

**BATH AND NORTH EAST SOMERSET COUNCIL**

**Development Management Committee**

**24<sup>th</sup> October 2018**

**UPDATE REPORT AND OBSERVATIONS RECEIVED SINCE THE  
PREPARATION OF THE MAIN AGENDA**

**ITEMS FOR PLANNING PERMISSION**

<b>Item No.</b>	<b>Application No.</b>	<b>Address</b>
1.	18/03742/FUL	Bath College, Milk Street, Bath

**Matters of Clarification**

The main report states (top P.62) that a new study into hotel growth in Bath is currently underway and that this will inform the on-going Local Plan review process and that the findings of that study should not be pre-judged. It is further stated in the conclusion of the main report (top P.71) that speculation regarding the findings of a future report cannot be given significant weight.

To clarify, it remains the case that the aforementioned report has not been published or received by the Council but some preliminary findings have been provided to the Council. Those initial findings include the projected demand for additional hotel bed space in Bath for the period 2018-2036 based on three scenarios - low growth, medium growth and high growth; these demand projections have been provided in relation to each category of hotel.

The data provided in respect of four star/boutique hotel demand is that which is most relevant to this application. Based upon the highest level of predicted growth, there is predicted to be demand for an additional 71 four star/boutique hotel beds by 2021; 159 in the period 2022-2026; 193 in the period 2027-2031 and 235 in the period 2031-2036; this is a total therefore of 658 four star/boutique hotel beds during the period 2018-2036 (there are already 204 bedrooms in the pipeline).

The preliminary findings of the study set out above are a material consideration but it is recommended that they are given limited weight. The findings form part of the evidence base which will inform the formulation of policy; they do not constitute policy. It is now for the Council to determine (once the final report is received) what policy approach to adopt in light of this new evidence - this will form part of the Local Plan review process. The Council will be consulting on its Local Plan Options document in November and that will set out various policy options for dealing with hotel growth in Bath.

Ultimately there is nothing in the projected demand data summarised above which suggests that the recommendation should change and the application should be

refused. Supply exceeding projected short-term demand is not in itself a reasonable reason for refusing an application; this is a matter for the market. This is a city centre location where a use such as a hotel is supported in principle by planning policy; there is no evidence to suggest that unacceptable levels of public harm will result from the proposal and as such the recommendation remains that permission be granted (on a delegated basis as per the main report).

### **Amended Conditions**

Discussions have continued between the Council and agent/applicant following the finalisation of the committee report. As a result of these discussions some minor revisions are recommended to Conditions 19 and 19. The recommended conditions in their revised form are set out below together with a note explaining each change.

**Condition 18:** No development shall commence, with the exception of demolition works, until an investigation and risk assessment of the nature and extent of contamination on site and its findings has been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a competent person, and shall assess any contamination on the site, whether or not it originates on the site. The assessment must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and shall 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 proposal of the preferred option(s).

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with section 11 of the National Planning Policy Framework. This is a condition precedent because the works comprising the development have the potential to uncover harmful contamination. Therefore these details need to be agreed before work commences.

NOTE: '*with the exception of demolition works*' has been added to enable the building to be demolished prior to the discharge of this condition as undertaking the work required by this condition while the building is still in situ is likely to be problematic.

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**Condition 19:** No development shall commence, with the exception of demolition works, until 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, has been submitted to and approved in writing by the Local Planning Authority, unless the findings of the approved investigation and risk assessment has confirmed that a remediation scheme is not required. The scheme shall include:

- (i) all works to be undertaken,
- (ii) proposed remediation objectives and remediation criteria,
- (iii) timetable of works and site management procedures, and,
- (iv) where required, a monitoring and maintenance scheme to monitor the long-term effectiveness of the proposed remediation and a timetable for the submission of reports that demonstrate the effectiveness of the monitoring and maintenance carried out.

The remediation scheme shall 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.

The approved remediation scheme shall be carried out prior to the commencement of development, other than that required to carry out remediation, or in accordance with the approved timetable of works.

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with section 11 of the National Planning Policy Framework. This is a condition precedent because the works comprising the development have the potential to uncover harmful contamination. Therefore these details need to be agreed before work commences.

NOTE: '*with the exception of demolition works*' has been added to enable the building to be demolished prior to the discharge of this condition as undertaking the work required by this condition while the building is still in situ is likely to be problematic.

### **Public Sector Equality Duty**

Section 149 of the Equality Act 2010 places a duty on public authorities, in the exercise of their functions (including therefore undertaking the assessment and determination of planning applications), to have due regard to:

1. The need to eliminate discrimination, victimisation and any other conduct prohibited by the Act;
2. Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it and;
3. Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The Act defines 'protected characteristics' as age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The proposed development involves the demolition of the college building and its replacement with a hotel; clearly the academic and teaching facilities within will be lost. Age is a protected characteristic and it is the case that a large proportion of college students fall within a particular (younger) age group; this has been taken into account. As stated in the main report, Bath College has determined to rationalise its estate, discontinue certain courses and relocate others. This is not as a consequence of the proposal, on the contrary; the proposed redevelopment of the site is as a consequence of decisions already taken by the college in respect of its estate and educational offer.

The proposed development in itself will not therefore result in those with protected characteristic, in particular age, being disadvantaged or their needs compromised. It will not lead to discrimination or victimisation or undermine relations. The decision has already been taken by a third party to dispose of the college building with the consequences that brings. In respect of disability (physical), the building has designed to be accessible.

