measures to provide safety for pedestrians and cyclists using the riverside cycle path, have been submitted to and approved in writing by the local planning authority.

Reason: In the interests of sustainable travel and the operation of the public highway, to ensure the safety of cyclists and pedestrians having regard to the proximity of the development to the river, and to ensure that the details of the proposed works are satisfactory.

21 The proposed extension shall not be brought into use until the car parking facilities for the store have been provided in accordance with the approved plans.

Reason: In order to ensure that adequate parking provision is retained in connection with the proposed extended store.

22 There shall be no more than 4,020 sq. metres of net sales area within the extended food store at any time and no more than 20% of the total net sales area shall be used for the sale of non-food goods.

Reason: To safeguard the vitality and viability of existing retail centres in accordance with Policy S4 of the Bath and North East Somerset Local Plan.

23 Further Conditions as may be required by the Environment Agency in connection with Flood Protection matters.

24 The Plans List and Reasons for Granting Permission will be finalised at the time of issue of the decision notice.

**Informatives:**

1. No materials arising from the demolition of any existing structure(s), the construction of the

new extension, nor any material from incidental works shall be burnt on the site.

2. The developer shall comply with the BRE Code of Practice to control dust from construction

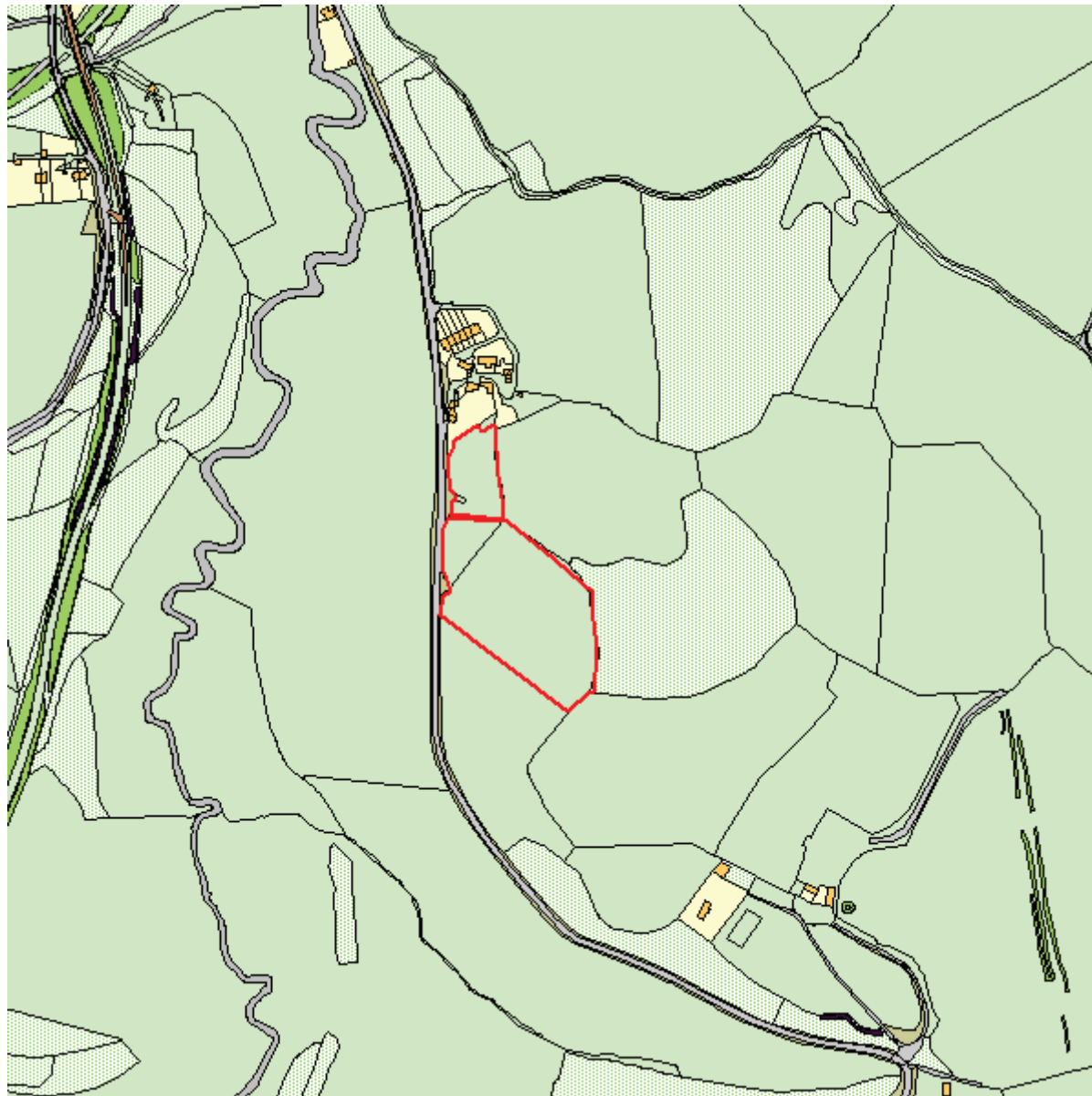
and demolition activities (ISBN No. 1860816126). The requirements of the Code shall apply to all work on the site, access roads and adjacent roads.

3. The requirements of the Council's Code of Practice to Control noise from construction sites

shall be fully complied with during demolition and construction of the new extension. (copy attached).



**Item No:** 03  
**Application No:** 11/04422/FUL  
**Site Location:** Clearbrook Farm, Midford Hill, Hinton Charterhouse, Bath



**Ward:** Bathavon South      **Parish:** Hinton Charterhouse      **LB Grade:** N/A  
**Ward Members:** Councillor Neil Butters  
**Application Type:** Full Application  
**Proposal:** Use of agricultural land as a natural burial ground (revised resubmission).  
**Constraints:** Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Greenbelt,  
**Applicant:** Native Woodland Ltd.  
**Expiry Date:** 23rd January 2012



## **REPORT**

### **REASON FOR REPORTING APPLICATION TO COMMITTEE**

Two Parish Councils object to the application and another supports the application. Under the Council's Scheme of Delegation the Chair of the Development Control Committee has determined that the application should be reported to Committee.

### **DESCRIPTION OF SITE AND APPLICATION**

Application for change of use of agricultural land to use as a natural burial ground with associated parking. The parking area would be approximately 800m<sup>2</sup> in size, comprising a track constructed of stone chippings and grass reinforcement mesh to accommodate up to 35 cars. The site could accommodate up to 1,500 single burial plots. No limit on the number of burials per year is proposed although the applicant notes that at another site, albeit in a less populated area, there have been about 30 burials per year.

