

Area West Committee – 16th February 2011

Officer Report on Planning Application: 10/03910/S73

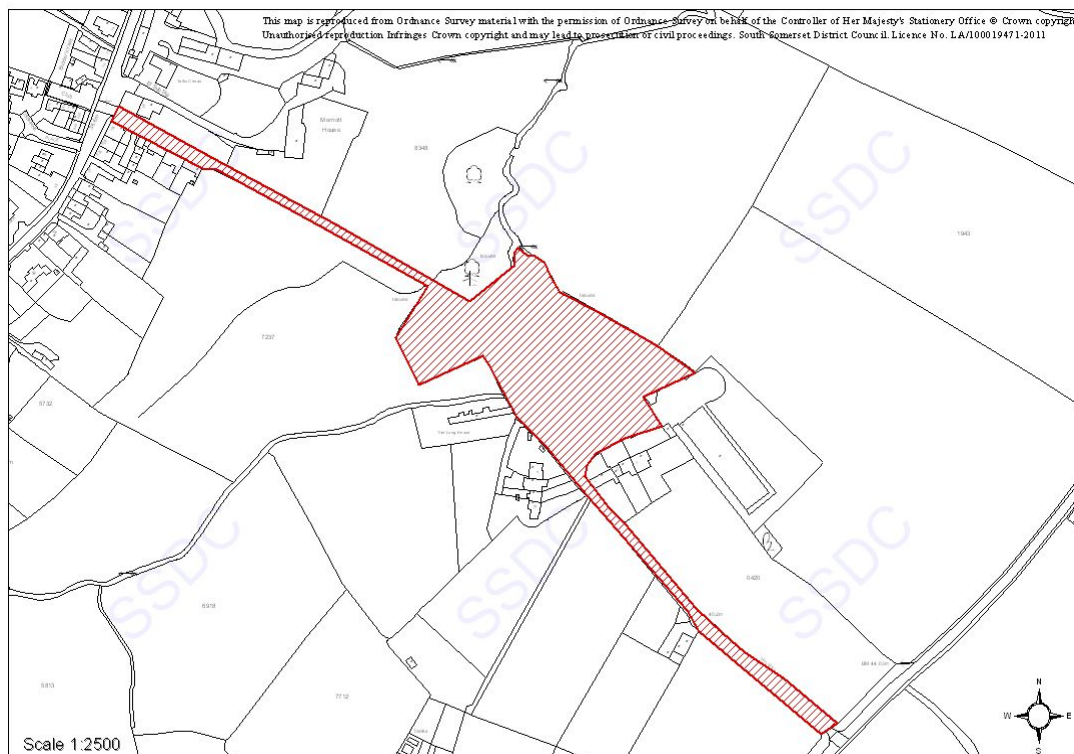
Proposal:	Application to vary condition No. 37 of decision notice 07/02775/FUL to delete requirement to erect replacement factory accommodation prior to the occupation of any of the 52 No. dwellings (GR 344885/112382)
Site Address:	Merriott Plastics Ltd Tail Mill Lane Merriott
Parish:	Merriott
EGGWOOD Ward (SSDC Member)	Mr S Bending (Cllr)
Recommending Case Officer:	Dave Norris Tel: 01935 462382 Email: david.norris@southsomerset.gov.uk
Target date:	13th January 2011
Applicant:	Mr Ian Low
Agent: (no agent if blank)	Mr Adrian King Currie and Brown Widnell Poseidon House Neptune Park Maxwell Road Plymouth Devon PL4 0SN
Application Type :	Major Dwlgns 10 or more or site 0.5ha+

REASON FOR REFERRAL TO COMMITTEE

This application has been referred to the Area West committee with the agreement of the Ward Member and the Area Chair on the basis that the proposal seeks to amend an approval that was previously given by the committee.

The report and minutes from the 2008 committee are attached for members' convenience.

SITE DESCRIPTION AND PROPOSAL



Merriott Plastics is a well established company that specialises in supplying plastic mouldings and is currently located within a range of buildings on the southern edge of Merriott, known as Tail Mill. The Merriott enterprise currently employs 68 staff but forms part of a bigger national company.

The Tail Mill complex lies within a small valley with land rising away from the village to the north and east across open countryside. A large section of the site is located within the designated Merriott Conservation Area and the original historic factory buildings are listed. Part of the site also falls within the Flood Risk Area.

The site is accessed from Tail Mill Lane, a private road that links the A356 with the village. The well-used walker's route, the Parrett Trail also runs along Tail Mill Lane into the village.

This application seeks to vary an approval that was granted by the Area West Committee in 2008. The development of 52 dwellings (39 conversions and 13 new build) was accepted on the basis that it secured the future of the business and safeguarded an important range of listed buildings. Furthermore, the area of new build was located on previously developed land and was fairly well related to the village facilities.

This application seeks to remove an obligation from that permission that secured the erection of an extension to the factory building prior to any dwelling being occupied. The applicant has stated that it is no longer viable to meet this requirement and instead is proposing to keep the business in the area by moving to a site in Crewkerne. The applicant has stated that he has taken a 20 yr lease on a 4400 sq m industrial building at the end of Blacknell Lane and at the time of writing this report it is evident that an element of Merriott Plastics is already occupying the building.

HISTORY

The Tail Mill site has a long and complex history dating back nearly 30 years. The previous report (attached) provides more detail however for the purposes of this application it is only necessary to look at the most recent applications.

07/02775/FUL (subject of this application) - permission granted in Sept 2009 for the conversion of existing factory into 39 units and erection of 13 dwellings together with alterations and improvements to highways. Requirement to enter into a legal agreement to ensure that:

- i) highway works are carried out
- ii) extension to factory (approved under 07/02464/FUL) is completed before any dwelling is occupied (subject of the current application)

07/02464/FUL - Erection of extension to and upgrade of modern factory building together with highway works. Approved Aug 2008.

09/03742/S73 - Variation of condition 2 of planning approval 07/02464/FUL to reduce the amount of highway works that are required in connection with the new factory building. Approved January 2010.

POLICY

It is considered appropriate to only include those policies that are directly relevant to the application to vary the condition. All other policies are referred to in the attached report.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 repeats the duty imposed under S54A of the Town and Country Planning Act 1990 and requires that decision must be made in accordance with relevant Development Plan Documents unless material considerations indicate otherwise.

Relevant Development Plan Documents

South Somerset Local Plan (adopted April 2006)

Policy ST3: Control over development in the countryside

Policy ST4: Conversion of buildings

Policy-related Material Considerations

PPS's/PPG's

PPS3- Housing

PPS4- Planning for Sustainable Economic Growth

PPS5- Planning for the Historic Environment

PPS7- Sustainable Development in Rural Areas

South Somerset Sustainable Community Strategy

Goal 5 - High Performance Local Economy

CONSULTATIONS

Parish Council

Recommend that the application be declined and condition 37 be kept as development of works still important for employment to village, bringing people in to the parish.

Local Highway Authority

No observations.

Economic Development

I'm comfortable with the variations and would quite positively support this application from an Economic Development perspective.

It would be quite difficult/ unreasonable to insist that the Mill building should be retained as workspace. The cost of upgrading the building into an acceptable standard for modern workspace is quite prohibitive. I would concur with the DV view that conversion to dwellings is probably the only viable way of upgrading the building to a fully usable condition. The costs associated with the restoration of such building and the erection of an extension will be considerable and probably not recoverable in an acceptable timeframe for a business plan. It would be quite difficult to envisage the long-term future of the existing business as secure if it remains on this site.

The relocation of this 'local' business to Crewkerne is acceptable and sustainable. The Merriott site facilitates a move to Crewkerne that safeguards and maintains local employment. Whilst not relevant to the application, I would say that the business would be a welcome addition to the Blacknell Lane environs.

I support the application to vary the conditions.

Environmental Protection Unit

No observations.

Council Engineer

No comments.

REPRESENTATIONS

The application has been advertised and a site notice posted. 2 letters have been received from neighbours making the following points:

- no real objection to the lifting of the requirement to build a new factory building
- Consider that the access/highway improvements that were originally required are still necessary
- Highway demands would be exacerbated should the applicant lease or sell the remaining factory building
- disappointed that the extra number of dwellings (52) was agreed only on the basis that it facilitated the building of the new factory building. The original lower number (43) was far more appropriate for this area.

