

Town and Country Planning Act 1990

NOTIFICATION OF DECISION

Application Type: **Full Application with an EIA attached** Application No: **12/01999/EFUL**

Address to which the proposal relates: **Former Bath Press Premises Lower Bristol Road
Westmoreland Bath**

Description of 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, basement car park, landscape and access (including realignment of Brook Road)**

Application submitted by: **Tesco Stores Limited**

The above development is **REFUSED** in accordance with the application, plans and drawings submitted by you for the reason(s) set out below:

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 policies 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 applicant has failed to justify trip generation, parking demand and trip distribution assumptions made in their Transport Assessment and analysis. Insufficient information has been submitted in respect of these issues and all other modelling input data to enable the soundness of the analysis to be verified. Therefore, the applicant has failed to demonstrate that the proposed development includes satisfactory provision for access from the public highway, car parking and servicing. The site is located at a critical point on the strategic highway network where the existing junction is frequently operating at capacity. The development would therefore be prejudicial to highway capacity and safety.

The proposed development is, therefore, contrary to Policies T1, T3, T5, T16, T24 and T26 of the adopted Bath and North East Somerset Local Plan, including minerals and waste policies and paragraph 32 of the NPPF and having regard to additional developments already committed in this part of Bath

3 The proposed development is not in accordance with the requirements of the sequential approach to development contrary to the Bath and North East Somerset adopted Local Plan Policy S4, Joint Replacement Structure Plan Policy 40, Regional Planning Guidance Policy EC6 and paragraphs 24 and 27 of the NPPF. The development would as a result generate unsustainable travel patterns contrary to paragraph 30 and 32 of the NPPF and be harmful to the Council's retail strategy.

4 The proposed development would give rise to an unacceptable and significant adverse impact on the vitality and viability of the Moorland Road District Shopping Centre contrary to Policies 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 and paragraph 27 of the NPPF.

FOOTNOTE:

Plans list - 011 GD04398 ISSUE 02 (sheets 1-4), 030 GD04398 ISSUE 02 040, GD04398 ISSUE 01, 4664/001 REVISION NUMBER P, 4664/002 REVISION K, 4664/003 REVISION I, 4664/004 REVISION H, 4664/005 REVISION I, PN0500 REV NO. 00, PN0501 REV NO. 00, PN0502 REV

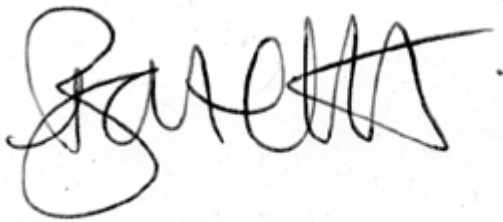
Bath & North East Somerset Council
(RFFULZ)

Please read the notes that accompany this decision notice.

NO.00, PN0503 REV NO.00 , PN0504 REV NO.00, PN0505 REV NO.00, PN2009 REV NO.00, PN2010 REV NO.00, PN2011 REV NO.00, PN2012 REV NO.00, PN2013 REV NO.00, PN2110 REV NO.00, PN2121 REV NO.00, PN2122 REV NO.00, PN2123 REV NO.00, PN2124 REV NO.00, PN2200 REV NO.00, PN2201 REV NO.00, PN2202 REV NO.00, PN2610 REV NO.00, PN2620 REV NO.00, PN2621 REV NO.00, PN2630 REV NO.00, PN2640 REV NO.00

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. Notwithstanding the protracted discussions that have taken place in relation to this site with the applicant in connection with two previous proposals of a similar nature raising similar issues of principle that have resulted in those applications being rejected by the Local Planning Authority and subsequently meetings that took place in connection with this current application at pre-application stage and discussions in relation to the issues arising during the consideration of the current planning application whereby the unacceptable nature of the proposals have been clearly conveyed to the applicant, the applicant has chosen to pursue the development in its current form and has chosen not to withdraw the application. The applicant has requested that the application is reported to the planning committee at the earliest opportunity for a determination to be made and having regard to the need to avoid unnecessary delay the Local Planning Authority has moved forward and issued its decision.

Date of Decision: 17th January 2013

A handwritten signature in black ink, appearing to read 'Lisa Bartlett', with a large, stylized flourish at the end.

Lisa Bartlett
Development Manager, Planning & Transport Development

APPEALS TO THE FIRST SECRETARY OF STATE

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice. Should your application relate to an Enforcement Notice there is a reduced time limit as described in the note below.
- Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN or online at www.planningportal.gov.uk/pcs.
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

NOTE:

As of the 6th April 2010 the time limit for submitting a planning appeal will be reduced where the same or substantially the same development is subject to an enforcement notice.

The new time limits are:

- 28 days from the date of the refusal or the expiry of the period which the local planning authority (LPA) had to determine the application, where the enforcement notice is served before the application is submitted;
- 28 days from the date of the refusal or the expiry of the period which the LPA had to determine the application, where the enforcement notice is served before the decision on the application is reached or the determination period has expired; or
- 28 days from the date the enforcement notice is served, where the enforcement notice is served after the decision or expiry of the period which the LPA has to reach a decision on the application, unless the effect would be to extend the period beyond the usual time limit for cases not involving an enforcement notice.

The reduced time limit to submit a planning appeal will apply where an enforcement notice has been served no more than two years before the date on which the application is made or where it is served on or after the date of the application. It will apply regardless of whether an appeal has been lodged against the enforcement notice or not, provided the enforcement notice is not withdrawn prior to the expiry of the reduced period to submit a planning appeal.

PURCHASE NOTICES

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part V1 of the Town and Country Planning Act 1990.

COMPENSATION

- In certain circumstances compensation may be claimed from the local planning authority if permission or consent is refused or granted subject to conditions by the First Secretary of State on appeal or on reference of the application to him.
- These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Buildings and Conservation Areas) Act 1990.