The application site is located to the east of the B3110 (Midford Road) between Midford and Hinton Charterhouse, immediately to the south of Midford and close to a group of properties comprising the former Clearbrook Farm buildings (which have been converted to residential use) and 'The Maltings' a group of houses to the north of the farm. The application site extends to 2.2 hectares comprising two fields separated by a hedge and bounded by a mix of hedge/fence lines and woodland. The site is accessed via an existing turn-off from Midford Road which leads to the first field which would accommodate the proposed parking and which is set at/slightly below the road. The land rises to the east, south and north with part of the second field to be used as the natural burial ground. This area is currently laid to grass and occasionally grazed. The southern boundary of the burial ground is defined by the alignment of a (underground) Wessex Water mains water pipe which runs roughly east-west across the site.

The application site is within the Green Belt and Cotswold Area of Outstanding Natural Beauty. It borders a wooded area to the north/east which is designated a Site of Nature Conservation Interest (SNCI) with a larger SNCI to the south/west.

### **PLANNING HISTORY**

10/04461/FUL - REFUSE - 16 February 2011 - Use of agricultural land as a natural burial ground, provision of informal parking and erection of a lychgate.

There is a concurrent application for Advertisement Consent for two un-illuminated panels - 11/04423/AR.

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

HIGHWAYS DEVELOPMENT TEAM: no in-principle objection to the proposed development subject to conditions. While the site sits outside of any development boundary and is not wholly convenient for travel by alternative modes (in accordance with policy guidance), it is recognised that a facility of this sort is inevitably going to be situated in such a location. Satisfied that the access meets appropriate criteria (subject to continued maintenance) and that the level of traffic, on a daily basis, is likely to be relatively low. Recommend that funerals are conditioned out of peak hours to avoid potential coincidence with rush-hour traffic. The level of traffic does not trigger SPD strategic contributions. The level of parking provided is now reduced from that previously

proposed, and the parking area is much less obtrusive. Requires detail of the material used for both the parking areas and the access 'track' to ensure they are of an appropriate construction in order that the areas are usable in poor weather, and that soil etc. is not dragged onto the public highway.

LANDSCAPE TEAM: the revised proposals do not reduce to an acceptable degree the impact of the proposals on the landscape, in particular the impact on the distinct character of this part of the Cotswold Area of Outstanding Natural Beauty from that previously identified (in relation to 11/04461/FUL). This is a steeply sloping and highly visible site (from the road and further afield). The proposals will inevitably lead to a change in the layout and nature of the lay-by, the existing agricultural access and the fields themselves. There is also the ongoing risk that additional and more traditional graveyard elements and management techniques will begin to appear, further eroding the character of the landscape in this area. No objection to the principle of a 'natural burial ground' but for the reasons set out do not consider this to be an appropriate location.

ENVIRONMENTAL HEALTH DEPARTMENT: no observations.

CONTAMINATED LAND TEAM: no comments received.

ENVIRONMENT AGENCY: advise that there would be no material exacerbation of flood risk as a consequence of this development and therefore have no objection to the development subject to conditions regarding siting of burials relative to water courses.

ARCHAEOLOGIST: no objection but suggest an informative to the effect that the Council should be notified if any archaeological deposits are found.

WESSEX WATER: no objection however note that access may be required in the event of a pipe burst. Concerns over the impact that such an event may have upon the burial ground. If permission is to be granted it may be prudent to consider whether formal arrangements are needed to deal with such an event.

HINTON CHARTERHOUSE PARISH COUNCIL: object on highway safety grounds.

SOUTHSTOKE PARISH COUNCIL: object on the grounds of inappropriate development and visual impact in the Green Belt, impact on the AONB and visual intrusion, and highway safety.

WELLOW PARISH COUNCIL: support the application.

38 letters of objection have been received raising the following issues (and number of times issues raised):

- Traffic access/road safety and volume (raised by 32 respondents)
- Impact on AONB and its special landscape character (25)
- Inappropriate development in the Green Belt (20)
- Inappropriate location as visible site/not tranquil (17)
- Alternative sites are available (14)
- Potential future development (7)
- Impact on attractiveness of the area (6)
- Operational and ongoing management of the site (4)

- Impact on property value (3)
- Parking area (2)
- Adverse visual impact (unspecified) (2)
- Site too steep necessitating use of bier/4x4 (2)
- Number of burials/visitors/cars underestimated (2)
- Impact on village (1)
- Commercial operation inappropriate in the Green Belt (1)
- Business case not made (1)
- Soil conditions not appropriate (1)

14 letters of support have been received on the following grounds:

- No detrimental impact on environment (6)
- Less obtrusive than previous application (2)
- No visual impact (2)
- Alternative site not suitable (2)
- Will meet local need (2)
- Suitable location (1)
- Traffic issues addressed (1)
- Unspecified (5)

## **POLICIES/LEGISLATION**

Bath and North East Somerset Local Plan (including minerals and waste policies) 2007 - D.4, ET.8, CF.2, CF.9, GB.1, GB.2, NE.1, NE.2, NE.12, T.24, T.26

Bath and North East Somerset - Rural Landscapes of Bath and North East Somerset: A Landscape Character Assessment (April 2003)

Submission Core Strategy - CP6, CP8

PPS1, PPS2, PPS7

Draft National Planning Policy Framework (July 2011)

## **OFFICER ASSESSMENT**

**POLICY CONTEXT:** The proposed development has been assessed in terms of development plan policy and other material considerations, in particular those relating to Green Belt and Areas of Outstanding Natural Beauty. The development plan is the Bath and North East Somerset Local Plan (including minerals and waste policies) 2007 and the saved policies from the Somerset Joint Replacement Structure Plan 2002. The Local Plan will in due course be replaced by documents that make up the Local Development Framework including the Core Strategy and the Draft Core Strategy (Publication Version) December 2010 is a material planning consideration in the determination of this application. As the document is still a draft, and currently the subject of an Examination in Public, only limited weight can be given to the strategy and policies contained within it. Likewise, the Draft National Planning Policy Framework, issued by the Government for consultation in July 2011, is a material consideration however only limited weight can be given to it in the determination of this application.

**BACKGROUND:** This application is a resubmission following refusal of planning permission for the same use on this site although the current application extends over a smaller area of land. The parking area has also been reduced in size and uses grass reinforcement mesh on a stone chipping base instead of crushed stone. A previously proposed Lychgate has been omitted from the current application. There is a concurrent

application for advertisement consent for the display of un-illuminated sign boards at the entrance to the burial ground. The previous application was refused on the grounds of inappropriate development in the Green Belt, detrimental impact on the AONB and over-provision of car parking contrary to sustainable transport objectives.

The current application raises three principal issues: development in the Green Belt; the impact of the proposals on the special landscape character of the AONB; and highway safety. Other considerations include the impact of the proposals on the local environment and the amenity of local residential properties.