CONSIDERATIONS

The principle of the redevelopment of this site was accepted by members back in 2008. The application for residential development was supported on the basis that it would safeguard the future of Merriott Plastics and preserve the character of this very important range of listed buildings. The issues of flooding, highway safety, design etc. were all properly considered at the time and were found to be acceptable and the applicant is not proposing to change the scheme other than to remove the requirement to erect the additional factory building. It is therefore necessary for members to focus on the key issue; does the relocation of Merriott Plastics from Merriott to Crewkerne justify this level of development?

The applicant has submitted a justification as to why it is no longer viable to erect the additional factory building and it is considered to be appropriate to reproduce this in the report.

'We wish to remove the condition that requires us to re-provide the factory on site before we can occupy any of the residential units. Our client has entered into a lease and will be permanently re-locating the factory off site in Crewkerne. This decision has been unavoidable because:-

- a) It is not possible to continue with operations in the existing facility through the winter
- b) The reduction in anticipated residential values has created a situation where there would be a significant shortfall in the development value of the site and this would not provide sufficient funds to provide a new factory on the site.

Notwithstanding, in order to repay the borrowings and fund the relocation and then carry out works to protect the listed buildings it is necessary to proceed with the residential development that we have approval for as soon as possible.

With regards to the existing contemporary factory building, which was to be extended, we would propose to retain this in its current state and use category. The building will most probably be used as an overflow storage facility in association with the relocated factory. We trust that in the context of our proposals for the factory the requirement to create a discreet access road to this facility will no longer be necessary.

We are aware that the existing consent is based upon the financial enablement of the re-provision of the factory and accordingly we set out on the attached paper and appendices our financial justification for the implementation of the approved scheme without the requirement to reduce the number of units proposed or without any additional conditions or contributions.'

The applicant has also submitted details of a survey he has carried out to try and ascertain whether those employed at the factory do actually live within the village. The information shows that 10 out of a total of 68 employees live within Merriott, with the majority of staff living in Yeovil, Crewkerne or surrounding areas. The information demonstrates that the relocation of the business to Crewkerne will result in a reduction in commuter miles.

The District Valuer has been asked to look at this application to assess whether the relocation of the factory and the cost of development (including conversion of listed buildings): a) can justify this level of development and (b) is there sufficient profit to allow the council to seek any planning obligations.

A detailed report has been submitted by the District Valuer that compares the costs of the development and relocation of factory against the likely value of the completed development. Lengthy negotiations have taken place and the final outcome is that the District Valuer is satisfied that the level of development that is being proposed is justified to enable the conversion of the listed buildings and the relocation of the factory and that there is insufficient 'viability' to reasonably ask for any planning contributions.

The District Valuer has suggested that an overage/review clause be included within the 106 to allow a reassessment of the viability of the scheme. It is considered that this review should take place 3 years after the date of consent and every subsequent 3 years until the completion of the development. The inclusion of this clause is justified on the basis that even a modest improvement in the housing market would mean that significant funds would be available for Section 106 contributions.

Although this application seeks to remove the requirement to build a new factory building on the site, the applicant has stressed that they do intend to retain the existing modern factory building. This is a large structure (1315 sq m) and the applicant is intending to use this as ancillary storage for the relocated factory. Should Merriott Plastics no longer require this facility then it would be available to any other businesses that may wish to move to the area.

Adjoining residents have highlighted the issue of the highway improvements that were required by the previous planning consent. The necessary works were:

- new junction at junction of Tail Mill/A356
- improvements to condition of Tail Mill Lane
- upgrading of southern end of Tail Mill to accommodate HGV's
- scheme to include measures to prevent HGV's accessing factory from the Merriott side
- creation of a footpath alongside Tail Mill Lane.

The applicant has not applied to vary these requirements at this time and as such the consent would be the subject of an amended S106 agreement that continues to secure these works. The applicant has questioned the need to provide the access road to serve the factory and although there may be an argument for not doing this, it does not form part of this application.

Summary

The Tail Mill site is familiar to many members because of its long planning history and the lengthy discussions that have taken place in trying to balance the needs of the business against the needs of the local economy in terms of trying to retain this important local employer. Added to this is the need to ensure that the historic mill buildings are properly safeguarded against further deterioration.

The principle of redeveloping the Tail Mill site has been established for many years on the basis that the historic buildings are no longer suitable for modern day industry and therefore the only other realistic use for them is as residential dwellings. Furthermore, the redevelopment was justified on the basis that the business would be retained in Merriott, thereby securing an important employment opportunity. For commercial reasons, the erection of a new factory at Tail Mill is no longer viable and as such the business is moving to an existing employment site within 2.5 miles and therefore does secure the jobs within the area.

RECOMMENDATION

That members approve this application subject to the successful completion of a legal agreement that secures the highway improvements that were approved as part of planning

application 02/01696/FUL and 07/02775/FUL together with a mechanism that allows for a re-valuation of the site to take into account changing conditions within the housing market.

JUSTIFICATION

The variation of the condition is considered to be acceptable as the business has been retained within the locality and the future of this important range of listed buildings will be secured. The financial justification for this level of development has been robustly assessed as has the potential for securing planning contributions and it is considered that the applicant has demonstrated that this amount of development is necessary to secure the buildings and fund the relocation of the business to Crewkerne. All of the other issues were taken into consideration at the time of the approval of the original application (07/02775/FUL).

SUBJECT TO THE FOLLOWING:

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

Reason: To accord with the provisions of section 91(1) of the Town and Country Planning Act 1990.

2. No dwelling shall be occupied unless those buildings that are not identified for retention have been wholly removed, in accordance with a scheme that shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the character and appearance of the area and safeguard amenity and to accord with ST5 and ST6 of the South Somerset Local Plan 2006.

3. The areas allocated for parking on the submitted plans shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby approved.

Reason: In the interests of highway safety and to accord with TP7 of the South Somerset Local Plan 2006.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order) no garage shall be erected on the application site without the express grant of planning permission in respect thereof.

Reason: To safeguard the character and appearance of the area and to accord with ST5 and ST6 of the South Somerset Local Plan 2006.

5. No development approved by this permission shall be commenced until a detailed scheme for improved flood conveyance under the Tail Mill Lane (to the north west of the development site) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented before any dwelling is occupied and shall thereafter be permanently maintained.

Reason: The proposals for the development on the western side of the site depend on this to reduce flood levels in the vicinity and ensure the development is safe. and to accord with advice contained within PPS25.

6. No works shall commence unless details of the internal floor levels of the residential units have been submitted to and approved in writing by the Local Planning Authority. Floor levels shall be set at least 300mm above the relevant 1 in 100 year including climate change flood level, as given in Table 4.2 of the Flood Risk Assessment.

Reason: To protect the development from flooding and to accord with advice contained within PPS25.

7. No development approved by this permission shall be commenced until a scheme for flood resilience in the design and construction of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented before any dwelling is occupied and shall thereafter be permanently maintained.

Reason: To reduce the impact of any flooding on the development and to accord with advice contained within PPS25.

8. No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall utilise Sustainable Drainage Principles and shall not result in an increase in the rate &/or volume of surface water discharge to the local land drainage system. The drainage works shall be completed in accordance with the details and timetable agreed.

Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water management and to accord with advice contained within PPS25.

9. No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall utilise Sustainable Drainage Principles and shall not result in an increase in the rate &/or volume of surface water discharge to the local land drainage system. The drainage works shall be completed in accordance with the details and timetable agreed.

Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water management and to accord with advice contained within PPS25.

10. Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved by the local planning authority. That scheme shall include all of the following elements unless specifically excluded, in writing, by the Local Planning Authority.

1. A desk study identifying:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site

2. A site investigation scheme, based on (1) to provide information for an assessment of the risk to all receptors that may be affected, including those off site.

3. The results of the site investigation and risk assessment (2) and a method statement based on those results giving full details of the remediation measures required and how they are to be undertaken.

