

## **DEVELOPMENT MANAGEMENT COMMITTEE**

### **Minutes of the Meeting held**

Wednesday, 21st November, 2018, 2.00 pm

**Councillors:** Sally Davis (Chair), Rob Appleyard, Paul Crossley, Matthew Davies, Eleanor Jackson, Les Kew, Bryan Organ, Will Sandry (Reserve) (in place of Caroline Roberts), Brian Simmons (Reserve) (in place of Jasper Becker) and David Veale

#### **65 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer read out the emergency evacuation procedure.

#### **66 ELECTION OF VICE CHAIRMAN (IF DESIRED)**

A Vice Chairman was not required on this occasion.

#### **67 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies for absence were received from:

Cllr Jasper Becker – substitute Cllr Brian Simmons

Cllr Caroline Roberts – substitute Cllr Will Sandry

#### **68 DECLARATIONS OF INTEREST**

There were no declarations of interest.

#### **69 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN**

There was no urgent business.

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

The Democratic Services Officer informed the meeting that there were a number of people wishing to make statements on planning applications and that they would be able to do so when these items were discussed.

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

There were no items from Councillors or Co-Opted Members.

#### **72 MINUTES OF THE PREVIOUS MEETING**

The minutes of the meeting held on 24 October 2018 were confirmed and signed as a correct record.

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

The Committee considered:

- A report by the Group Manager (Development Management) on various planning applications.
- An update report by the Group Manager (Development Management) on item 1 attached as *Appendix 1* to these minutes.
- Oral statements by members of the public and representatives. A copy of the speakers' list is attached as *Appendix 2* to these minutes.

**RESOLVED** that in accordance with the delegated powers, the applications be determined as set out in the decisions list attached as *Appendix 3* to these minutes.

**Item No. 1**

**Application No. 18/02898/FUL**

**Site Location: Horseworld, Staunton Lane, Whitchurch – Erection of 5 residential units (including affordable housing) together with associated parking, highways and landscaping works**

The Case Officer reported on the application and her recommendation to delegate to permit. She also drew members' attention to the wording of the s106 agreement relating to this application. She confirmed that the walking distance from the new development to the Mama Bear's Nursery was between 9 and 15 minutes.

The applicant spoke in favour of the application.

Officers then responded to questions as follows:

- The Legal Advisor explained the effect of the planning obligations to members. In answer to a question from Cllr Kew, the Legal Advisor confirmed that the relevant obligations in the s106 agreement related to early years' provision and not primary school places. The Legal Advisor gave advice about various provisions of the s106 agreement.
- Cllr Crossley asked at what point the decision had been taken to discharge the planning obligations in the s106 agreement and who had been consulted. The Chair confirmed that she had not been consulted. The Legal Advisor stated that the agreement had been drafted on instructions following the Committee's decision to delegate to permit planning permission.
- Cllr Jackson felt that the Committee was placed in a difficult position when planning obligations were discharged without members being informed. She asked at what point it was determined that the parcel of land allocated for community benefit could be converted into housing. She felt that the area should become a play area or allotments if it was no longer required for an early years' facility.
- The Team Manager, Development Management, explained that the parcel of land was never allocated for general community use and had been earmarked solely for early years' provision. When the existing nursery was opened in

Whitchurch, the need for this particular use fell away. There was no planning justification for providing two such facilities and the s106 agreement had been drafted to contain flexibility to take account of changing future circumstances. He also pointed out that there was already provision for open space and allotments within the s106 agreement.

- The Case Officer confirmed that the distance to the nursery was 785m.
- Cllr Matthew Davies stated that it was his understanding that the nursery should be provided on the site or nearby. He did not feel that the Mama Bear's nursery fitted the definition of "nearby". He queried whether the Core Strategy policy RA5 or the s106 agreement wording took precedence. The Legal Advisor confirmed that the s106 agreement took precedence as it was a legal document.
- Cllr Appleyard noted that on the original application there was provision for a new nursery for residents of the development and queried why officers had apparently removed this requirement.
- Cllr Jackson asked about the clean air data for Whitchurch as she believed the air quality in this area was poor. She also drew attention to the Whitchurch Village Neighbourhood Plan and queried how much weight should be given to this. The Team Manager, Development Management, stated that, whilst the Neighbourhood Plan was important, in this particular case the Committee should refer to the legal agreement. There was no evidence of need for a community use on the site.

Cllr Crossley noted that a major part of the S106 agreement had been discharged and felt that the Committee would have disagreed with this had members been consulted. The road on which the early years' provision was located was very busy and polluted. It would be a long walk to the existing site which was not sustainable. The site identified in the original application was more suitable and the removal of a significant obligation should, in future, at least be considered by the Committee Chair. He then moved that the application be refused for the following reasons:

- The alternative early years' provision does not meet the needs of the community.
- The alternative early years' provision does not take into account the need for community sustainability within the new development and the existing early years' nursery in Whitchurch was too far away and along a busy road.
- The removal of the early years' provision was contrary to the masterplan for the wider (former) horseworld site.

Cllr Organ seconded the motion. He felt that the original planning obligations should not have been discharged as the distance from the new development to the existing facility was too far and the pavements would not be improved.