**GREEN BELT:** The application site is located within the Green Belt where there is a general presumption against 'inappropriate development', and such development should not be approved except in very special circumstances. The statutory definition of 'development' includes engineering and other operations and the making of any material change in the use of land. Development in the Green Belt is inappropriate unless it maintains the openness of the Green Belt and does not conflict with the purposes of including land in the Green Belt. PPG2 identifies certain types of development that are not considered inappropriate including "essential facilities for ... cemeteries, and for other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land in it." Whilst the use of land as a burial ground is not expressly identified in PPG2 as appropriate (or inappropriate) development paragraph 3.12 of PPG2 provides guidance regarding the making of a material change in the use of land and undertaking engineering operations in the Green Belt.

In this case the application site is currently open fields, with the lower field to be used for car parking and the upper field for burials. Although the applicant contends that the proposed development involves no engineering operations it is considered that works amounting to engineering operations will be required to lay out the parking area including reinforcement of an existing farm track with stone chippings and the provision of grass reinforcement mesh. The application form states that the existing track is made up of stone chippings although this was not evident on site at the time of the site visit. In addition, the use of the lower field as a car park on an unrestricted basis, albeit only when burials take place and when people revisit graves, and extending to approximately 800m<sup>2</sup> (including access road) is considered to harm the openness of the Green Belt. Although the parking area is partially screened from the road by hedging, local topography means that it will be visible. The proposed car parking area would also result in encroachment into the countryside and would conflict with this purpose of including land in the Green Belt. Accordingly the proposed car park would constitute 'inappropriate development' in the Green Belt.

The burial plots themselves will be individually marked by GPS rather than gravestones or other items although the applicant has indicated that there may be temporary memorial flowers that will be removed from the site within seven days of the burial. A site visit to another natural burial ground operated by the applicant demonstrated that the visual impact of the burials at that site was minimal and Officers are satisfied that the burial ground area in the upper field would not harm the openness of the Green Belt or conflict with the purposes of including land within the Green Belt. Notwithstanding this, the car park as proposed is considered to conflict with Green Belt Policy GB.1 of the Local Plan and PPG 2. This element of the proposal would also harm the visual amenities of the Green Belt contrary to Policy GB.2 of the Local Plan. The applicant has submitted

evidence from other sites including appeal decisions relating to Green Belt locations where it has been determined that the use of the land as a natural burial ground is not inappropriate development in the Green Belt and that the principle of a cemetery and commensurate engineering and other operations to facilitate its use would not be inappropriate development within the Green Belt. Whilst these appeals have some general relevance, the application needs to be considered on the particularities of this case. Given the location of the site and its visibility it is considered that the car parking area is inappropriate development and will conflict with the purposes of including land within the Green Belt.

PPG 2 makes clear that inappropriate development is, by definition, harmful to the Green Belt and it is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In this case, as well as proposing that the development will not harm the Green Belt or purposes for including land within it, the applicant seeks to justify the proposed development on the grounds that grazing income does not cover costs of maintaining the land whereas income from the natural burial ground will provide sufficient income to continue managing the site in an ecologically friendly way. No specific evidence is submitted to substantiate this assertion and it is considered that very special circumstances to justify a departure from policy have not been demonstrated in this case.

**AONB AND LANDSCAPE IMPACT:** The site is within Area 12: the Cam and Wellow Brook Valleys Landscape Character Area which is described in Rural Landscapes of Bath and North East Somerset - A Landscape Character Assessment April 2003. Paragraph 7.12.5 states "... The sides of the valleys are rounded and undulating through both erosion and occasional slippage due to the softer clays. Many springs issue from the valley sides.' The application site and its immediate setting is very typical of the area. Policy NE.1 of the Local Plan states that 'development which does not either conserve or enhance the character and local distinctiveness of the landscape will not be permitted'. The application site is particularly sensitive being located as it is in the Cotswolds AONB. Local Plan Policy NE.2 states that development which adversely affects the natural beauty of the landscape of the designated AONB will not be permitted. Also of relevance is PPS7 which notes (para. 21) that protected landscapes such as AONBs have the highest status of protection in relation to landscape and scenic beauty. The conservation of the natural beauty of the landscape and countryside should therefore be given great weight in development control decisions in these areas.

As noted above, the site comprises two fields currently in occasional grazing use and generally enclosed by hedgerows or woodland. The burial ground itself will occupy approximately half of the upper field. The land rises steeply from a low point near the existing field access point which is part of a tributary valley of the Wellow Brook. The site is widely visible for example from the road beside Blackmoor Wood to the west, Midford and surrounding countryside to the north-west including from South Stoke.

Whilst the applicant states that there will be no above ground evidence of the burials, supporting documents submitted with the application note that waste arising from funerals (comprising florist's Oasis blocks, acetate sheets and message cards) will be collected and cleared from the burial ground weekly suggesting that there will be temporary visual impacts. Whilst a condition could be imposed to ensure the site is appropriately managed,



enforcing against any breaches may not be practical and there are questions about the sensitivities of undertaking such action. In the circumstances, in practical terms it is likely to prove difficult to retain the natural character and appearance of this prominent rural site on a day-to-day basis. The longer term impact of the burials on the landscape character of the upper field is less certain although as noted above, from a site visit to another natural burial ground the longer term impact of the burials themselves is unlikely to be significant. The applicant has submitted a 'grave digging specification' which sets out the procedure for excavation and backfilling and this will likely be by mechanical means requiring tracked vehicles to access the site on a relatively regular basis. In terms of landscape 'restoration' associated with burials the document refers to reinstating digger tracks and stabiliser imprints as well as removing surplus soil to an excess soil tip located on site although this is not identified on the application drawings. Whilst the continued agricultural use of the site may well include vehicles crossing the site, given the steep nature of the site and nature of the operations proposed it is considered that the regular use of the site for burials will have an impact on the local landscape character. However this will generally be of a short term and temporary nature before, during and immediately after a burial and once the grave site has been restored to its former state then based on evidence from another site the long term visual impact and impact on the landscape character is not considered to be significant or permanent.

Of particular visual impact will be the proposed use of the part of the site as a parking area. Whilst the applicant has sought to reduce the impact of this with the use of grass reinforcing mesh rather than stone chippings, the mesh will be overlain on stone chippings and the parking area will be clearly visible in the field in which it is to be located when burials take place. This is not considered to be compatible with the objectives of maintaining and managing the distinct character of the landscape as part of the Cotswolds AONB. The car park is to be located on gently sloping land however it is likely to require physical works to make it more level and usable which would have a further impact on the appearance of the site. The area proposed for the car parking is visible at the entrance to the site and through gaps in the hedgerow and it is considered that its development as a car park would adversely affect the natural beauty of the landscape. The applicant proposes that the land in this field not used for parking will be planted as an orchard which they indicate was its former use based on historic maps. Although there is no current evidence of an orchard in this field, the planting of trees would not in itself require planning permission.