4. A verification report on completion of the works set out in (3) confirming the remediation measures that have been undertaken in accordance with the method statement and setting out measures for maintenance, further monitoring and reporting.

Any changes to these agreed elements require the express consent of the local planning authority.

Reason: To prevent pollution of controlled waters and to accord with EP5 of the South Somerset Local Plan 2006.

11. No development approved by this permission shall be commenced until a Construction Environmental Management Plan, incorporating pollution prevention measures, has been submitted to and approved by the Local Planning Authority. The plan shall subsequently be implemented in accordance with the approved details and agreed timetable.

Reason: To prevent pollution of the water environment and harm to amenity and to accord with ST6, EU4 and EU5 of the South Somerset Local Plan 2006

12. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment and to accord with EU7 of the South Somerset Local Plan 2006.

13. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies with an overall capacity compatible with the site being drained.

Reason: To prevent pollution of the water environment and to accords with EU6 of the South Somerset Local Plan 2006.

14. No development approved by this permission shall commence until a scheme for water efficiency has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the agreed details.

Reason: In the interests of sustainable development and prudent use of natural resources and to accord with ST8 of the South Somerset Local Plan.

15. The development hereby permitted shall not be commenced until particulars of the materials (including the provision of samples where appropriate) to be used for external walls and roofs have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

16. No development shall take place unless details of all windows, doors, fascias, soffits, downpipes, rainwater goods, chimneys and other external surfaces have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

17. No works shall be carried out to the doors and windows of the existing buildings that are to be converted unless details of any repairs or refurbishment have been submitted

to and approved in writing by the Local Planning Authority. The works shall thereafter be carried out in accordance with the approved plans unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the character of the listed building and to accord with EH3 of the South Somerset Local Plan 2006.

18. 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 modifications) no fences, gates or walls shall be erected on the site without the prior express grant of planning permission.

Reason: To safeguard the character and appearance of the area and to accord with EH1, ST5 and ST6 of the South Somerset Local Plan.

19. 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 additional windows, including dormer windows, or other openings (including doors and vents) shall be formed in the building, or other external alteration made without the prior express grant of planning permission.

Reason: To safeguard the character and appearance of the area and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

20. All new external walls and alterations and making good to existing walls shall be constructed and carried out in matching natural materials (including the matching of pointing and coursing) samples of which shall have been submitted to and approved in writing by the Local Planning Authority before any of the development hereby permitted is commenced.

Reason: To safeguard the character and appearance of the area and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

21. The windows comprised in the development hereby permitted shall be recessed in accordance with details to be submitted to and approved in writing with the Local Planning Authority before any work on the development hereby permitted is commenced.

Reason: To safeguard the character and appearance of the area and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

22. Before any of the development hereby permitted is first occupied provision shall be made for combined radio, TV aerial and satellite facilities to serve the development and no individual external radio, TV aerial or satellite dish or aerial shall be fixed on any individual residential property or flat or other unit of living accommodation or on any wall or structure relative thereto without the prior express grant of planning permission.

Reason: To safeguard the character and appearance of the area and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

23. Details of the surface treatment for all open areas on the site shall be submitted and approved in writing by the District Planning Authority before any development is commenced on site and the development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the character and appearance of the area and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

24. Details to provide for the supply of an adequate and clean drinking water supply to all dwellings shall be agreed in writing by the District Planning Authority before any work is commenced on site. Such agreed supply shall be connected to the dwellings before they are first occupied.

Reason: In the interests of public health and to accord with EU4 of the South Somerset Local Plan 2006.

25. The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of the development, as well as details of any changes proposed in existing ground levels; all planting, seeding, turfing or earth moulding comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. The scheme of landscaping shall include details of the protection of trees and hedgerows alongside the access road, details of additional planting alongside the access road and details of the treatments of all boundaries.

Reason: In the interests of visual amenity and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

26. In this condition 'retained tree' means an existing tree which is to be retained in accordance with the details that are required to be submitted and approved in accordance with condition 24 of this approval.

a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).

b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

Reason: In the interests of visual amenity and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

27. 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), there shall be no extensions to any of the dwellings (including enlargement/extension of roofs) without the prior express grant of planning permission.

Reason: In the interests of neighbour and visual amenity and to accord with ST5 and ST6 of the South Somerset Local Plan 2006.

28. The scheme hereby granted consent shall not be carried out otherwise than in complete accordance with the submitted plans and specifications and revised scheme. In the event that the work is not completed strictly in accordance with such approved plans and specifications, or shall become impracticable for whatever reason, work shall thereupon cease and only be recommenced if and when Listed Building Consent shall have been obtained in regard to a further amended scheme of works which renders completion of the scheme practicable.

Reason: In the interests of clarity.

29. No works shall be commence on site unless a detailed submission has been submitted to and approved in writing by the Local Planning Authority giving details of the wildlife mitigation measures as identified in the ecology survey dated August 2007. The submission shall give details of the location of the appropriate measures together with an implementation programme and a future management plan. The development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: For the protection of legally protected species and to accord with EC8 of the South Somerset Local Plan 2006.

30. No works shall commence unless a scheme for the management of the Mill Pond have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of clearance, restoration and planting together with an implementation programme. The development shall thereafter be carried out in accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and biodiversity and to accord with EH1, ST5 and ST6 of the South Somerset Local Plan 2006.

31. No dwelling shall be occupied unless provision has been made for waste and recycling collection, details of which shall have been submitted to and approved in writing by the Local Planning Authority. The provision shall be carried out fully in accordance with the approved details and permanently maintained unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of amenity and to accord with ST6 of the South Somerset Local Plan 2006.

32. No works shall commence upon the conversion of the buildings unless details of all staircases and handrails have been submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be carried out in accordance with the approved details unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of the character of the listed building and to accord with EH3 of the South Somerset Local Plan 2006.

33. No works shall commence on the conversion of the buildings unless details of all works to floors, ceilings, walls and all other internal structural alterations have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the character of the listed building and to accord with EH3 of the South Somerset Local Plan 2006.

34. No works shall commence on the conversion of the buildings unless a scheme of external works required for each building has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide photographic records of the existing situation together with plans and specifications for the required

works. The works shall thereafter be carried out in accordance with the approved plan unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the character of the listed building and to accord with EH3 of the South Somerset Local Plan 2006.

35. No development shall be undertaken until a scheme for the provision and implementation of a trash screen to be constructed on Goulds Brook upstream of the mill has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the residential development is first commenced and shall thereafter be permanently maintained.

Reason: In the interests of flood prevention and to accord with advice contained within PPS25.

36. No development shall be undertaken unless details for the provision of a strip of land to allow maintenance of the watercourses has been submitted to and approved in writing by the Local Planning Authority. The agreed area of land shall be permanently kept clear of obstruction and the ground level shall not be increased unless otherwise agreed in writing by the Local Planning Authority.

Reason: To allow maintenance works to be carried out in the interests of the prevention of flooding in accordance with advice contained within PPS25.

37. No dwelling shall be occupied unless a scheme that secures permanent maintenance of flood defences, screens and culverts on the site has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied unless the approved scheme has been fully implemented.

Reason: To alleviate the potential for flooding and to accord with advice contained within PPS25.

Previous Officer report to Area West Committee – 16th January 2008

Agenda 16/1/2008

OFFICER: Dave Norris 01935 462382

APPL.NO: 07/02775/FUL APPLICATION TYPE: Full Application

PARISH: Merriott WARD: EGGWOOD

DESCRIPTION: Conversion of existing factory buildings and erection of new dwellings to form 52 units together with alterations/improvements to access road and junction and other associated works (GR: 344886 / 112383)

LOCATION: Merriott Plastics Ltd Tail Mill Lane Merriott Somerset TA16 5PG

APPLICANT: Mr Ian Low

AGENT: Alun Sherwood Heighway Field Associates 3 Cathedral Close Exeter Devon EX1 1EZ

DATE ACCEPTED: 20 June 2007

REASON FOR REFERRAL TO COMMITTEE:

Members will recall that this application was deferred by the Area West Committee at the September 2007 meeting to allow adequate time for certain issues to be clarified. The three issues were:

- Confirmation of the views of the Environment Agency
- Financial justification for additional dwellings
- Acceptability of amended plans

LOCATION:

The Tail Mill complex lies within a small valley with land rising away from the village to the north and east across open countryside. A large section of the site is located within the designated Merriott Conservation Area and the original historic factory buildings are listed. The site also falls within the Flood Risk Area.