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<b>Item No.</b>	<b>Application No.</b>	<b>Address</b>
001	18/02898/FUL	Horseworld, Whitchurch

Councillors at the last committee meeting wanted to know more about the current figures for the nursery that opened in June 2017.

An email from the director has stated that the new nursery can take 30 children on a full-time basis and is currently running at 60% occupancy. Therefore, there is still room for 12 children. Furthermore, the director has stated that if more capacity is required there is a supportive landlord who would, subject to the relevant permissions, allow the nursery to extend the provision. Subject to available funds it is thought that the nursery could expand by up to 24 places.

Further information was required regarding how the figures on capacity from the education team were calculated.

When all the proposals were put forward for this part of Whitchurch the education team would have looked at the total yield of children using the methodology contained within the Planning Obligations SPD (2009). This states that where additional provision is required in the area of the development, the determination of whether or not there is sufficient Early Years provision in the area of the development will be done via reference to the Bath and North East Somerset Childcare Sufficiency Report and an assessment of the impact of the development on existing capacity. The 2006 Childcare Act states that Local Authorities have a statutory obligation to ensure that they have a strategy in place for the provision of

childcare sufficient to meet the needs of parents who require childcare in order to work or to undertake training to obtain work. Calculations will be based on national take up rates for

Early Years services - currently 20% of children aged 0 - 2 and 95% of children aged 3 -4 take up Early Years services.

The market came forward with a solution which then negated the requirement for a developer funded solution which is why there was a flexible s106 agreement and then as a result there was no longer a requirement to provide childcare provision whether that be land, contributions to the build and so forth.

There are no catchment areas associated with childcare and early years provision as it is left to the market and families to find the solution. Whitchurch falls into the Chew Valley area for Childcare Sufficiency and that is oversupplied compared to much of Bath and NE Somerset.

Further clarification on calculations:

This particular application is for an additional 5 dwellings to the 97 dwellings from the original which is 102 dwellings in total. However, attention should also be paid to 16/02055/FUL Land East of the Mead, Queen Charlton Lane which permitted a further 100 dwellings. The breakdown is as follows:

16/04615/FUL Horseworld Staunton Lane (Bellway) (including the 5 dwellings in this application)

This development of 10 no. 1 bed flats, 1 no. 2 bed flat, 16 no. 2 bed houses, 40 no. 3 bed houses and 35 no. 4 bed houses – total 97 dwellings - at Horseworld Staunton Lane Whitchurch is calculated to generate the following need: Early Years age children – 16 (to the nearest round number)

16/02055/FUL Land East of the Mead, Queen Charlton Lane (Barratt)

This development of 14 no. 1 bed flats, 22 no. 2 bed houses, 33 no. 3 bed houses and 31 no. 4 bed houses – total 100 dwellings - at Land East of the Mead Queen Charlton Lane Whitchurch is calculated to generate the following need: Early Years age children - 13 (to the nearest round number)

The figures from the Planning Obligations SPD are:

	Number of Bedrooms					
	Flats		Houses			
	2	3+	2	3	4	5+
All Early Years children age 0-2 per 100 dwellings	7.2	10.8	14.4	21.6	23.4	19.2
Early Years Children age 0-2 per 100 dwellings 20% take up rate	1.44	2.16	2.88	4.32	4.68	3.84
All Early Years children age 3-4 per 100 dwellings	4.8	7.2	9.6	14.4	15.6	12.8
Early Years children age 3-4 per 100 dwellings 95% take up rate	4.56	6.84	9.12	13.68	14.82	12.16

The number of Early Years age children generated per dwelling varies depending on whether it is a flat or house and how many bedrooms each dwelling has. Average figures that are applied are as follows:

An example of how the education team have worked out the calculations is as follows;

Horseworld site only;

1 2-bed flat

0-2

$$1.44/100 \times 1 = 0.0144$$

3-4

$$4.56/100 \times 1 = 0.0456$$

16 2-bed houses

0-2

$$2.88/100 \times 16 = 0.4608$$

3-4

$$9.12/100 \times 16 = 1.4592$$

40 3-bed dwellings so using the figures from the table below;

Early years 0-2

4.32 / 100 x 40= 1.728

Early Year 3-4

13.68/100 x 40= 5.472

35 4-bed dwellings

0-2

4.68/100 x 35= 1.638

3-4

14.82/100 x 35= 5.1975

When rounded to the nearest whole number, the Horseworld site (including the additional 5 dwellings) would require 16 spaces and the Queen Charlton Lane site would require 13 spaces. Therefore, it is considered that the new nursery has the capacity for the additional nursery space requirements.

It is important to note here that the inclusion of 2 3-bed dwellings and 3 4-bed dwellings by itself is 0.945 which is rounded up to 1 extra space.

The exact wording of the Section 106 is as follows:

*The owner shall not be required to pay the Additional Early Year's Contribution and the Early Year's Contribution shall not be required to transfer the Early Year's 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<sup>st</sup> June 2017 (to the extent that it is within the boundary of the Council's administrative area and may include the proposed new Mama Bear's Day Nursery in Whitchurch).*

Therefore, as it has been found that there is capacity within the existing nursery to take the additional children which opened in June 2017, the early year's facility is no longer necessary which complies with the wording of the s106 agreement.

There were also concerns expressed regarding the journey times for walking to the nursery which have been worked out as being approximately 15 minutes.

The highways team has also provided a detailed map showing the changes that will be made to the existing road and pavements from the site to the proposed development. These changes include widening footways to between 1.8-2m in width, the removal/re-positioning of signs and lamp posts, a proposed zebra crossing, a proposed uncontrolled pedestrian crossing and speed reduction bar markings on the road.