The site is located in the open countryside, away from the existing cluster of buildings at Clearbrook Farm/The Maltings. Part of the character of the landscape are the views of the open hillside. The Council's Senior Landscape Architect notes that the site is highly visible and away from existing settlements, and that the physical works proposed and the associated traffic movements and car parking would be detrimental to the character and appearance of the landscape contrary to Policies NE.1, NE.2 and the advice contained within PPS 7. Accordingly they do not support the application on the grounds that it will impact negatively on the distinct character of the landscape. This advice has been taken into account in determining the application however having visited another natural burial ground operated by the applicant it is considered that the burials themselves would not lead to permanent harm to the landscape character of the site. Accordingly this is not considered to be a substantive basis on which to refuse planning permission.

**HIGHWAY SAFETY:** The application acknowledges that the site is located in the countryside and that although there are bus stops relatively close by the majority of mourners and visitors will arrive by car. The Highway Development Team have considered the highway safety aspects of the proposals and advise that the access design and visibility splays are suitable however some maintenance of overgrown vegetation would be required. Given the wide access to the site it is considered that the maintenance of the hedge will not result in unacceptable harm to the character of the site.

**OTHER CONSIDERATIONS:** Local Plan Policy CF.9 on land allocations for cemeteries does not stipulate that any developments should be within existing settlements. The principle of locating a cemetery outside of a settlement could therefore in principle be acceptable however in this case issues relating to the site's location in the Green Belt and AONB are significant considerations in determining the application.

**ECOLOGY:** the applicant has submitted an ecological assessment to accompany the application which concludes that there would be no adverse impact on the botanical quality of the site and that proposed development will have no ecological impact on adjacent habitats and designated sites. The development adjoins an SNCI however the proposed development will not impact directly on it and is considered acceptable on ecological grounds.

**DRAINAGE:** Wessex Water have raised concerns regarding the proposals because a water main runs along the eastern boundary of the application site. In particular they are concerned of the consequences of a burst water main and about the sensitivity of gaining access to the site for repair. The burial ground is set 8m from the pipe and it is considered that appropriate measures have been taken in respect of safeguarding the route of the main.

The Environment Agency has not objected to the application but has suggested conditions in the event that the application were to be permitted.

Objectors to the application have raised a number of issues (development in the Green Belt, impact on the AONB and highway safety) which have been addressed above. Objection has also been raised about the suitability of the site for the proposed use given its location adjacent to a busy road, the availability of other sites in the vicinity, and the potential for future development associated with the use. It is considered that the suitability of the site for use as a burial ground and the availability of other sites is a business decision for the applicant and not, of themselves, a reason for refusing planning permission. In terms of the potential for associated development in the future, should planning permission be granted then any such proposals would need to be considered on their own merits and are not considered valid reasons for refusing planning permission of this current application. Loss of property value has been cited as an objection however this is not a planning reason and cannot be afforded weight in the determination of this application.

On balance it is considered that the proposal represents inappropriate development in the Green Belt and that very special circumstances do not exist to justify a departure from well established policy. In addition the proposals will have a detrimental impact on the special landscape character of the AONB.

## **RECOMMENDATION**



REFUSE

**REASON(S) FOR REFUSAL**

1 The proposals represent inappropriate development harmful to the Green Belt, resulting in a loss of openness and in harm to the visual amenity of the Green Belt. No very special circumstances have been demonstrated that outweigh the identified harm. The proposed car park and associated movements would fail to maintain the openness of the Green Belt and would conflict with a key purpose of including land in the Green Belt which is to safeguard the countryside from encroachment. The proposal is therefore contrary to policies Policy GB.1 and GB.2 of the Bath and North East Somerset Local Plan (including minerals and waste policies) 2007 and the advice contained within PPG 2.

2 The proposed car park and associated movements would have a detrimental impact on the special landscape character of the area and result in harm the open rural appearance of the Cotswold AONB and the countryside contrary to Policies NE.1 and NE.2 of the Bath and North East Somerset Local Plan (including minerals and waste policies) 2007 and the advice contained within PPS 7.

**PLANS LIST:** 01/03, 01/06, 02/01, 02/02, 02/03, 02/04, 02/05

<b>Item No:</b>	04
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**Application No:** 10/04399/FUL  
**Site Location:** Folly Farm, Folly Lane, Stowey, Bristol



**Ward:** Chew Valley South      **Parish:** Stowey Sutton      **LB Grade:** N/A  
**Ward Members:** Councillor V L Pritchard  
**Application Type:** Full Application  
**Proposal:** Change of use from Class C2 to Mixed Use combining Classes C2/ D2 for residential education, wedding ceremonies and receptions with ancillary cafe, teaching and workshop facilities (Retrospective)  
**Constraints:** Agric Land Class 1,2,3a, Agric Land Class 1,2,3a, Coal fields, Forest of Avon, Greenbelt, Sites of Nature Conservation Imp (SN), Water Source Areas,  
**Applicant:** Avon Wildlife Trust  
**Expiry Date:** 16th February 2011  
**Case Officer:** Andy Pegler

## **REPORT**

**REASON FOR REPORTING APPLICATION TO COMMITTEE:** The application has been brought to Committee having regard to the sensitive planning history of the site, and at the request of the Development Manager.

**DESCRIPTION OF SITE AND APPLICATION:** Folly Farm is remotely situated some 1.5km to the north of Stowey. It is accessed from the A368 via Folly Lane and a track which continues beyond. The authorised use of the farm, operated by Avon Wildlife Trust, is as a residential education centre, with ancillary facilities. The site is within the Green Belt; and is designated as a Local Nature Reserve and (in part) a Site of Special Scientific Interest.

The nearest residential neighbours are situated at the western end of Folly Lane, and at Lyde's Farm to the south-west.

The application is retrospective, and attempts to regularise the currently unauthorised use of the complex as a wedding venue by seeking planning permission for a mixed use, combining Use Classes C2 and D2. The application refers to weekend wedding facilities, with guests arriving on a Friday and departing on the Sunday, although the enterprise currently offers both weekend and weekday facilities. Wedding events are currently restricted to a total of 35 per year. Hours of operation are proposed as 9.00am-2.00am, Monday to Friday and 9.00am-23.00pm, Sundays and Bank Holidays. The application includes a planning statement and transport and noise assessments, amended and updated in response to issues which have been raised, and an ecological assessment.

**RELEVANT PLANNING HISTORY:** Planning permission was granted, in 2006, for the use of the farm complex as a residential education centre with ancillary café and teaching and workshop facilities (05/03279/FUL).

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

**HIGHWAY DEVELOPMENT OFFICER:** Is satisfied that the visibility at the junction of Folly Lane with the A368 is of a satisfactory standard; and that the level of traffic generated by the proposed use would not be significantly greater than that generated by the current permitted use. A passing bay has been completed at the eastern end of Folly Lane, in accordance with the requirements of a Section 106 Agreement relating to a previous planning application. While passing opportunities remain limited, the occasions when conflict might occur are unlikely to be significant. Conditions are suggested in the event of planning permission being granted.