The site is accessed from Tail Mill Lane, a private road that links the A356 with the village. The well-used walkers' route, the Parrett Trail also runs along Tail Mill Lane into the village.

PROPOSAL:

Planning permission was granted earlier this year for the erection of a large factory extension together with the conversion of the listed building into 33 residential units together with 10 new houses. This application was submitted in 2002 but due to lengthy legal agreements the decision was not issued for 4 years. The approval for this development was given on the basis that the residential development would allow the factory to fund a purpose built factory thereby helping the viability of the enterprise. It was also considered that the conversion works would safeguard the listed buildings as they were (and still are) in need of maintenance. The approval was accompanied by a legal agreement that amongst other items, required:

- the factory to be built prior to the occupation of any dwelling
- new junction at junction of Tail Mill/A356
- improvements to condition of Tail Mill Lane
- upgrading of southern end of Tail Mill to accommodate HGV's
- scheme to include measures to prevent HGV's accessing factory from the Merriott side
- creation of a footpath alongside Tail Mill Lane

This application seeks to amend the previous approval and increase the number of dwellings on the site. The revised scheme proposes an increase in the number of conversions to 39 units and increase the new build dwellings to 13. This scheme is therefore proposing 52 units, an increase of 9 on the previous scheme. The application was accompanied by a Flood Risk Assessment, Design and Access Statement, Ecology Report and other associated documentation including a financial justification. An application for listed building consent has also been submitted.

Previous Officer report to Area West Committee – 16th January 2008

Following the last committee amended plans have been received that address the issues of the impact of the conversions works on the character and fabric of the listed building. These plans have also taken into account the concerns about the height of some of the new build units and has reduced the amount of taller dwellings to that as approved by the previous scheme.

A separate approval has recently been granted for the revised positioning of the factory extension. This approval was granted subject to a condition that required the developer to enter into a 'fresh' S106 agreement that will ensure that those requirements specific to the new factory will be carried out.

PLANNING HISTORY:

The application site has a very complex planning history. The previous occupants, Merriott Moulding Ltd, submitted an outline application in 1990 for the erection of 36 new dwellings and the conversion of the mill buildings into 43 units together with the erection of a replacement factory. The housing element of that scheme was intended to partially finance the relocation of the works into the new factory building. The siting of the new factory building and the conversion of some of the buildings was agreed in principle by the Council after a Committee site meeting in 1991.

A number of subsequent proposals were submitted between 1991 and 1993 that reduced and revised the housing layout and numbers. In 1992 the Council produced a Development Brief for the site, which set out clear development guidelines for both the new factory building, and the residential development.

In 1993 the Council resolved to grant permission for the erection of 30 dwellings, the conversion of existing buildings into 21 dwellings and the erection of a new factory subject to the completion of a detailed Section 106 Agreement, which included the occupation of the factory, highway improvements, traffic calming measures, landscaping and reclamation and management of the pond. Negotiations commenced on that Agreement but they were never completed and the application was subsequently withdrawn.

In March 2000 the historic core of buildings on the site was included on the Statutory List of Buildings of Special Architectural and Historic Interest. The list description concludes by saying the following: "Tail Mill is a highly significant site in the history of the Somerset sailcloth industry, dating from the early 19th century. It is an evolved integrated textile factory, retaining characteristic structures from all periods of its development, including ancillary structures used for secondary and finishing processes. These, together with its mid 19th century weaving shed, and the very clear evidence of both water and steam power provision form an unusually complete and coherent survival, which despite 20th century alterations clearly demonstrates the major phases of development of a significant branch of the textile industry of South West England."

The most recent approval is referred to in the 'proposal' section. This consent for the factory and 43 units was issued approximately 12 months ago and will be extant for a further four years.

POLICIES:

The starting point for the Committee in considering this application and the related Listed Building application are the duties concerning Conservation Areas and Listed Buildings in the Planning (Listed Buildings and Conservation Areas) Act 1990. These are as follows:

Section 66: LPA shall have special regard to the desirability of preserving listed buildings or keeping any features of special architectural or historic interest

Section 72: The LPA shall pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area

Regional Spatial Strategy

Vis 1: Expressing The Vision
VIS 2: Principles for future development
HO6: Housing Types and Density
EN3: Historic Environment

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EN4: Quality in the Built Environment
TRAN1: Reducing the Need to Travel

Somerset and Exmoor National Park Joint Structure Plan Review

Policy STR1: Sustainable development - development to be of high quality, good design and reflect local distinctiveness - give priority to the continued use of previously developed land and buildings.

Policy STR6: Development outside towns, rural centres and villages should be strictly controlled and restricted to that which benefits economic activity, maintains or enhances the environment and does not foster growth in the need to travel.

Policy 9: Setting, local distinctiveness and variety of buildings and structures of architectural or historic interest should be maintained and where possible enhanced. The character or appearance of Conservation Areas should be preserved or enhanced.

Policy 19: In rural areas provision should be made for development that creates or enhances local employment.

Policy 49: Proposals for development should be compatible with existing transport infrastructure or if not provision should be made for improvements to infrastructure to enable development to proceed. In particular development should:

- Provide access for pedestrians, people with disabilities, cyclists and public transport
- Provide safe access to roads of adequate standard within the route hierarchy.

Policy 50: Provide access for pedestrians, people with disabilities, cyclists and public transport

Policy 60: Areas vulnerable to flooding should continue to be protected from development that would cause a net loss of flood storage area or interrupt free flow of water.

South Somerset Local Plan

Policy ST3: Control over development in the countryside

Policy ST4: Conversion of buildings

Policy ST5: Quality of development

Policy ST6: Landscape and Architectural Design

Policy ST7: Outdoor play space

Policy EC3: Landscape Protection

Policy EC7: Habitat protection

Policy EC8 : Protected species

Policy EH1: Conservation Areas

Policy EH3: Listed Buildings

Policy EH5: Development proposals affecting setting of Listed Buildings

Policy ED5: Contaminated land

Policy EP1: Noise Sensitive Development

Policy EP5: Contaminated land

Policy EU1: Renewable energy

Policy EU5: Flooding

Policy EU4: Water Supply

Policy EU6: Watercourse protection

Policy ME4: Extensions to existing commercial uses outside settlements

Policy HG4: Density

Policy CR2: Open space provision

Policy CR9: Rights of way

National Planning Guidance

PPS3: Housing

PPS7: Countryside

PPS9: Biodiversity/ecology

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PPG13: Transport
PPG15: Historic Environment
PPS24: Pollution Control
PPS25: Flooding

CONSULTATIONS:

Merriott Parish Council:

The council oppose this application to build an additional 9 dwellings at Tail Mill for the following reasons:

- No clear business case has been demonstrated in this environmentally sensitive area, which is outside of the development limit. The original case for 43 dwellings was narrowly passed on the basis that the new units were needed to ensure the viability of the factory. Since then the value of housing has far outstripped the rise in construction costs we see no commercial justification.
- The area falls within a medium-high flood risk area and would have to pass an exception test.
- Tail Mill Lane is narrow, single tracked and without pavement. Pedestrians use the lane frequently and walk children to and from school. An additional nine dwellings would
- impose an unacceptable strain on the already existing traffic problems. There is insufficient provision for parking and parking in the lane will block access.
- houses already approved constitutes an over-development and there is no provision for amenities or gardens. 9 further dwellings will exacerbate the problem.
- Concerns about on-going lack of maintenance of listed mill building.

Economic Development Officer:

Merriott Plastics employs 60 people, of which the majority live in either Merriott or Crewkerne. Only one person commutes more than 10 miles to work. A large proportion of the workforce has been with Merriott Plastics or their predecessor Merriott Mouldings for a very long time. The order books are currently very active, with some solid long-term contracts, which provides stability for the business. No longer is there a reliance on one customer for their work, reducing the risk of a poor debt or failed contract de-stabilising the business.