Cllr Kew was not happy with the current position, however, he noted the officer advice that the Council's decision to discharge the planning obligations was legally binding.

The Team Manager, Development Management, explained that the Whitchurch area had been identified as having insufficient childcare provision in 2016. The original s106 agreement was based on the information available at the time and had provided two options (i) to construct an early years' facility on the application site or

(ii) if the early years' facility that had been granted planning permission in Whitchurch had been opened, to rely on that facility and not build a new one on site. As the early years' facility was now open in Whitchurch there was no clear reason to refuse the application and members were strongly advised not to do so, otherwise the Council could be vulnerable to incurring costs at appeal. As option (ii) had occurred, the legal agreement had been discharged.

Cllr Appleyard did not feel the need for an early years' facility had been met as the existing facility had not yet received an Ofsted inspection. He stressed the importance of a local facility to enable community cohesion within the new development.

Cllr Jackson stated that she did not think the existing nursery was economically viable and that if it were to close, there would be no possibility of an alternative. She also felt that the facility could not be classed as being "nearby". She stressed the importance of taking the Neighbourhood Plan into account.

The Team Manager, Development Management, pointed out that the early years' facility had not been earmarked solely for the new development but for the whole of Whitchurch Village. This particular development only created about half of the need for an early years' facility.

The motion was then put to the vote and it was RESOLVED by 5 votes in favour and 5 abstentions to REFUSE the application for the following reasons:

- The alternative early years' provision does not meet the needs of the community.
- The alternative early years' provision does not take into account the need for community sustainability within the new development and the existing early years' nursery in Whitchurch was too far away and along a busy road.
- The removal of the early years' provision was contrary to the masterplan for the wider (former) horseworld site.

## **Item No. 2**

### **Application No. 18/01999/FUL**

**Site Location: 40 Bloomfield Park, Bloomfield, Bath, BA2 2BX – Erection of 8 apartments with associated parking and landscaping following demolition of existing detached house and garage (Resubmission)**

The Case Officer reported on the application and the recommendation to delegate to permit.

A local resident spoke against the application.

The agent spoke in favour of the application.

Cllr Mark Shelford, local ward member, spoke against the application. He raised issues regarding loss of light to the neighbouring property, inadequate parking provision and non-compliance with the Council's waste disposal policy.

The Case Officer then responded to questions as follows:

- Part of the building would be built of ashlar stone and part of rubble stone.
- The Highways Officer confirmed that the minimum number of spaces required for the development was 12; however, the developer was proposing to provide 15 spaces. This was fully compliant with the Placemaking Plan. Tandem parking spaces would be provided for the three larger flats.
- An assessment had been carried out regarding the removal of trees on the site and the effect had been found to be neutral. A contribution towards off-site replacement trees would be secured by a S106 agreement. A pre-commencement drainage strategy would be required by condition.
- The height of the proposed building would be the same as set out in the previous application and the landscaped terrace would be 0.5m closer than the previous application.
- The Case Officer clarified how the boundary of the development related to the neighbouring bungalow.
- The residents could either transport wheelie bins using the ramp or via the lift and main entrance of the building.
- A management company was proposed for the flats but this was not secured by legal agreement.

Cllr Kew understood the concerns of local residents but explained that the Committee could only consider the application put before it. The neighbouring bungalow had been constructed very close to the boundary. The parking requirements for the development had been met. The comments of the Planning Inspector indicated that there were now no reasons to refuse the application. He moved the officer recommendation to delegate to permit. This was seconded by Cllr Organ.

Cllr Crossley felt that this was an unsuitable scheme and that the parking obligations had not been met. Tandem spaces were not appropriate and meant that people were more likely to park on the street. He also had concerns about the loss of a mature walnut tree. He felt that the application would have a detrimental impact on the neighbouring property.

Cllr Sandry was surprised by the scale and bulk of the building.

Cllr Jackson felt that the loss of mature trees and potential drainage problems which could result was not acceptable.

Cllr Appleyard stated that, on balance, there were still problems with the application. The management of waste would impact on the community. The proximity of the development to the boundary would adversely affect the amenity of the neighbouring property. The application represented overdevelopment of the site in this area.

The motion was put to the vote and it was RESOLVED by 6 votes in favour and 4 votes against to DELEGATE TO PERMIT the application subject to conditions and the completion of a S106 agreement as set out in the report.

### **Item No. 3**

#### **Application No. 18/04233/FUL**

#### **Site Location: 14 The Beeches, Odd Down, Bath, BA2 2UX – Installation of rear and side dormer windows with two front roof lights (Resubmission)**

The Case Officer reported on the application and his recommendation to refuse.

The applicant spoke in favour of the application.

Cllr Steve Hedges, local ward member, spoke in favour of the application. He pointed out that the proposed extension would be in line with the current footprint of the dwelling. There were already some properties with large extensions and dormer windows in the street. He also pointed out that there were student flats in the area.

In response to a question from Cllr Jackson the Case Officer confirmed that the proposed development would not have any impact on the setting of the listed Red Lion pub.