**ECOLOGICAL OFFICER:** Is satisfied that, with appropriate mitigation measures, there would be no harm to ecological interests.

**ENVIRONMENTAL HEALTH OFFICER:** Is satisfied that the (updated) acoustic report correctly asserts that noise from activities on the site are likely to be inaudible at the nearest noise sensitive premises. Suggests that an appropriate noise management plan could be secured by condition.

**OTHER REPRESENTATIONS / THIRD PARTIES:**

Letters of objection have been received from, or on behalf of, the 3 neighbouring occupiers. They express the following concerns:

- the visibility and stopping distances at the junction of Folly Lane and the A368 are grossly inadequate (attention is drawn to highway concerns in relation to previous applications);
- traffic generated by Folly Farm exceeds the figures presented with the previous application, in 2006;
- no account has been taken of traffic generated by related services and staff, nor the potential for resident guests to travel to and from the site during the course of their stay;
- uncontrolled activity could further increase in the future;
- previous applications relating to premises on Folly Lane have previously been refused, and dismissed on appeal;
- disturbance by late night / early morning music;
- functions throughout a significant part of the year;
- noise disturbance by traffic late at night / early morning; and
- regular conflict involving 2 way traffic along the lane.

10 letters of support have been received from service providers to, and users of, Folly Farm as a wedding venue. They describe the benefits to local businesses/employers, and the attractive nature of the facility.

## **POLICIES/LEGISLATION**

### **POLICY CONTEXT:**

NATIONAL POLICY: National planning advice is provided in the following guidance notes:

- PPS 1: Delivering Sustainable Development;
- PPS 2: Green Belts;
- PPS 4: Planning for Sustainable Economic Growth;
- PPS 7: Sustainable Development in Rural Areas; and
- PPG 24: Planning and Noise.

The Government's draft National Planning Policy Framework is also a material consideration; at this stage, only limited weight may be attached to it.

DEVELOPMENT PLAN: Bath and North East Somerset Local Plan (including Minerals and Waste Policies) 2007. Relevant policies:

- GB.1: Control of development in the Green Belt;
- GB.2: Visual amenities of the Green Belt;
- NE.8: Nationally important wildlife sites;
- NE.9: Locally important wildlife sites;
- NE.11: Locally important species and habitats;
- ET.9: Re-use of rural buildings;
- ES.12: Noise and vibration;
- D.2: General design and public realm considerations; and
- T.24: General development control and access policy.

The Council's Submission Core Strategy (May 2011) is out at inspection stage and therefore will be given only limited weight for development control purposes.

## **OFFICER ASSESSMENT**

**PRINCIPLE OF PROPOSED USE:** The existing authorised use of the site was approved following referral to the Secretary of State, and in the face of Green Belt and Highway concerns, on the basis that the (then) proposal entailed a very worthwhile residential educational establishment, and that very special circumstances applied. The scheme was portrayed as being of low intensity, with tightly controlled and limited vehicle activity; and consistent with this tranquil environment. Activity to, from and at the site is not however restricted by condition.

Representations have expressed concern that the impact of the current (and proposed) uses far exceed that which was initially envisaged. Whilst that may be so, the approved use is unfettered in this regard, and the current proposal falls to be considered on its individual merits. Any assertion however that the use of Folly Farm for wedding functions is comparable with its use for conferences is considered unreasonable. The likely nature of activity generated by a conference associated with this education centre is likely to be significantly different to that generated by a wedding function.

**GREEN BELT:** The proposed additional use would, for the most part, utilise existing buildings and car park areas, and the applicant is prepared to accept a condition relating to marquees and temporary structures. Accordingly, the proposal - resulting in an extended mixed use - would not represent inappropriate development since it would maintain the openness of the Green Belt and would not conflict with the purposes of including land in it.

**HIGHWAYS:** The junction of Folly Lane with the A368 has been re-assessed against the current criteria and has been found to be of a satisfactory standard. The submitted Transport Statement and Update Report assess the traffic generated by the proposed use, including surveys of wedding events which took place during April and May of 2011. Whilst the figures appear not to include service at staff vehicles, the level of traffic generated by the proposed use and the likely incidence of conflict resulting from 2-way traffic within the lane would not be of such significance to warrant refusal on the grounds of highway safety.

Regard has been had to a previous decision of a Planning Inspector in dismissing an appeal against the Council's refusal of planning permission in respect of an application for retail sales at a nursery also served by Folly Lane - the Inspector determined that the lane was unsuitable for the likely level of traffic that would result. The current proposal however would generate traffic outside of peak hours and, furthermore, the movement would tend to be 'tidal'.

**RESIDENTIAL AMENITY:** The applicants have sought to demonstrate that the proposal will have little or no impact upon the amenities of neighbours, who are some distance away from the farm complex. Measures have been installed within the main reception building in order to reduce the potential for disturbance from amplified music, etc. Further measures have been implemented in order to reduce the noise generated by vehicles moving over a cattle grid within the access drive. Further acoustic assessments have been undertaken which adequately demonstrate that it would be unlikely that the proposal would cause harm to the amenities of neighbouring residential properties. A noise management plan, to include the above measures, should be secured by condition.

The proposed use will generate traffic along Folly Lane, which runs adjacent to residential properties, at a level and time of day which would not reasonably be expected as a consequence of the currently approved use of Folly Farm. The submitted evidence suggests however that vehicle activity in the area - where residential properties are situated close to the main road - will not be significantly increased to the detriment of residential amenity.

**WILDLIFE:** An ecological assessment including proposed mitigation measures has been submitted in response to initial concerns regarding a lack of survey data. Such mitigation measures would be the subject of appropriate conditions if this application was found to be acceptable in principle.

**SUSTAINABILITY:** The Folly Farm Centre has been established employing low impact building techniques. No further operational development is proposed in association with the current proposal, which might otherwise raise issues relating to sustainability. Whilst the applicant has sought to implement sustainable transport measures in relation to the use as an education centre, the proposed additional use is likely to be largely reliant on private transport.

**OTHER MATTERS:** It is clear from the representations received that the (unauthorised) use of the centre is welcomed by various service providers. Local employment benefits weigh in favour of the proposal, as do the benefits resulting from the contribution towards the conservation work of the Avon Wildlife Trust.

**CONCLUSION:**

The proposed, mixed, use involves no operational development and utilises existing buildings and areas of car park. With appropriate conditions, the proposal will maintain the openness of the Green Belt and would not therefore represent inappropriate development. The suggested benefits to the educational / conservation enterprise and the local economy weigh in favour of the development.