Having read the application and business plan, I concluded that the additional income that the proposed extra dwellings would provide will ensure the business is financially stable. I enquired what future there is for the business in Merriott if the additional residences were not approved. The response received stated quite clearly that the cashflow for the business was then a lot tighter and would probably restrict future investment in machinery and plant. An alternative could be to move the whole business to a sister company in Rochester, Kent, which would in turn create redundancies for the Merriott based employees.

A suggestion from the Economic Development service, which you may wish to consider is to make it a requirement for the new industrial building to be developed and occupied with expected highways and access improvements before any work is started on the residential development.

In summary, the additional dwellings would provide economic stability for the business, which should ensure it remains located in Merriott for many more years.

Following the last meeting the Economic Development Manager has further investigated the viability issue and has made the following comments:

'Members raised a question when this application was last presented in September 07. The following answer was sought through the applicants' agent.

An explanation was invited as to why there is a financial need to provide nine additional homes on the site, over and above the 43 residential dwellings already approved, particularly bearing in mind that property values have risen significantly in the period from 2002 - 2007.

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In response, the agent informed that the original application did not have a cost model. There had been no financial provision for the Section 106 works, which have taken a considerable time to finalise and agree. Also the full extent of the flood alleviation and Defra requirements had not been appreciated.

In the five years since the original approval, the Economic Development Team Leader is informed that the cost of financing this scheme has risen by 20% and construction costs by 35%. The applicant's agent provided evidence that verifies the accuracy of this information through both the Bank of England and Building Cost Information Service.

The applicant's agent also pointed out the change in development guidance during the period in favour of smaller, cheaper properties.

In response to the question asking for confidence that this proposed increase in the number of dwellings will not be surpassed in the future by an application for yet more dwellings based on the financial needs not having been fully understood. The Economic Development Team Leader can report that he has in writing a statement that 'there is no intention to seek further expansion within the footprint of the existing buildings'

Environment Agency:

At the time of the previous approval the Environment Agency did not object to the scheme provided that certain conditions were attached to any permission. The Agency have subsequently changed their requirements and as a result of this originally objected to this scheme. These objections were on the basis that the development may cause contamination problems in the area during construction. There were also concerns that the Flood Risk Assessment that was submitted by the applicant also did not meet with the EA's requirements. There was also an 'in principle' objection to any development within a Flood Zone if the applicants had not satisfied the EA that the development met the requirements of the tests contained within PPS25 (national planning guidance).

Since the last committee meeting the developer's agents have been involved in negotiations with the EA and as a result they have withdrawn their objections to the scheme. They are now satisfied that the development will not exacerbate flooding issues in the area and will not result in a danger to residents. The EA have however requested that certain conditions be attached to any permission and these are included at the end of the report.

Highway Authority:

Raise no objection provided that the improvements that were required as part of the previous approval are the subject of a supplemental legal agreement. Do not consider that the 'uplift' of nine units would warrant any further works other than those required by the previous consent.

Landscape Officer:

- Concerns about the lack of amenity space within the development.
- Details required about the treatment of the approach road.
- A detailed landscape management plan is required for the residential area including details of new hard and soft landscaping and treatment of mill pond.
- Concerns about the 3-storey dwellings need to be overcome.

Conservation Officer:

At the time of writing the original report negotiations were currently ongoing to overcome the areas of contention. These include:

- scale of new dwellings
- details of some of the alterations required by the conversions
- retention of some of the historic features
- absence of some drawings

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Since the last committee further negotiations have taken place and amended drawings have been received that overcome the concerns that were initially raised. The key area of change is the reduction in scale of the dwelling at the rear of the new build element. It was considered that the amount of 3 storey dwellings did not sit comfortably in this prominent, semi-rural location and the applicants have now conceded this point and as a result are proposing to substitute some of these units with traditional 2-storey cottages.

The Conservation Manager is now satisfied with the proposed scheme however he has requested that a significant amount of conditions are included within the consent to ensure that the character and fabric of the historic buildings is protected.

Environmental Protection Unit:

Adequate water supply should be available. An investigative report shall be carried out to assess land contamination issues.

Principal Engineer:

Conditions required relating to protection/improvements to watercourse. Floor levels to be agreed. Flood protection measures to be approved. Compensatory storage measures to be agreed.

Council's Ecologist:

Following the receipt of a survey in relation to bats and other protected species the ecologist is content that an appropriate condition can be added to the consent to ensure that the necessary mitigation is carried out.

Natural England:

Bat survey to be carried out prior to consent being granted.

Wessex Water:

The existing water supply should be sufficient to serve all of the dwellings and the existing public sewerage is also sufficient provided that surface water is excluded. Surface water disposal should be agreed with the Environment Agency.

Somerset Industrial Archaeological Society:

No objections as we believe the conversion is sympathetic. Would request that the previous conditions be imposed.

English Heritage:

The scheme is not significantly different from that previously approved and therefore do not wish to intervene.

OTHER REPRESENTATIONS:

12 letters have been received from nearby properties making the following points:

- additional impact upon village facilities
- do not believe that existing approval does not generate sufficient funds to make factory extension viable bearing in mind increase in house prices
- the area is a flood zone
- road will not withstand traffic
- who will reinforce boundary wall
- site outside development boundary
- no on-street parking
- poor public transport
- impact upon nationally important Parrett Trail

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- applicant may come back for even more dwellings
- listed building needs improving
- hope road wont become a rat-run. Traffic calming required
- verges should be retained
- A356 speed limit should be lowered to 40mph
- No affordable homes
- Lack of amenity space
- Density is out of character

CONSIDERATIONS:

Members are reminded that a detailed consent exists for 43 units on this site and that the key consideration for this scheme is whether the additional 9 units are justified and whether they will have a detrimental impact.

Principle: The application site is located outside of the development limits of Merriott and is therefore assessed against countryside policies i.e. development is strictly resisted unless there is a clear justification. At the time of the previous application the Area West committee considered, that on balance, the retention of a significant local employer, together with the safeguarding of an important historic building justified development in this location. The applicant has submitted information that he believes demonstrates that the 9 additional units are necessary to provide the income to fund the extension to the factory. Furthermore the applicant has stated that financial lenders are unwilling to provide a loan on the basis of the profit that will be generated by the 43 units and that 52 units will provide sufficient value to satisfy the risks identified. Members will see from the Economic Development Manager's comments that he is satisfied that the applicants have demonstrated that there is a clear need for these 9 additional units to make the scheme viable. Aside from the principle of the additional dwellings, the conversion of the listed buildings into apartments is considered to be the only realistic future use for the building and plans have demonstrated that this can be achieved at the same time as protecting its historic character. The additional 6 converted units appears, subject to details being agreed, to be acceptable and makes effective use of the buildings and provides a wider range of dwelling size. Members should also bear in mind that this is a 'brownfield' site that is not remote from the village and that the additional units will be located within the same area as previously approved.

Impact upon the Listed Building/Conservation Area: As has already been stated, the safeguarding of the important mill building and associated structures was one of the reasons why the previous permission was granted. The Mill is a very important building that is both architecturally and historically significant. Currently the building is of no real benefit to the business and its maintenance is therefore not a priority. Consequently the condition of the building is worsening and requiring an ever increasing amount of finance to restore it to the appropriate standard. Therefore, finding an appropriate future use for these buildings accords with government advice.

The Conservation Manager raises no objections to the principle of the development and considers that the number of units will not be to the detriment of the character and setting of the listed building - subject to the submission of amended details.

The density of the housing is not considered to be inappropriate for Merriott, especially the Lower Street area, which is characterised by groups of buildings. The form of the new dwellings is also considered to be acceptable, using simple traditional designs and materials.

Negotiations have taken place since the last committee and these have resulted in a variety of amendments. The key area of change is the reduction in scale of the dwelling at the rear of the new build element. It was considered that the amount of 3 storey dwellings did not sit comfortably in this prominent, semi-rural location and the applicants have now conceded this point and as a result are proposing to substitute some of these units with traditional 2-storey cottages. As a result of this the Conservation Manager does not object to the scheme and recommends appropriate conditions to safeguard the historic buildings.