Cllr Appleyard stated that he did not see a problem with the application, he pointed out that the neighbouring property already had a large extension and that there were a number of dormer windows in the street. The proposal would enable a local family to remain living in the area. He then moved that the Committee delegate to permit the application.

Cllr Crossley seconded the motion. He felt that the dormer windows would fit in with the roofscape in this area and noted that there were already some large student blocks nearby. He did not feel that the application would be detrimental to the neighbourhood.

Cllr Kew stated that he would prefer to view the site to fully consider the effect of the dormer windows on the street scene.

Cllr Jackson did not feel that the proposal would be detrimental to the area.

Cllr Sandry did not see an issue with the application and stated that it would have no effect on the Bath World Heritage Site.

The motion was put to the vote and it was RESOLVED by 7 votes in favour, 2 votes against and 1 abstention to DELEGATE TO PERMIT the application subject to conditions.

## **74 QUARTERLY PERFORMANCE REPORT - JULY TO SEPTEMBER 2018**

The Committee considered the quarterly performance report – July to September 2018.

Cllr Crossley stated that it was helpful to see details of costs awarded for and against the Council. He thanked officers for their hard work and congratulated them on the excellent performance figures.

Cllr Kew expressed concern at the large number of enforcement cases that remained outstanding. He stressed the importance of carrying out enforcement

action where required.

The Team Manager, Development Management, informed members that there were 3 or 4 officers who carried out enforcement work and explained that this could be a lengthy process.

Cllr Jackson commended the enforcement team for their hard work and their proactive approach.

RESOLVED: To note the report.

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

The Committee considered the appeals report.

The Team Manager, Development Management, drew the Committee's attention to the successful appeal in relation to Flat 35, High Street, Upper Weston. The Inspector had raised concerns regarding the Council's policy to refuse an application for an HMO if it would lead to a property being sandwiched between two HMOs. Officers would consider the implications of this finding.

RESOLVED to note the report.

The meeting ended at 4.15 pm

Chair .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

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**BATH AND NORTH EAST SOMERSET COUNCIL**

**Development Management Committee**

**Date 21<sup>st</sup> November 2018**

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

**ITEM**

**ITEMS FOR PLANNING PERMISSION**

<b>Item No.</b>	<b>Application No.</b>	<b>Address</b>
01	18/02898/FUL	Horseworld, Staunton Lane, Whitchurch

## **Update Report- Horseworld- 18/02898/FUL**

At the last committee meeting, members deferred the application for a second time, this time for legal advice regarding the provisions of the S106 Agreement. In particular, members wanted more detail about why the planning obligations to provide an early years facility had been discharged.

### **Policy and Legal Background**

The National Planning Policy Framework (2018) sets out the government's policy on when planning obligations (section 106) should be required:

54. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

*[para 55 deleted as not relevant]*

56. Planning obligations must only be sought where they meet all of the following tests:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

The above three tests have a statutory basis because they are also contained in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. The key point is that s106 planning obligations should only be required if they are “necessary to make the development acceptable in planning terms”, in other words, required to address a need which is created by the development. Members will be aware of common examples such as a shortfall in school places, replacement trees or additional highways infrastructure.

Occasionally there may be a need for a planning obligation, but there is also a possibility that the need may be met in the near future by some other means. For example, the need might be met by the private market, or another development might come forward which meets the need. It would be contrary to the above tests for the local planning authority to require delivery of infrastructure where the public need for that infrastructure has already been met. In situations where it is uncertain whether a planning obligation will continue to be necessary, it is common for the s106 agreement to contain some flexibility to take account of changing future circumstances.

### The section 106 agreement

This section 106 agreement is a complex document which was carefully negotiated with input from a range of expert officers. The agreement provides (page 20) that, subject to certain triggers being met, the developer will pay to the Council financial contributions towards the provision of an early years facility, and transfer land to the Council on which to provide an early years facility.

However, the agreement also contained some flexibility to cater for the situation where there was already adequate early years provision. The relevant section of the agreement is set out in the first update report to which members are referred. However for completeness, the relevant sections of the agreement are also appended to this update report. In summary, the agreement states that the developer shall not be required to pay the financial contribution or transfer the early years land if, prior to occupation of any residential unit, a new early education and/or childcare facility has opened in Whitchurch Village after 1 June 2017, which may include the Mama Bears Nursery, and that such provision at the time of its opening has the capacity to meet the childcare sufficiency demand created by the development which is to say places (whether filled or available) for at least an additional 28 children. The first update report sets out how the figures on capacity were calculated by the education team. The agreement then sets out a formal procedure which the developer and the Council must follow.

### The evidence

Members are referred to the first update report which states that the new nursery can accommodate up to 30 children and is currently running at 60% occupancy, meaning that there are still 12 spaces. Therefore, this meets the requirement in the s106 that there are at least 28 places filled or available. Furthermore, the report goes on to state that there is potential for the nursery to expand by up to a further 24 places. Therefore, the evidence is that the identified early years provision is more than covered by the new nursery.

### The decision

In accordance with the s106 agreement, the developers made a formal application to the Council to discharge the early years obligations. The application and all of the documents relating to it may be viewed on the Council's website under reference 17/03579/D6A. Members will note that the on-line file contains confirmation from the Council's Early Years Team (21 August 2017 - appended) that, as there is capacity in the existing nursery, the obligation to provide a facility on the Horseworld site can be discharged.