Notwithstanding the concerns of neighbours, the proposal raises no sustainable objections on grounds of highway safety. The junction of Folly Lane is of a satisfactory standard; and the additional traffic generated by the proposed use would be likely to occur outside of peak hours.

Whilst the proposed wedding facility would generate vehicle activity during the late night / early morning period, the impact upon the amenities of neighbouring residential properties would not be significant, having particular regard to the proximity of the properties to the main road.

Noise emanating from the proposed use would, with appropriate conditions and mitigation measures, cause no significant harm to residential amenities.



## **RECOMMENDATION**

PERMIT with condition(s)

## **CONDITIONS**

1 The residential accommodation and café hereby permitted shall only be occupied or used ancillary to and in connection with the use of the site authorised by this planning permission and shall not be occupied or used independently or separately for any other purposes.

Reason: To prevent an over-intensive use of the site and to restrict additional traffic generation.

2 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, as amended, (or any order revoking and re-enacting that Order with or without modification) the premises shall be used only for the purposes specified in the application and for no other purpose.

Reason: The approved use only has been found to be acceptable in this location and other uses may require further detailed consideration by the Local Planning Authority.

3 The development hereby approved shall operate in accordance with a Noise Management Plan which has first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the amenities of the surrounding area.

4 The use hereby approved shall not operate outside the hours of 0900 to 2000 Monday to Saturday and 0900 to 2300 Sundays and Bank Holidays.

Reason: To safeguard the amenities of nearby occupiers.

5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no marquees or other free standing buildings shall be erected within the curtilage of Folly Farm, unless a further planning permission has been granted by the Local Planning Authority.

Reason: To safeguard the openness of the Green Belt

6 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:** This decision relates to the following drawings: 634/PL/101A date stamped 19 October 2010; and 634/BR.2D, 634/BR.3C and AWTF 001 date stamped 17 November 2010.

## REASONS FOR APPROVAL

1. The proposal entails a very worthwhile residential educational establishment which would bring revenue, employment, conservation and wildlife benefit to the district;
2. The proposal would not have a significant detrimental effect on interests of highway safety; and
3. The proposal, subject to appropriate conditions, would have no significant impact upon the existing amenities of neighbouring residential properties

The decision to grant approval has taken account of the Development Plan and any approved Supplementary Planning Documents. The proposal is in accordance with Policies GB.1, GB.2, NE.8, NE.9, NE.11, ET.9, ES.12, D.2 and T.24 of the Bath & North East Somerset Local Plan (including Minerals and Waste Policies) 2007.



## **REPORT**

### **REASON FOR REPORTING APPLICATION TO COMMITTEE:**

The application is brought to Committee at the request of Cllr. Brett, having regard to the history of the site. The application has been referred to the Chair, who has advised that it should be determined by the Development Control Committee.

### **DESCRIPTION OF THE SITE:**

The site comprises a former private allotment accessed via Southbourne Gardens off of Claremont Road, Bath. The site has been cleared in readiness for residential development for which conditional planning permission was granted on appeal in March 2010. The site is within both the World Heritage Site and Conservation Area.

### **THE APPLICATION:**

The application proposes a variation of Condition 2 of the current planning permission for residential development comprising 10no dwellings (as subsequently varied) as far as it relates to the details of the arrangement of the junction of Southbourne Gardens with Claremont Road. The application is a consequence of issues arising from ownership of an adjacent boundary wall, and a desire now to retain a projecting nib therein which was previously to have been removed. The proposed revised arrangement reduces the width of the footway - at the narrowest point at the northern corner of the Rectory garden - to 0.9 m, and reduces the width of the carriageway at that point by 0.4 m. The submitted drawings further indicate measures to be implemented on Claremont Road, comprising white-lined buildouts and restricted on-street parking.

### **RELEVANT PLANNING HISTORY:**

07/01598/FUL: Conditional planning permission granted on appeal 29th. March 2010.

10/03408/COND and 10/03604/COND: Discharge of conditions attached to above planning permission. Granted 20th. December 2010.

10/03251/VAR: Variation of condition relating to the design of house type A. Granted 31st. December 2010.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

**HIGHWAYS:** Attention is drawn to the findings of the Inspector in granting planning permission on appeal. Notwithstanding highway objections at the time, the Inspector determined (as had her predecessor) that the junction improvements under consideration were adequate to serve the proposed residential development. On balance, the proposed reduction in the width of the footpaths, from 1.0 m and 1.2 m to 0.9 m; and the proposed reduction in the width of the carriageway, from 4.8 m to 4.7 m, remain compliant with the Inspector's comments and do not therefore give cause for objection. The introduction of restrictive measures on Claremont Road - the subject of a Traffic Regulation Order - are necessary to secure adequate visibility.

**REPRESENTATIONS:** Letters of objection have been received on behalf of the Bath and Wells Diocesan Board of Finance (owners of the adjacent Rectory) and the Incumbent; and from the Claremont Residents Association. They raise the following concerns:

- the description of the application is ambiguous and misleading;
- the dates of the public notice and site notice do not correspond;
- there would be insufficient space for cars (of larger size) to pass at the junction;

- there is an increased risk of vehicles mounting the footway;
- increased risk to pedestrians resulting from reduced footways; and
- visibility obscured by projecting nib of boundary wall.

A further 17 individual letters of objection have been received, raising the following additional concerns:

- there are frequent and numerous visitors to the Rectory (situated at the junction);
- the site should be returned to allotments;
- the off-site parking restriction measures shown are inconsistent with the measures approved;
- the previously approved scheme should be considered as the absolute minimum;
- vehicle 'stacking' will result on Southbourne Gardens and Claremont Road;
- cars are being given priority over pedestrians;
- disputed ownership of land at the entrance to Beaufort Villas;
- ownership of parts of the site remains uncertain; and
- the continued concerns of the Council's highway officer.

It is suggested that Members should undertake a site visit; and that consideration should be given to a shared raised platform and a wider footway, on the north side only.

## **POLICIES/LEGISLATION**

### **POLICY CONTEXT:**

JOINT REPLACEMENT STRUCTURE PLAN 2002 - saved policies:

- 1 : Sustainable Development
- 2 : Locational Strategy
- 6 : Bath
- 58 : Transport

### **ADOPTED LOCAL PLAN**

Bath & North East Somerset Local Plan (including Minerals and Waste policies) 2007:

- NE.11: Species and Habitats
- HG.4: Housing Development
- D.2: General Design and public realm considerations
- D.4: Townscape considerations
- T.24: General Development control and access policy
- T.26: On-site parking and servicing provision
- BH.1: World Heritage Site
- BH.6: Conservation Area.

Bath and North East Somerset Submission Core Strategy (May 2011) is currently subject to Examination. Therefore it can only be given limited weight for development management purposes.