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Highways:

The Highway Authority have assessed this application in relation to the planning permission that was granted earlier this year. They are firmly of the opinion that the additional nine units will not create an unacceptable situation and they consider that the required works required under the S106 from the previous consent will be adequate to mitigate the impact of this scheme.

Affordable housing/planning contributions:

Policies contained within the adopted Local Plan require the planning authority to secure a planning contribution to mitigate the impact of the development. Such contributions normally take the form of affordable housing, play areas, community facilities etc and these costs are absorbed by the developer. If members do accept that the proposal for 52 units is justified in terms of safeguarding the factory then it is considered inappropriate to require such contributions as the applicant believes that 52 is the minimum number of units that will produce the required financial return. If the developer was required to provide 35% of units for affordable housing then it follows that the number of units required would increase substantially.

The Landscape Officer has also referred to the lack of defined amenity space in the locality. This concern is understandable however it is important to bear in mind that no such provision was included in the previous scheme and this application is for the same site area.

It is also important to bear in mind that there is a recently approved permission for 43 units and that the additional 9 units would not in themselves generate any requirement for affordable housing etc. The developer is also required to carry out significant highway works as part of any approval.

Ecology:

Following the last committee a wildlife survey has been carried out and addresses the ecologists concerns about the impact of the development upon wildlife and more particularly bats. This survey has addressed the nature of the conflict and has made recommendations that will avoid an adverse impact. Furthermore, it will be necessary for the applicants to obtain a separate licence from DEFRA before any work can be carried out that will impact upon the bats.

Flooding Issues:

At the time of the previous approval the Environment Agency were satisfied that provided appropriate conditions were imposed, the development would not be at risk from flooding or create flooding issues elsewhere. Furthermore the issue of contaminated land was to be addressed through relevant conditions.

Since the approval the Environment Agency's requirements have become more rigorous and there are other tests that have to be satisfied.

Following the last meeting the applicants have been involved in detailed discussions with the Environment Agency and they have now issued a letter stating that they withdraw their objections to the proposal provided that conditions are imposed. They are satisfied that the Exceptions and Sequential tests have been addressed and that the development will not create additional problems in the locality.

Neighbour Amenity:

It is considered that the proposed dwellings will not have a significant impact upon the amenity of neighbouring properties. The increase in units from 43 to 52 will result in additional activity but it is not considered that this will cause any demonstrable harm to the locality. The new dwellings are some distance from other properties whilst the conversions will not have any additional impact on adjoining properties than already created by the factory use.

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Summary

It is considered, on balance, that the creation of 3 additional new builds and 6 additional conversions is acceptable. The applicant has put forward a case explaining that the previous scheme was not viable and did not provide sufficient profit to make it an attractive enough scheme to achieve financial support. This case has been assessed by an independent assessor and the Economic Development Manager and they believe that the applicant's assertions appear to be sound.

As the site straddles a high risk flood zone it was necessary for the Environment Agency to become involved and this has resulted in lengthy discussions. It is however now clear that they do not believe this development will exacerbate any problems.

The Highways Authority are satisfied that the 9 extra units will not warrant any additional improvements to those secured by the previous permission and therefore they raise no objections. The Conservation Manager is also generally content that the scheme will preserve the character of the buildings and Conservation Area as well as finding a new use for these historically important structures.

RECOMMENDATION:

Application Permitted With Conditions

The application is recommended for approval subject to the attached list of conditions that will also ensure that the requirements of the previous S106 are still maintained.

The residential development of this site has been accepted by the District Council on the basis that it will provide funding for a modernised factory building that will contribute towards the vitality of this important local employer. It is considered that the applicants have demonstrated that the additional units are necessary to provide funding for the required works and that the increase in conversions and 3 additional new build on a brownfield site will not have an adverse impact upon the character of the Conservation Area.

The proposed development will also safeguard the character of this important group of listed buildings, will not be prejudicial to highway safety, amenity or ecology and will not create additional problems within the flood zone.

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

Reason: To accord with the provisions of section 91(1) of the Town and Country Planning Act 1990.

2. No dwelling shall be occupied unless those buildings that are not identified for retention have been wholly removed, in accordance with a scheme that shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the character and appearance of the area and safeguard amenity and to accord with ST5 and ST6 of the South Somerset Local Plan 2006.

3. The areas allocated for parking on the submitted plans shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby approved.

Reason: In the interests of highway safety and to accord with TP7 of the South Somerset Local Plan 2006.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order) no garage shall be erected on the application site without the express grant of planning permission in respect thereof.

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Reason: To safeguard the character and appearance of the area and to accord with ST5 and ST6 of the South Somerset Local Plan 2006.

5. No development approved by this permission shall be commenced until a detailed scheme for improved flood conveyance under the Tail Mill Lane (to the north west of the development site) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented before any dwelling is occupied and shall thereafter be permanently maintained.

Reason: The proposals for the development on the western side of the site depend on this to reduce flood levels in the vicinity and ensure the development is safe and to accord with advice contained within PPS25.

6. No works shall commence unless details of the internal floor levels of the residential units have been submitted to and approved in writing by the Local Planning Authority. Floor levels shall be set at least 300mm above the relevant 1 in 100 year including climate change flood level, as given in Table 4.2 of the Flood Risk Assessment.

Reason: To protect the development from flooding and to accord with advice contained within PPS25.

7. No development approved by this permission shall be commenced until a scheme for flood resilience in the design and construction of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented before any dwelling is occupied and shall thereafter be permanently maintained.

Reason: To reduce the impact of any flooding on the development and to accord with advice contained within PPS25.

8. No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall utilise Sustainable Drainage Principles and shall not result in an increase in the rate &/or volume of surface water discharge to the local land drainage system. The drainage works shall be completed in accordance with the details and timetable agreed.

Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water management and to accord with advice contained within PPS25.

9. Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved by the local planning authority. That scheme shall include all of the following elements unless specifically excluded, in writing, by the Local Planning Authority.

1. A desk study identifying:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site
2. A site investigation scheme, based on (1) to provide information for an assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and risk assessment (2) and a method statement based on those results giving full details of the remediation measures required and how they are to be undertaken.

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4. A verification report on completion of the works set out in (3) confirming the remediation measures that have been undertaken in accordance with the method statement and setting out measures for maintenance, further monitoring and reporting.

Any changes to these agreed elements require the express consent of the local planning authority.

Reason: To prevent pollution of controlled waters and to accord with EP5 of the South Somerset Local Plan 2006.

10. No development approved by this permission shall be commenced until a Construction Environmental Management Plan, incorporating pollution prevention measures, has been submitted to and approved by the Local Planning Authority. The plan shall subsequently be implemented in accordance with the approved details and agreed timetable.

Reason: To prevent pollution of the water environment and harm to amenity and to accord with ST6, EU4 and EU5 of the South Somerset Local Plan 2006.

11. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment and to accord with EU7 of the South Somerset Local Plan 2006.

12. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies with an overall capacity compatible with the site being drained.

Reason: To prevent pollution of the water environment and to accords with EU6 of the South Somerset Local Plan 2006.

13. No development approved by this permission shall commence until a scheme for water efficiency has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the agreed details.

Reason: In the interests of sustainable development and prudent use of natural resources and to accord with ST8 of the South Somerset Local Plan.

14. The development hereby permitted shall not be commenced until particulars of the materials (including the provision of samples where appropriate) to be used for external walls and roofs have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

15. No development shall take place unless details of all windows, doors, fascias, soffits, downpipes, rainwater goods and other external surfaces have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

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16. No works shall be carried out to the doors and windows of the existing buildings that are to be converted unless details of any repairs or refurbishment have been submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be carried out in accordance with the approved plans unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the character of the listed building and to accord with EH3 of the South Somerset Local Plan 2006.

17. 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 modifications) no fences, gates or walls shall be erected on the site without the prior express grant of planning permission.

Reason: To safeguard the character and appearance of the area and to accord with EH1, ST5 and ST6 of the South Somerset Local Plan.