On 19 February 2018 the Council therefore issued a formal decision notice confirming that:

“Pursuant to paragraph 6(a) of Part 2 of Schedule 1 of the Section 106 agreement, dated 12 June 2018, it is confirmed that the information provided

demonstrates that there is now sufficient early years provision in Whitchurch to meet the need generated by the approved development. Therefore the Additional Early Years Land Contribution, the Early Years Contribution and the Early Years Land Contribution are no longer payable.”

Members are advised that the Council is bound by that decision in law.

### Conclusion

These planning obligations were required in order to meet the need for early years provision which would be generated by the development. However, the s106 agreement contained flexibility to cater for the situation where, as turned out to be the case, the need was met by the market. Because the need was met, the planning obligations were no longer necessary and so were discharged. The discharge of the obligations meant that the developer was then free to make the current planning application which is now before members and should be determined on its merits.

**From:** Philip Frankland

**Sent:** 21 Aug 2017 16:18:19 +0100

**To:** Rachel Tadman

**Subject:** RE: 17/03579/D6A - Horseworld, Staunton Lane, Whitchurch

Hi Rachel

Yes as Mama Bears is now opened that is fine. Here is the nurseries verification of opening <https://mamabear.co.uk/nurseries/bristol/whitchurch>

Kind regards

Philip

Philip Frankland

Business Services Manager

Bath and North East Somerset Council

Telephone 01225 394330

Email [philip\\_frankland@bathnes.gov.uk](mailto:philip_frankland@bathnes.gov.uk)

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**From:** Rachel Tadman

**Sent:** 09 August 2017 10:20

**To:** Philip Frankland

**Subject:** 17/03579/D6A - Horseworld, Staunton Lane, Whitchurch

Dear Philip

In order to satisfy the requirements of Schedule 1, Part 2 Paragraphs 6 (a) of the S106 the Developer has submitted the attached document for us to consider. Like the situation at the neighbouring Barratts site, can you confirm that there is still capacity in Whitchurch for Early Years and therefore they can be released from their obligations to fund a facility on the Horseworld site.

I look forward to hearing from you.

Regards

Rachel

Rachel Tadman

Senior Planning Officer  
Development Management  
Bath & North East Somerset Council  
Telephone: 01225 477619

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**"1990 Act"** means the Town and Country Planning Act 1990 (as amended).

**"Access"** means the provision of adopted and unadopted roads and footpaths together with all rights and easements over the said roads and footpaths as are necessary to provide access to the Affordable Housing Units or any one of them.

**"Additional Early Years Contribution"** means a contribution of 50% of the total costs incurred by the Council in the provision of the Early Years Facility (including, inter alia, land valuations, legal and other professional fees associated with the acquisition of the land including any site investigation costs and any costs that may be required for ground works, remediation, and site clearance to bring the land up to the required standard suitable for use as an early years facility) save to the extent that the same are included in the Early Years Contribution and up to but not exceeding a maximum contribution of sixteen thousand pounds (£16,000).

**"Additional Primary Education Land Contribution"** means a contribution of 49.84% of the total costs incurred by the Council in the expansion of Whitchurch Primary School (including, inter alia, land valuations, legal and other professional fees associated with the acquisition of the land including any site investigation costs and any costs that may be required for ground works, remediation and site clearance to bring the land up to the required standard suitable for use as school playing land (which is land in the open air used for education or recreation)) up to but not exceeding a maximum contribution of fifteen thousand pounds (£15,000).

**"Adjacent Site"** means the land to the east of the Mead and north of Queen Charlton Lane, Whitchurch adjacent to the Land which is being developed pursuant to a planning permission under reference 16/02055/FUL (or any subsequent planning permission granted under section 73 of the 1990 Act)"

**"Adjacent Site Early Years Land Contribution"** means any contribution payable under the Adjacent Site Planning Obligation for the purpose of enabling the Council to acquire the Early Years Land

**"Adjacent Site Planning Obligation"** means an agreement under section 106 of the 1990 Act (and any subsequent variation of or agreement supplemental to it) in respect of the Adjacent Site

**"Adoptable Areas Plan"** means the plan at Appendix 2 showing the areas of land to be adopted as public highway.

**"Affordable Housing"** means subsidised housing as defined in the National Planning Policy Framework that will be made available to eligible households who are unable to afford to buy or rent an appropriate property locally on the open market and who fulfil the criteria for affordable housing as laid out in the Council's allocations policy (or subsequent equivalent document) and which remains at an affordable price where affordable relates to both rent and services charges levied for future eligible households.

**"Affordable Housing Plan"** means the plan 7850 PL12. Rev D at Appendix 3 or such other plan that the Council shall approve.

**"Affordable Housing Scheme"** means the delivery of the Affordable Housing Units as shown on the Affordable Housing Plan.

**"Affordable Housing Units"** means the units of Affordable Housing to be provided by the Developer to be constructed on the Land pursuant to the Permission consisting of 39 Affordable Housing Units as follows:

- (b) the Wheelchair Units have been designed to Habinteg Wheelchair Standards; and
- (c) the Affordable Housing Units have been designed to Council's Design and Quality Standards.