### **NATIONAL POLICY:**

PPS1: Delivering Sustainable Development  
PPS 3: Housing  
PPG13: Transport

DRAFT NATIONAL PLANNING POLICY FRAMEWORK (undergoing a consultation exercise and should only therefore be afforded limited weight)

### **OFFICER ASSESSMENT**

**HIGHWAY SAFETY:** The primary issue is the effect of the proposal upon the interests of highway safety and, in this regard, the decision of the Planning Inspector (and that of a previous Inspector) in granting the recent planning permission is of particular relevance.

The Inspector(s) determined that a carriageway width of 4.1 m was sufficient for two cars to pass; and that the proposal(s) - including traffic regulation measures on Claremont Road - represented a significant improvement on the existing situation, notwithstanding the additional traffic generated by the related residential development. The Inspector considered, in this case, that traffic volumes would remain low, speeds would be likely to remain low, and the likelihood of people passing each other, including with pushchairs, at the same point as vehicular traffic would be limited. A footway of 0.9 m width would, the Inspector accepted, strike an acceptable balance between providing a pedestrian refuge while maintaining an adequate running surface for vehicles.

It remains necessary for parking restrictions on Claremont Road to be imposed, and the submitted drawings indicate an arrangement identical to that previously found to be acceptable. Members are advised that recently implemented measures - the subject of a Traffic Regulation Order (TRO) - do not accord with the scheme recommended by the Inspector. It will be necessary therefore for an alternative TRO to be made, and implemented prior to development. The TRO measures will assist on those likely infrequent occasions when two larger vehicles seek to pass at the junction, and will enable acceptable visibility to be achieved.

**CONSERVATION AREA:** The revised proposals will continue to preserve the character and appearance of this part of the Conservation Area.

**SECTION 106 UNILATERAL UNDERTAKING:** The planning permission which this application seeks to vary is subject to a Unilateral Undertaking relating to the TRO; the dedication of land at Deadmill Lane for allotment use; and a financial contribution to works at Fairfield Park Allotments. It will therefore be necessary to seek a Deed of Variation as a consequence of the current application.

### **OTHER MATTERS:**

**Description:** The description of the proposal is correct in that it relates to a variation of a condition which has previously been varied.

**Public/Site Notices:** It is not necessary for the dates (for representations) in the public notice and site notice to correspond. Full account has been taken of all representations received within the relevant periods.



**Ownership:** The area of land adjacent to the Rectory (and included within the 'red line') has been confirmed as public highway. The Council, as the Highway Authority, have been given appropriate notice of the application. Ownership is not a material planning consideration.

**Alternatives:** With regard to alternative arrangements suggested by third parties, the current application falls to be considered on its individual merits.

**CONCLUSION:**

The proposed revised arrangement continues to meet the fundamental objectives established by the Planning Inspector in granting planning permission for the residential development of this former allotment site. The reductions in footway and carriageway widths over a limited distance would, with appropriate TRO measures, adequately provide for the interests of highway safety.

**RECOMMENDATION:**

(A) Authorise the Planning and Environmental Law Manager to secure a Deed of Variation under Section 106 of the Town and Country Planning Act 1990 to cover:

- i) the revised access, which is all on public highway;
- ii) a record that land at Deadmill Lane has transferred to the Council; and
- iii) a record that it has been decided by the Council that they will take the commuted sum as opposed to having the works carried out on the allotment land at Fairfield Park.

PERMIT with condition(s)

**CONDITIONS**

- 1 The development hereby permitted shall commence by the 1st. April 2013.

Reason: In accordance with Condition 1 attached to planning permission 07/01598/FUL; and as required by Section 91 of the Town and Country Planning Act 1990.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans unless otherwise altered by plans required to comply with the other conditions attached to this permission: Site Location Plan R.0136\_06-1, drawings no. 771/1C and 771/100 date stamped 16 July 2010, 771/2A date stamped 11 August 2010 and 771/5D, date stamped 2 September 2010 (clarified by e.mail dated 6 October 2010); and to details submitted by e.mails dated 5 October 2010, 7 December 2010 and 22 December 2010, 771/3, 1635/102 Rev G, R.0136-06-C, and 771/4A.

- 3 The development shall be carried out in accordance with the submitted details of materials and finishes approved under 10/03408/COND dated 20.12.2010.

- 4 The development shall be carried out in accordance with the submitted hard and soft landscape scheme approved under 10/03408/COND dated 20.12.2010.

- 5 All hard and soft landscape works shall be carried out in accordance with the approved details and in accordance with the programme of implementation agreed with the local planning authority. Any trees or plants indicated in 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.

6 Until the development has been completed the protective fences approved under 10/03408/COND dated 20.12.2010 shall not be removed and the protected areas shall be kept clear of any building, plant, material, debris and trenching, with the existing ground levels maintained, and there shall be no entry to those areas except for approved arboricultural or landscape works.

7 Prior to the commencement of any form of site works or clearance the local planning authority shall be given not less than two weeks notice in writing of these works to ensure that appropriate measures of landscape protection under condition 6 have been implemented in accordance with the approved plans.

8 Notwithstanding the provisions of the Town and Country Planning (General Permitted development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no lines, mains, pipes, cables or other apparatus shall be installed or laid on the site other than in accordance with the details approved under 10/03408/COND dated 20.12.2010.

9 The development shall be carried out in accordance with the method statement approved under 10/03408/COND dated 20.12.2010, detailing how works to the footway, carriageway and underground services in Southbourne Gardens / Beaufort Villas will be carried out without harm to adjacent trees and their root systems.

10 No development shall commence until the necessary measures to restrict parking at the junction of Southbourne Gardens with Claremont Road have been confirmed in writing on behalf of the local planning authority and no part of the development shall be occupied until the works have been implemented.

11 No development shall commence until the works to Southbourne Gardens, including the junction of Southbourne Gardens with Claremont Road, and the provision of a continuous footway on the southern side, have been completed in accordance with the approved drawing no 1635/102 Rev G.

12 The retaining structures relating to the access road / turning head shall be completed in accordance with the details approved under 10/03604/COND dated 20.12.2010 prior to the first occupation of any dwelling hereby approved.

13 The development hereby permitted shall not be occupied until the emergency access as shown on site layout drawing no 771/1B has been provided and a method statement of control to prevent unauthorised use of it has been submitted to and approved in writing by the local planning authority. The emergency access shall only be operated in accordance with the approved method statement details.

14 The development shall be carried out in accordance with the details of the turning head, including sectional drawings and details of screening, and the surfacing details and

gradient for the carriageway, footway, turning head, car parking areas and the pathway to the front of the houses, as approved under 10/03408/COND dated 20.12.2010. The development hereby permitted shall not be occupied until the access together with all the proposed parking and turning areas, screening and pathways have been constructed in accordance with the approved details.

15 The garages hereby approved shall be retained for the garaging of private motor vehicles associated with the dwellings hereby approved and for no other purpose.