18. 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 additional windows, including dormer windows, or other openings (including doors) shall be formed in the building, or other external alteration made without the prior express grant of planning permission.

Reason: To safeguard the character and appearance of the area and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

19. All new external walls and alterations and making good to existing walls shall be constructed and carried out in matching natural materials (including the matching of pointing and coursing) samples of which shall have been submitted to and approved in writing by the Local Planning Authority before any of the development hereby permitted is commenced.

Reason: To safeguard the character and appearance of the area and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

20. The windows comprised in the development hereby permitted shall be recessed in accordance with details to be submitted to and approved in writing with the Local Planning Authority before any work on the development hereby permitted is commenced.

Reason: To safeguard the character and appearance of the area and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

21. Before any of the development hereby permitted is first occupied provision shall be made for combined radio, TV aerial and satellite facilities to serve the development and no individual external radio, TV aerial or satellite dish or aerial shall be fixed on any individual residential property or flat or other unit of living accommodation or on any wall or structure relative thereto without the prior express grant of planning permission.

Reason: To safeguard the character and appearance of the area and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

22. Details of the surface treatment for all open areas on the site shall be submitted and approved in writing by the District Planning Authority before any development is commenced on site and the development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the character and appearance of the area and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

23. Details to provide for the supply of an adequate and clean drinking water supply to all dwellings shall be agreed in writing by the District Planning Authority before any work is

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commenced on site. Such agreed supply shall be connected to the dwellings before they are first occupied.

Reason: In the interests of public health and to accord with EU4 of the South Somerset Local Plan 2006.

24. The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of the development, as well as details of any changes proposed in existing ground levels; all planting, seeding, turfing or earth moulding comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. The scheme of landscaping shall include details of the protection of trees and hedgerows alongside the access road, details of additional planting alongside the access road and details of the treatments of all boundaries.

Reason: In the interests of visual amenity and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

25. In this condition 'retained tree' means an existing tree, which is to be retained in accordance with the details that are required to be submitted and approved in accordance with condition 24 of this approval.

a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).

b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

Reason: In the interests of visual amenity and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

26. 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), there shall be no extensions to any of the dwellings (including enlargement/extension of roofs) without the prior express grant of planning permission.

Reason: In the interests of neighbour and visual amenity and to accord with ST5 and ST6 of the South Somerset Local Plan 2006.

27. No works shall commence on site unless a Construction and Environmental Management Plan 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 details unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of neighbour amenity and to accord with EP6 of the South Somerset Local Plan.

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28. The scheme hereby granted consent shall not be carried out otherwise than in complete accordance with the submitted plans and specifications and revised scheme. In the event that the work is not completed strictly in accordance with such approved plans and specifications, or shall become impracticable for whatever reason, work shall thereupon cease and only be recommenced if and when Listed Building Consent shall have been obtained in regard to a further amended scheme of works which renders completion of the scheme practicable.

29. No works shall be commence on site unless a detailed submission has been submitted to and approved in writing by the Local Planning Authority giving details of the wildlife mitigation measures as identified in the ecology survey dated August 2007. The submission shall give details of the location of the appropriate measures together with an implementation programme and a future management plan. The development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: For the protection of legally protected species and to accord with EC8 of the South Somerset Local Plan 2006.

30. No works shall commence unless a scheme for the management of the Mill Pond have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of clearance, restoration and planting together with an implementation programme. The development shall thereafter be carried out in accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and biodiversity and to accord with EH1, ST5 and ST6 of the South Somerset Local Plan 2006.

31. No dwelling shall be occupied unless provision has been made for waste and recycling collection, details of which shall have been submitted to and approved in writing by the Local Planning Authority. The provision shall be carried out fully in accordance with the approved details and permanently maintained unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of amenity and to accord with ST6 of the South Somerset Local Plan 2006.

32. No works shall commence upon the conversion of the buildings unless details of all staircases and handrails have been submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be carried out in accordance wit the approved details unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of the character of the listed building and to accord with EH3 of the South Somerset Local Plan 2006.

33. No works shall commence on the conversion of the buildings unless details of all works to floors, ceilings, walls and all other internal structural alterations have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the character of the listed building and to accord with EH3 of the South Somerset Local Plan 2006.

34. No works shall commence on the conversion of the buildings unless a scheme of external works required for each building has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide photographic records of the existing situation together with plans and specifications for the required works. The works shall thereafter be carried out in accordance with the approved plan unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the character of the listed building and to accord with EH3 of the South Somerset Local Plan 2006.

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35. No development shall begin on site unless details of a scheme have been submitted to and approved in writing by the Local Planning Authority that will ensure that the requirements of the previous approval are fully adhered to:
- the highway works as required by the highway authority and approved as part of the previous application(02/01696/FUL) are fully carried out at the appropriate time
 - the factory building approved under planning reference 07/02464/FUL is fully constructed prior to the occupation of any dwelling approved as part of this application

Reason: To ensure that the appropriate infrastructure is in place and to ensure that the replacement employment floor space is provided so as to ensure the future viability of the business and to accord with ST10 of the South Somerset Local Plan.

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Committee Minutes 16/01/2008

07/02775/FUL (pages 18-33) – Conversion of existing factory buildings and erection of new dwellings to form 52 units together with alterations/improvements to access road and junction and other associated works (GR 344886/112383), Merriott Plastics Ltd., Tail Mill Lane, Merriott – Mr. Ian Low

The Planning Team Leader (South/East) summarised the agenda report, which set out fully the details of this planning application. She referred to the previous scheme relating to this site having been granted permission in respect of the erection of a factory extension together with the conversion of the listed building into 33 residential units together with 10 new houses. She indicated that the approval was given on the basis that residential development would allow the applicants to fund a purpose built factory thereby helping the viability of the enterprise. She further commented that the previous approval was subject to a Section 106 planning obligation, details of which were set out in the agenda report.

In referring to the current application, the Planning Team Leader reported that in principle it was similar to the previous scheme but sought to increase the number of dwellings on the site by 9 by way of an additional 6 conversions and 3 new build. Reference was also made to the application being accompanied by a flood risk assessment, design and access statement, ecology report and economic justification for the scheme. She reiterated that there were listed buildings on the site for which an application for listed building consent had been submitted.

In referring to the consultation responses, which were set out in the agenda report, the Planning Team Leader particularly mentioned the response from the Environment Agency. She clarified that the Environment Agency had not raised an objection to the scheme but had recommended a list of conditions to be included in any permission. She reported, however, that concerns had been received from local residents that the conditions were not strong enough and their views had been supported by the Council's Engineer. Members noted that the recommended conditions were not as precise as those included in the previous approval and the Planning Team Leader recommended that the wording should be strengthened in consultation with the Council's Engineer.

The Planning Team Leader referred to the history of the site being complex, details of which were set out in the agenda report. She informed members of the material considerations to be taken into account in determining this application. Reference was made to the site being on previously developed land and although not remote was located outside the development limits of Merriott. She mentioned, however, that the principle of development had been established given the previous consent for 43 units. She mentioned that the Highway Authority had no objections subject to the improvements required for the previous scheme being implemented and to the Council's Ecologist having no objections subject to conditions. Reference was made to the applicant being an important employer and to his having supplied an economic justification for the 9 additional units, which had been accepted by Atis Real, independent assessors appointed by the Council. She further referred to the impact on the listed buildings and conservation area and indicated that since the Committee last considered this application at its meeting on 19th September 2007, amended plans had been received, which addressed the issues of the impact of the conversion works on the character and fabric of the listed buildings. The amended plans had also taken into account concerns about the height of some of the new build units and had reduced the amount of taller buildings to that approved by the previous scheme. The Planning Team Leader commented that the principle of preserving the character and fabric of the historic and listed buildings had been well established and it was important that the scheme enabled the protection of the listed buildings. She referred to this scheme being an enabling development to secure the factory building and the protection of the listed buildings, which together with the highway improvements, would be secured by the Section 106 planning obligation. In referring to affordable housing, the Planning Team Leader referred to the extant planning approval for 43 units and advised that the additional 9 units subject of this application would not in themselves generate any requirement for affordable housing. She further mentioned that the proposed dwellings would not have a significant impact upon the amenity of neighbouring properties.