**"Certificate of Construction Standards"** means a written notice from a suitably qualified professional issued to the Council following Practical Completion of any Affordable Housing Unit to a Registered Provider confirming that the Development has been constructed in accordance with the Certificate of Design Standards.

**"Commencement"** means:

- (a) In relation to the obligations in Schedule 1, Part 6 (*Targeted Recruitment and Training*), commencement of development pursuant to the Permission by the carrying out of a "material operation" (as defined in section 56(4) of the 1990 Act); and
- (b) In relation to all other obligations in this Agreement, commencement of development pursuant to the Permission by the carrying out of a "material operation" (as defined in section 56(4) of the 1990 Act) save that the term shall not include works of demolition, surveys, site clearance, works of archaeological or ground investigation or remediation, the erection of fencing or hoardings, the provision of security measures or lighting, the erection of temporary buildings or structures associated with the Development, the laying removal or diversion of services, works to enable temporary access to the Land, or the provision of construction compounds
- (a) and in this Agreement **"Commence"** and **"Commenced"** shall be construed accordingly.

**"Conducting Media"** means the drains, sewers, conduits, flues, gutters, gullies, channels, ducts, shafts, watercourses, pipes, cables, wires and mains (or any of them).

**"Confirmatory Deed"** means the deed set out in the form of Appendix 11.

**"Contributions"** means the Primary Education Land Contribution, the Primary Education Contribution, the Additional Primary Education Land Contribution, the Early Years Contribution and the Additional Early Years Contribution

**"Council's Design and Quality Standards"** means the Design, Layout, Construction and Affordability requirements set out at paragraphs 3.1.42 to 3.1.55 inclusive of the Council's Planning Obligations Supplementary Planning Document (April 2015) in place at the date of this Agreement, save that (in relation to the relevant units) where there is a conflict with the Lifetime Homes Standards and/or the Habinteg Wheelchair Standards then the Lifetime Homes Standards and/or the Habinteg Wheelchair Standards shall be preferred.

**"Development"** means the development of the Land as set out in the Application and consented pursuant to the Permission.

**"Early Years Contribution"** means a contribution of 50% (indexed) of the total costs incurred by the Council for or towards the provision of the Early Years Facility up to but not exceeding a maximum contribution of two hundred and fifty nine thousand pounds, five hundred and sixty two pounds and twenty pence (£259,562.20).

**"Early Years Facility"** means a facility for the provision of early years education and childcare for children up to 5 years of age to be provided on the Early Years Land or a new (or extension to an existing) alternative early years facility in Whitchurch.

**"Early Years Land"** means the land for the Early Years Facility comprising .1094 hectares of land in a Serviced Condition to be provided on the Land as shown edged green on the plan attached to this Agreement at Appendix 5.

**"Early Years Land Transfer Sum"** means the sum of £100,000 (one hundred thousand pounds) payable by the Council to acquire the Early Years Land from the Owner

**"Estate Roads"** means the roads forming part of the Development to be adopted by the Council as shown on the plan at Appendix 2.

**"Fire Hydrant Contribution"** means the sum of £7,500 (Indexed) for the provision and maintenance of five (5) fire hydrants at the Development

**"Formal Open Space"** means those parts of the Open Space that are to be made available to the public.

**"Habinteg Wheelchair Standards"** means the standard set out in the Wheelchair Housing Design Guide (second edition) dated 2006 published by Habinteg Housing Association Ltd (or such other standard as agreed with the Council) for housing designed to provide independent living for physically disabled people and wheelchair users.

**"Highways Agreement"** means an agreement (or agreements) between the Owner, Developer and the Council under section 278 and section 38 of the Highways Act 1980 and any other relevant enabling provision, generally in the form set out at Appendix 6, relating to the construction, completion and adoption of the Highway Works, including an enforceable form of security to ensure the works are carried out.

**"Highway Plans"** means the plans appended to this Agreement at Appendix 7 illustrating the scope and scale of the Highway Works.

**"Highway Works"** means works comprising off-site highway improvements to Staunton Lane and Sleep Lane to include a mini roundabout, zebra crossing, widening of pavements and amendments to the Staunton Lane/Sleep Lane junction including traffic regulation orders to reduce the speed limit on Sleep Lane and shown for illustrative purposes only on the Highway Plans.

**"Homes and Communities Agency"** means the Homes and Communities Agency established pursuant to the Housing and Regeneration Act 2008 or such successor body.

**"Homesearch Policy"** means a choice based letting policy of the Council and the policy documents which support the Council's Homesearch Register.

**"Homesearch Register"** shall mean the register kept by the Council of those persons who are seeking accommodation within the area and whose need for such accommodation will be assessed by the Council in accordance with the Council's Homesearch Policy.

**"Housing Need"** means a person in need of housing who is unable to secure housing suitable for his/her needs in the local housing market as a result of the

**"Targeted Recruitment and Training Contribution"** means the sum of seven thousand and forty pounds (£7,040) (Indexed) to be applied towards targeted recruitment and training in the construction of the Development.