16 The development hereby approved shall not be occupied until works for the disposal of sewage and surface water have been provided on site to serve the development in accordance with details first submitted to and approved in writing by the local planning authority.

17 No removal of trees shall take place between 1 March and 31 August unless a survey to assess any nesting bird activity on the site during this period and a scheme to protect the nesting birds has been submitted to and approved in writing by the local planning authority and no trees shall be removed between 1 March and 31 August other than in accordance with the approved nesting bird protection scheme.

18 Prior to the commencement of development a scheme of mitigation works to avoid harm to any reptiles found on the site shall be undertaken in accordance with details approved under 10/03408/COND dated 20.12.2010.

19 The development shall be carried out in accordance with the scheme for the accommodation of badgers on the site, including the establishment of an exclusion zone around the sett(s) from which all building, engineering or other operations and all vehicles and personnel working on the site shall be excluded, and proposals for site and habitat management following completion of the development, as approved under 10/03408/COND dated 20.12.2010.

20 The development shall commence in accordance with the programme of access which will be afforded to named archaeologist(s) to observe and record all ground disturbance during construction (such works to include any geological trial pits, foundations and service trenches) as approved under 10/03408/COND dated 20.12.2010.

21 The development shall be carried out in accordance with the construction management plan approved under 10/03604/COND dated 20.12.2010.

**PLANS LIST:** This decision relates to the Site Location Plan, and drawing no. 1635/102 Revision G date stamped 15th.November 2011.

#### REASONS FOR GRANTING APPROVAL

The decision to grant approval has taken account of the Development Plan, relevant emerging Local Plans and approved Supplementary Planning Guidance. This is in accordance with the Policies set out below at A.

A. Local Plan Policies T.24 and BH.6



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<b>Bath &amp; North East Somerset Council</b>		
<b>MEETING:</b>	<b>Development Control Committee</b>	<div>AGENDA ITEM NUMBER</div> <div></div>
<b>MEETING DATE:</b>	<b>15<sup>th</sup> February 2012</b>	
<b>RESPONSIBLE OFFICER:</b>	Lisa Bartlett, Development Control Manager, Planning and Transport Development (Telephone: 01225 477281)	
<b>TITLE:</b>	<b>NEW PLANNING APPEALS, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES</b>	
<b>WARD:</b>	ALL	
<b>BACKGROUND PAPERS:</b>	None	
<b>AN OPEN PUBLIC ITEM</b>		

#### APPEALS LODGED

**App. Ref:** 11/03251/FUL  
**Location:** Indaba Entry Hill Combe Down Bath  
**Proposal:** Provision of rear dormer and loft conversion including external wall modifications  
**Decision:** REFUSE  
**Decision Date:** 4 October 2011  
**Decision Level:** Delegated  
**Appeal Lodged:** 29 December 2011

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**App. Ref:** 11/03666/FUL  
**Location:** The Lodge Kelston Knoll Kelston Road Kelston Bath  
**Proposal:** Erection of a single storey side extension to provide a new kitchen space  
**Decision:** REFUSE  
**Decision Date:** 19 October 2011  
**Decision Level:** Delegated  
**Appeal Lodged:** 19 January 2012

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**App. Ref:** 11/01674/OUT  
**Location:** Churchlands Greensbrook Clutton Bristol  
**Proposal:** Erection of a two bedroom cottage  
**Decision:** REFUSE  
**Decision Date:** 5 July 2011  
**Decision Level:** Delegated  
**Appeal Lodged:** 23 January 2012

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**App. Ref:** 11/03393/FUL  
**Location:** 153 Newbridge Hill Newbridge Bath BA1 3PX  
**Proposal:** Erection of new single family dwelling on land at the rear of 153/155 Newbridge Hill  
**Decision:** REFUSE  
**Decision Date:** 24 November 2011  
**Decision Level:** Planning Committee  
**Appeal Lodged:** 23 January 2012

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**App. Ref:** 11/02602/FUL  
**Location:** South Breach Cottage Ashton Hill Corston Bath  
**Proposal:** Erection of a car shelter and equipment trailer (Retrospective).  
**Decision:** REFUSE  
**Decision Date:** 21 October 2011  
**Decision Level:** Delegated  
**Appeal Lodged:** 25 January 2012

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**App. Ref:** 11/01644/FUL  
**Location:** Site Of Colliery Tramway Radford Hill Timsbury Bath  
**Proposal:** Erection of stables.  
**Decision:** REFUSE  
**Decision Date:** 6 July 2011  
**Decision Level:** Delegated  
**Appeal Lodged:** 27 January 2012

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## APPEAL DECISIONS

**App. Ref:** 11/01925/FUL  
**Location:** Stonecroft, Keels Hill, Peasedown St John, BA2 8EW  
**Proposal:** Erection of a granny annexe following demolition of existing cattery  
**Decision:** **PERMIT**  
**Decision Date:** **16<sup>TH</sup> June 2011**  
**Decision Level:** **Delegated**  
**Appeal Decision:** **DISMISS**

### Summary:

The appellant applied for the erection of a granny annexe following the demolition of the existing cattery buildings (11/01925/FUL). This was granted, subject to conditions and one of these was for the proposed annexe to remain ancillary to Stonecroft and not to be occupied separately as it was not capable of independent occupation with adverse impact on the residential amenity of occupiers.

The Inspector noted that if the condition was lifted, the proposed area of private amenity space would be divided between the annexe and Stonecroft. He noted that this would offer neither dwelling an acceptable provision of amenity space and the resulting development would represent overdevelopment of the site. There would also be concerns about overlooking

between the properties. He concluded that the condition is necessary and reasonable by reference of the tests set out in Circular 11/95.

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**App. Ref:** 11/00491/FUL  
**Location:** The Pelican Inn, 10 South Parade, Chew Magna, BS40 8SL  
**Proposal:** Erection of a new dwelling and associated amendments to the adjoining car park layout  
**Decision:** **REFUSE**  
**Decision Date:** **21<sup>st</sup> April 2011**  
**Decision Level:** **Delegated**  
**Appeal Decision:** **ALLOW**

**Summary:**

The appellant applied for the erection of a dwelling on land to the rear of the Pelican Inn and amendments to the car park layout (11/00491/FUL). The application was refused as the site was not an infill site and therefore represented infill development, which by definition is harmful to Green Belt, the design and siting were harmful to the Chew Magna Conservation Area and inadequate information was submitted to assess the potential impact on any archaeological remains.

The Inspector considered that the site did constitute an infill site as there was development on three sides of the plot. This led him to conclude that the development did not constitute inappropriate development and as it was sited close to the centre of the village, would not be harmful to openness. He considered that the siting and design would enhance the conservation area. He considered that in the absence of firm evidence that the site was archaeologically significant, a condition would be sufficient to mitigate against potential harm to archaeology.

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