In summary, she concluded that the application was considered to be acceptable and recommended that it be approved. She wished, however, to amend the recommendation as set out in the agenda to make it subject to the prior completion of a Section 106 planning obligation to cover the same items/issues as that relating to the previous planning permission and listed building consent issued on

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24th January 2007 and to no additional representations raising new and relevant issues being received in respect of the amended plans. She also recommended additional conditions relating to the amended plans and the amendment of the conditions relating to those matters raised by the Environment Agency as mentioned above.

The Economic Development Team Leader then referred to the summary statement in the agenda report that referred to his being satisfied that the applicants had demonstrated that there was a clear need for these 9 additional units to make the scheme viable. He indicated that this was not an accurate reflection of his views but rather he felt that this was a borderline case that on balance could be supported. He explained to members in detail the outcome of his further investigations into the economic justification for the scheme following on from concerns raised by members when the application was last discussed at the September 2007 meeting of the Committee. A summary of his comments was set out in the agenda report.

The officers then answered members' questions on points of detail regarding the proposals. Points raised included further questions on the economic justification for the scheme together with whether the Council could require any claw back as planning gain should any profit on the scheme go beyond that to secure the factory building and the protection of the listed buildings. Reference was also made to whether a small amount of affordable housing could be required and the Planning Team Leader indicated that since this was an enabling development it would not be appropriate bearing in mind that if such a requirement was insisted upon it would probably mean that there would be a need for more units to raise the necessary funding. She also indicated that recommended condition 15 could be amended to include a reference to chimneys and vents and condition 18 amended to include a reference to vents.

The Committee then noted the comments of Mr. C. Mayes, a parish councillor and resident of Tail Mill, in objection to the application. He expressed concern about the 9 extra dwellings and also commented that whilst the application went unresolved it could cause a problem with the sale of properties. He also referred to traffic and parking problems that may be caused by the proposals. If the application was granted he hoped that the conditions would be achievable and monitored.

Ms. G. Hickley spoke in objection to the application and referred to her property abutting Tail Mill Lane. She expressed concerns about flooding and the knock-on effect on existing dwellings. She also referred to the wall along her boundary with the lane and was concerned that if lorries used the access from the village side the wall may be damaged.

In response to comments made, the Planning Team Leader indicated that the Highway Authority had not raised any objections to the proposals and therefore it would be difficult to object against the additional units on highway grounds. She also reported that the flood risk assessment had looked at off-site risks. She reiterated that if the current application was approved, the conditions recommended by the Environment Agency should be made more precise in line with those on the extant permission.

Cllr. Simon Bending, ward member, expressed concern about the flood risk, especially given the conditions recommended by the Environment Agency and referred to the conditions on the earlier extant permission being quite precise. He mentioned that 52 dwellings represented a 6% increase in properties in Merriott, which he felt would impact on village facilities. He commented that any other development would be required to provide an element of social housing and he was disappointed that there was no such requirement being made for this scheme. In referring to the viability of the scheme he commented that he struggled to support the additional 9 dwellings and expressed his view that, upon looking at the figures, there was an overall profit element. He felt that there should be clear economic justification for the scheme. He also felt that the Section 106 planning obligation should be revisited with a view to including contributions to education, social services and social housing.

During the ensuing discussion, the view was expressed by a member that the margin of profit was a significant factor in considering this application. Although supporting the application in terms of it being an enabling development to fund the factory and protection of the listed buildings, it was not felt that there should be any further profit element.

A member suggested that further advice should be sought on the economic justification for the scheme, particularly on whether making a profit over and above that required to enable the provision of the factory building and the protection of the listed buildings was reasonable. It was also felt that Counsel's Opinion should be sought on whether the Council could claw back any profit over and

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above that required for the provision of the factory and protection of the listed buildings bearing in mind that this was an enabling development. Should Counsel agree that claw back of surplus profit was legitimate in this case it was felt that the application should be referred back to the Committee to enable that aspect to be considered further. If such action was not considered to be legitimate members felt that the application could be approved. Members concurred that any permission should include those additional details as recommended by the Planning Team Leader. The Committee also concurred with the comments of members that any permission should be subject to the amendment of condition 15 to include a reference to chimneys and vents and of condition 18 to include a reference to vents. The amendment of condition 35 to require that the factory building is fully constructed prior to the construction or conversion of any dwelling approved as part of this application was also agreed.

- RESOLVED:**
- (1) that further advice be sought from an independent financial assessor on the economic justification for the scheme, particularly on whether making a profit over and above that required to enable the provision of the factory building and the protection of the listed buildings was reasonable;
 - (2) that Counsel's Opinion be sought on whether the Council could claw back any profit over and above that required for the provision of the factory and protection of the listed buildings as planning gain bearing in mind that this was an enabling development;
 - (3) that should Counsel agree that claw back of surplus profit is legitimate the application be referred back to the Committee to enable that aspect to be considered further;
 - (4) that if claw back of surplus profit is not considered by Counsel to be legitimate planning permission be granted subject to:-
 - (i) the prior completion of a Section 106 planning obligation or a deed of variation (in a form acceptable to the Council's Solicitor) before the decision notice granting planning permission is issued, the said planning obligation to cover the same items/issues as the Section 106 planning obligation dated 24th January 2007 in relation to planning application no. 02/01696/FUL and listed building consent 02/01698/LBC;
 - (ii) no additional representations raising new and relevant issues being received in respect of the amended plans;
 - (iii) conditions 1- 35 as set out in the agenda report;
 - (iv) the amendment of conditions 5 - 13 relating to flood risk in order to strengthen the precise wording, such amendments to the wording to be delegated to the Head of Development and Building Control in consultation with the Environment Agency, Council's Engineer, Chairman of the Committee and ward member;
 - (v) the inclusion of an additional condition regarding the development being carried out in accordance with the amended plans received on 4th and 7th January 2008;
 - (vi) the amendment of condition 15 to include a reference to chimneys and vents and condition 18 to include a reference to vents;
 - (vii) the amendment of condition 35 to require that the factory building is fully constructed prior to the construction or conversion (rather than occupation) of any dwelling approved as part of this application (it being noted that the reference in the Section 106 planning obligation would also need to be amended to reflect this change).

(12 in favour, 0 against)

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Committee Minutes 16/04/2008

Conversion of Buildings into 39 Units and Erection of 13 New Dwellings – Land at Tail Mill, Merriott (App. No. 07/02775/FUL) (Agenda item 12)

Reference was made to the confidential agenda report and the Planning Team Leader reported that the Committee, at its meeting on the 16th January 2008, had asked for an independent assessment to be made of this scheme to assess whether there was a clear justification for the increase in numbers of dwellings and whether there would be sufficient profit for the Council to require planning contributions.

The Planning Team Leader reported that he had referred the scheme to the District Valuer who had robustly assessed the financial details submitted by the applicant and used their own experience of the housing market and construction costs in order to make an informed recommendation. The District Valuer had also given an opinion as to the reasonableness of the applicant making a developer's profit from the site.

The Planning Team Leader further reported that the suggestion regarding the potential to claw back any further profit from the developer had also been discussed with the District Valuer who was of the view that this would be extremely difficult to achieve and would be a further potential risk for any lender.

Details of the conclusions of the District Valuer in respect of these matters were reported to the Committee. Having regard to those conclusions, the Planning Team Leader recommended that no planning contributions be sought from the applicant other than for highway works already agreed.

Members, having noted the District Valuer's assessment of the financial details submitted by the applicant, indicated that they were satisfied with the conclusions reached and agreed that no planning contributions should be sought from the applicant other than for highway works already agreed. On a separate issue relating to the conditions that were to be imposed in respect of flooding, the Planning Team Leader reported that discussions had taken place and it was considered that the conditions proposed were acceptable, however, they should be supplemented by additional conditions from the previous approval.

RESOLVED: that having noted the District Valuer's assessment of the financial details submitted by the applicant in respect of planning application no. 07/02775/FUL, no planning contributions be sought from the applicant other than for highway works already agreed.

(9 in favour, 0 against)