**"Targeted Recruitment and Training Management Board"** means a management board as identified in writing by the Council if already formed, or if no such management board is in existence to be established by the Owner and Developer and approved by the Council in writing, to include the Council and Bath and North East Somerset Learning Partnership, and whose purpose is to have responsibility for monitoring outcomes and addressing issues as they arise in connection with the Owner and Developers' obligations in connection with the Targeted Recruitment and Training Method Statement.

**"Targeted Recruitment and Training Method Statement"** means a method statement as required pursuant to Part 6 of Schedule 1 setting out:

- (a) The actions to be taken by the Owner and Developer to maximise opportunities for at least 5% of the construction workforce being a New Entrant Trainee, subject to the scale, duration and nature of the Development;
- (b) The delivery of the Targeted Recruitment and Training Outcomes; and
- (c) The contribution that the Owner and Developer will make to the Targeted Recruitment and Training Management Board.

**"Targeted Recruitment and Training Outcomes"** means in relation to the construction phase of the Development the provision of the following roles in accordance with Part 6 of Schedule 1:

- (a) Work experience placements of not less than 16 hours per opportunity;
- (b) Apprenticeship starts;
- (c) New jobs advertised through the Department of Work and Pensions ("**DWP**") and filled by DWP clients.

**"Transfer"** means Form TP1 to transfer the Early Years Land generally in the form of transfer appended at Appendix 10 the consideration for which shall be the Early Years Land Transfer Sum payable immediately prior to completion of the Transfer.

**"Transport Link"** means public routes for vehicles and pedestrians to provide links from the Land to adjoining sites as set out on the plan at Appendix 8 to this Agreement.

**"Transport Link Highways Agreement"** means an agreement (or agreements) between the Owner, Developer and the Council under section 38 of the Highways Act 1980 (and section 278 of the Highways Act 1980 as the case may be) and any other relevant enabling provision, generally in the form set out at Appendix 12, relating to the construction, completion and adoption of the Transport Link and Estate Roads including an enforceable form of security to ensure the works are carried out.

**"Transport Management Contribution"** means the sum of twenty thousand pounds (£20,000.00) to be paid for traffic management measures on Staunton Lane

**Schedule 1  
Owner's Covenants**

**Part 1  
Notifications**

- 1 The Owner covenants with the Council to provide the Council with at least 10 Working Days' prior written notice of the occurrence of the following:
  - (a) Commencement of Development;
  - (b) First Occupation of the Residential Units;
  - (c) Occupation of 50% of the Open Market Units; and
  - (d) Occupation of 75% of the Open Market Units.
- 2 Following a written request from the Council, the Owner shall provide the Council within 10 Working Days with such evidence as the Council shall reasonably require in order to confirm the actual stages of Occupation of the Residential Units.

**Part 2  
Education**

- 1 The Owner covenants with the Council:
  - (a) to pay the Primary Education Land Contribution (Indexed) and the Primary Education Contribution (Indexed) to the Council prior to Commencement of the Development; and
  - (b) not to Commence the Development until the Primary Education Land Contribution (Indexed) and the Primary Education Contribution (Indexed) has been paid to the Council.
- 2 The Owner covenants with the Council:
  - (a) to serve on the Council the Primary Education Land Notice as soon as reasonably practicable following Occupation of the 40<sup>th</sup> Residential Unit; and
  - (b) to pay the Council the Additional Primary Education Land Contribution within twenty (20) Working Days of receipt of a written request from the Council such request to include a full breakdown of the Council's estimated costs which go to make up the Additional Primary Education Land Contribution and to be served no earlier than the date of Commencement and no later than:
    - (i) the Occupation of the 50<sup>th</sup> Residential Unit; and
    - (ii) six (6) months following the Council's receipt of the Primary Education Land Notice;

(whichever is the later) and for the avoidance of doubt the Council may serve the written request whether or not the primary school facility has yet been purchased or works commissioned or the precise costs are yet known.
- 3 Subject to paragraph 6 and paragraph 7 below, in the event that the Development Commences prior to the Council receiving the Adjacent Site Early Years Land Contribution, the Owner covenants with the Council:

- (a) to pay to the Council the Additional Early Years Contribution and the Early Years Contribution within twenty (20) Working Days of receipt of a written request from the Council such request to include a full breakdown of the Council's estimated costs which go to make up the Additional Early Years Contribution and the Early Years Contribution and to be served no earlier than the Occupation of the first Residential Unit and no later than:
    - (i) the Occupation of the 50<sup>th</sup> Residential Unit; and
    - (ii) six (6) months following the Council's receipt of the Primary Education Land Notice,whichever is the later; and
  - (b) to Transfer to the Council the Early Years Land:
    - (i) prior to Occupation of the 50th Residential Unit; or
    - (ii) if later, receipt by the Council of the Adjacent Site Early Years Land Contribution or an alternative means of funding the Early Years Land Transfer Sum.
- 4 Subject to paragraph 6 and paragraph 7 below, in the event that the Council receives the Adjacent Site Early Years Land Contribution prior to Commencement, the Owner covenants with the Council:
- (a) to pay to the Council the Additional Early Years Contribution and the Early Years Contribution within twenty (20) Working Days of receipt of a written request from the Council or on the date twenty-eight days from the date of Commencement, whichever is the later, such request to include a full breakdown of the Council's estimated costs which go to make up the Additional Early Years Contribution and the Early Years Contribution; and
  - (b) to Transfer to the Council the Early Years Land no later than:
    - (i) within twenty (20) Working Days of receipt of a written request from the Council; or
    - (ii) on the date three months from the date of Commencement,whichever is the later.
- 5 For the avoidance of doubt the Council may serve the written request pursuant to paragraph 3 or paragraph 4 whether or not the Early Years Facility has yet been purchased or the works commissioned or the precise costs are yet known.
- 6 The Owner shall not be required to pay the Additional Early Years Contribution and the Early Years Contribution and shall not be required to Transfer the Early Years Land if:
- (a) the Council has confirmed to the Owner in writing that such payments are not required which shall be in circumstances where prior to Occupation of any Residential Unit:
    - (i) a new early education and/or childcare facility has opened in Whitchurch Village after 1 June 2017 (to the extent that it is within the boundary of the Council's administrative area and which may

include the proposed new Mama Bears Day Nursery in Whitchurch);  
or

- (ii) an existing early education and/or childcare facility in Whitchurch Village (to the extent that it is within the boundary of the Council's administrative area) has expanded after 1 June 2017;

and such provision or expansion at the time of its opening has the capacity to meet the childcare sufficiency demand created by the Development which is to say places (whether filled or available) for at least an additional twenty eight (28) children; and

- (b) the Owner has complied with the procedure set out in paragraph 7 below.

7 The Owner and the Council shall comply with the following requirements:

- (a) prior to Occupation of any Residential Unit, the Owner shall serve notice on the Council requiring the Council to confirm whether the circumstances in paragraph 6(a) above have been met and, accordingly, whether the Additional Early Years Contribution or the Early Years Contribution are payable;
- (b) following receipt of notice from the Owner in accordance with paragraph 7(a) above, the Council shall serve notice on the Owner confirming whether the circumstances in paragraph 6(a) above have been met, and accordingly, whether the Additional Early Years Contribution or the Early Years Contribution are payable;
- (c) the Owner shall provide the Council with any information reasonably required by the Council to enable it to confirm whether the circumstances in paragraph 6(a) above have been met.

### **Part 3 Affordable Housing**

1 The Owner must construct the Affordable Housing Units:

- (a) in accordance with:
  - (i) the approved Affordable Housing Scheme and the programme and timetable thereunder;
  - (ii) the Council's Design and Quality Standards;
- (b) provided with Services and Service Installations and Access to the Affordable Housing Units;
- (c) with the Lifetime Homes Affordable Housing Units to be constructed in accordance with the Lifetime Homes Standards; and
- (d) with the Wheelchair Units to be constructed in accordance with the Habinteg Wheelchair Standards.

2 The Owner shall not Occupy or permit Occupation of the Residential Units otherwise than in accordance with the Affordable Housing Scheme.

**BATH AND NORTH EAST SOMERSET COUNCIL****MEMBERS OF THE PUBLIC AND REPRESENTATIVES WISHING TO MAKE A  
STATEMENT AT THE MEETING OF THE DEVELOPMENT MANAGEMENT  
COMMITTEE ON WEDNESDAY 21 NOVEMBER 2018**

<b>MAIN PLANS LIST</b>			
<b>ITEM NO.</b>	<b>SITE NAME</b>	<b>SPEAKER</b>	<b>FOR/AGAINST</b>
1	Horseworld, Staunton Lane, Whitchurch	Rhian Powell (Applicant)	For
2	40 Bloomfield Park, Bloomfield, Bath, BA2 2BX	George Howard	Against
		John White (AGM Ltd)	For
		Cllr Mark Shelford (Local Ward Member)	Against
3	14 The Beeches, Odd Down, Bath, BA2 2UX	Daniel McIntyre (Applicant)	For
		Cllr Steve Hedges (Local Ward Member)	For

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**BATH AND NORTH EAST SOMERSET COUNCIL**  
**DEVELOPMENT MANAGEMENT COMMITTEE**

**21st November 2018**

**DECISIONS**

<b>Item No:</b>	01	
<b>Application No:</b>	18/02898/FUL	
<b>Site Location:</b>	Horseworld, Staunton Lane, Whitchurch, Bristol	
<b>Ward:</b> Publow And Whitchurch	<b>Parish:</b> Whitchurch	<b>LB Grade:</b> II
<b>Application Type:</b>	Full Application	
<b>Proposal:</b>	Erection of 5no. residential units (including affordable housing) together with associated parking, highways and landscaping works.	
<b>Constraints:</b>	Bristol Airport Safeguarding, Agric Land Class 3b,4,5, Coal - Standing Advice Area, Policy CP9 Affordable Housing Zones, Policy GDS1 Site Allocations, Housing Development Boundary, Policy NE1 Green Infrastructure Network, Neighbourhood Plan, SSSI - Impact Risk Zones, Policy ST8 Safeguarded Airport & Aerodro,	
<b>Applicant:</b>	Bellway Homes Ltd (South West)	
<b>Expiry Date:</b>	22nd November 2018	
<b>Case Officer:</b>	Chloe Buckingham	

**DECISION REFUSE**

1 The proposed development is on land that was originally intended to be developed for an Early Years Nursery in accordance with the Masterplan considered by the Council under application no. 15/03406/CONSLT. The existing Early Years Nursery in Whitchurch is not considered to be an acceptable alternative location for residents living close to the application site as it is in a location that requires a long walk along a road that is considered dangerous and having a polluted environment for children and parents. Furthermore, the removal of the potential on-site nursery provision will mean that the site loses a community space for the new residents which will not be conducive to creating sustainable communities. The proposal is therefore considered contrary to policies D1, D6, ST1, PCS1, PCS3 and LCR1 of the Bath and North East Somerset Placemaking Plan (2017) and Policy RA5 of the Bath and North East Somerset Core Strategy (2014).

**PLANS LIST:**

This decision relates to plan references;

7850-EYPL01B, 7850-EYPL28B, 7850-EYPL27B, 7850-EYPL26B, 7850-EYPL25B, 7850-EYPL24B, 7850-EYPL23B, 7850-EYPL22B, 7850-EYPL15B, 7850-EYPL12B, 7850-EYPL05B, 7850-EYPL04B, 7850-EYPL02B received 4th July 2018.

478-8301-3B received 29th June 2018.

7850-EYPL03H, 7850-EYPL06, 7850-EYPL20C and 7850-EYPL21C received 4th September 2018.

416.01578.00063.29.017 Rev 2 received 11th September 2018.

In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework. Whilst the application was recommended for permission by Officers the Development Management Committee considered the proposal to be unacceptable for the stated reasons.

### **Community Infrastructure Levy**

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority please note that CIL applies to all relevant planning permissions granted on or after this date. Thus any successful appeal against this decision may become subject to CIL. Full details are available on the Council's website [www.bathnes.gov.uk/cil](http://www.bathnes.gov.uk/cil)

<b>Item No:</b>	02	
<b>Application No:</b>	18/01999/FUL	
<b>Site Location:</b>	40 Bloomfield Park, Bloomfield, Bath, Bath And North East Somerset	
<b>Ward:</b> Lyncombe	<b>Parish:</b> N/A	<b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application	
<b>Proposal:</b>	Erection of 8 no. apartments with associated parking and landscaping following demolition of existing detached house and garage (Resubmission).	
<b>Constraints:</b>	Article 4 Bath Demolition Wall, Article 4 Reg 7: Estate Agent, Article 4 HMO, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Conservation Area, Policy CP9 Affordable Housing Zones, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, SSSI - Impact Risk Zones,	
<b>Applicant:</b>	Mr J. Morgan on behalf	
<b>Expiry Date:</b>	12th December 2018	
<b>Case Officer:</b>	Chris Griggs-Trevarthen	

**DECISION** Delegate to PERMIT subject to conditions and a S106 Agreement

<b>Item No:</b>	03
<b>Application No:</b>	18/04233/FUL
<b>Site Location:</b>	14 The Beeches, Odd Down, Bath, Bath And North East Somerset

<b>Ward:</b> Odd Down	<b>Parish:</b> N/A	<b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application	
<b>Proposal:</b>	Installation of rear and side dormer windows with two front roof lights. (Resubmission)	
<b>Constraints:</b>	Article 4 HMO, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Policy CP9 Affordable Housing Zones, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, Policy NE5 Ecological Networks, SSSI - Impact Risk Zones,	
<b>Applicant:</b>	Mr Daniel McIntyre	
<b>Expiry Date:</b>	23rd November 2018	
<b>Case Officer:</b>	Edward Allsop	

## DECISION PERMIT

### 1 Standard Time Limit (Compliance)

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 permission

### 2 Materials (Compliance)

All external walling of the dormer window shall be clad in hanging tiles to match those of the main dwelling; in respect of; type, material, size and colour.

Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policies D1, D2, D3 and D5 of the Bath and North East Somerset Placemaking Plan and Policy CP6 of the Bath and North East Somerset Core Strategy.

### 3 Plans List (Compliance)

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 plans:

- Site location plan-001- 17th September 2018
- Existing site plan- 002- 17th September 2018
- Existing floor plans- 003- 17th September 2018
- Existing loft and roof plan-004- 17th September 2018
- Existing elevations-005- 17th September 2018
- Proposed site plan-006- 17th September 2018
- Proposed floor plans-007- 17th September 2018
- Proposed loft and roof plans-008- 17th September 2018

Proposed elevations-009- 17th September 2018

### **Community Infrastructure Levy**

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. **Before** commencing any development on site you should ensure you are familiar with the CIL process. If the development approved by this permission is CIL liable there are requirements to assume liability and notify the Council before development commences, failure to comply with the regulations can result in surcharges and additional payments. Full details about the CIL Charge including, amount and process for payment will be sent out in a CIL Liability Notice which you will receive shortly. Further details are available here: [www.bathnes.gov.uk/cil](http://www.bathnes.gov.uk/cil)

In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework.