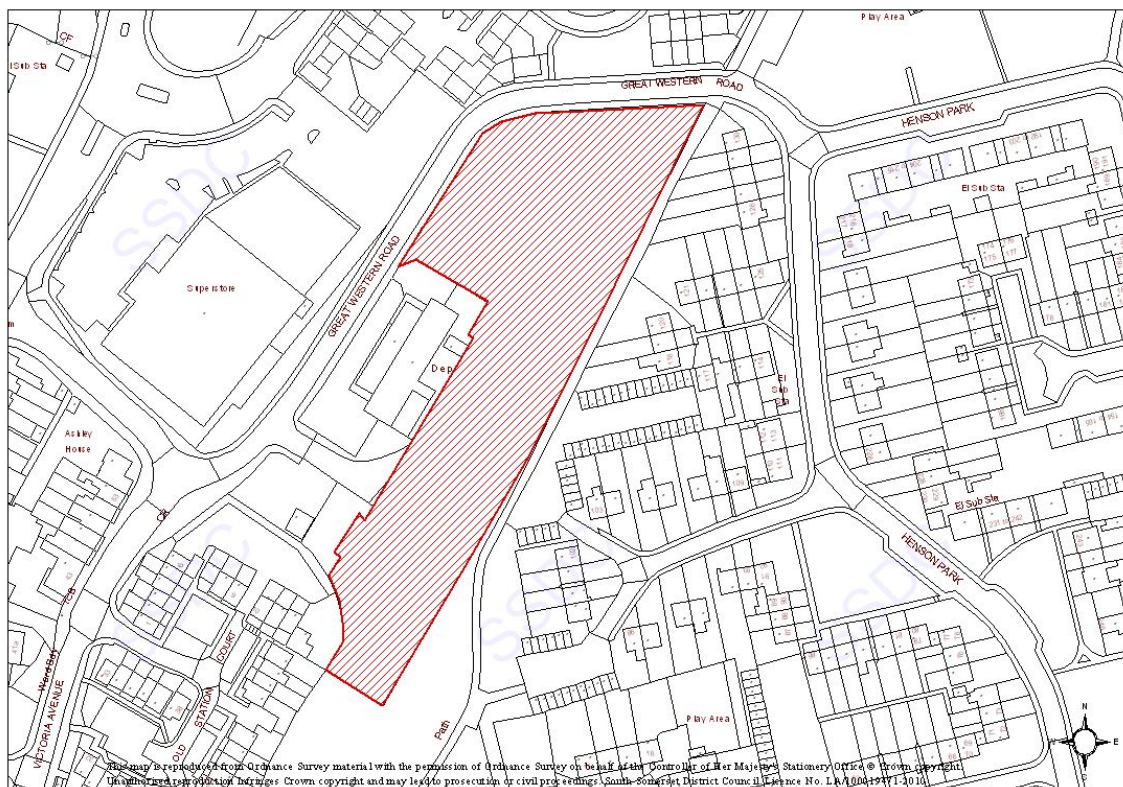


**Supplemental Officer Report on Planning Application: 10/01967/FUL**

<b>Proposal:</b>	Demolition of buildings and the erection of 46 residential units together with associated car parking and access (Revised Application). (GR 332975/109253)
<b>Site Address:</b>	Old Station Yard Victoria Avenue Chard
<b>Parish:</b>	Chard
<b>AVISHAYES (CHARD) Ward (SSDC Member)</b>	Mr N J P Mermagen (Cllr)
<b>Recommending Case Officer:</b>	Adrian Noon Tel: 01935 462370 Email: adrian.noon@southsomerset.gov.uk
<b>Target date:</b>	20th August 2010
<b>Applicant:</b>	Jephson Housing Association/Brookvale Homes (SW) Ltd
<b>Agent: (no agent if blank)</b>	Mr Shaun Travers Boon Brown Architects Motivo Alvington Yeovil BA20 2FG
<b>Application Type:</b>	Major Dwlg 10 or more or site 0.5ha+

**REASON FOR REFERRAL TO COMMITTEE**

Members previously resolved to approve this application subject to the agreement of planning obligations, which were specified in the Committee resolution. The applicant now seeks to vary the agreed obligations and the changes are considered to be material. The proposal is therefore referred back to Area West for reconsideration, with the previous report appended for information.



## BACKGROUND

This application was referred to Area West in July 2010 at which time it was resolved to approve the application subject to: -

- (1) *The prior completion of a Section 106 Planning Obligation (in a form acceptable to the Council's Solicitor(s)) before the decision notice granting planning permission is issued to:-*
  - *Ensure that a contribution of £16,560 is made towards junction improvements at the A30/A358;*
  - *Ensure that a contribution of £28,500 is made to mitigate the additional wear and tear on the adjoining recreation space that would arise for this development due to the lack of on-site POS;*
  - *Ensure the delivery of the development as 100% affordable housing;*
  - *Provide for appropriate education, open space and sports, arts and leisure contributions in relation to any houses that are sold on the open market (no more than 10% to be sold);*
- (2) *No new material and relevant objections, in the opinion of the Chair of the Area West Committee and ward member, as advised by officers, being made by 5th August 2010;*
- (3) *Conditions 1-23 and informative notes 1-2 as set out in the agenda report but with the addition of the following wording to the end of condition 19:-*

*"The submitted details shall include the phasing of all aspects, including the delivery of the cycle path link to the existing cycle path to the east of the site. Once approved such details shall be adhered to at all times thereafter."*

No new and relevant observations were received and, reflecting Members' concerns, the refuse store for the apartment block was clarified and agreed with Somerset Waste Partnership as shown on additional plans provided on 24/08/10. However since then the original applicant, Yarlinton Homes has withdrawn from the scheme to be replaced by Jephson Housing Association who have reappraised the finances of the scheme. Whilst they remain committed to a development of 100% 'affordable' homes, as per the original resolution, they claim that this can only be achieved with grant funding, the future of which is very much in doubt. Jephson have therefore asked the District Council to consider a fall back position of 35% affordable housing and 65% 'open market' housing – i.e. a normal development proposal.

Jephson accept the previously agreed financial obligations, namely £16,560 towards junction improvements at the A30/A358 and £28,500 towards mitigation measures within the adjoining recreation space, however they claim that only £100,000 could be provided towards the education and sports, arts and leisure contributions that have been requested but previously waived in lieu of additional affordable homes. A valuation by the District Valuer (DV) has been provided to support this position and this has been circulated to the sports development, housing and education officers for comment.

## NEW ISSUES

The application remains identical in terms of layout and detailing to the scheme Members have resolved to approve. It is now the District Council's practice to secure a monitoring fee to cover the monitoring of planning obligation agreements; the applicant's agent has agreed to this. The sole issue therefore is whether or not the fall back, open market scheme, with 35% affordable housing, would be acceptable with just £100,000 towards the £134,827 and £273,377.01 previously sought to mitigate the impact of the development on education and leisure facilities respectively.

Government advice is that local planning authorities should be mindful of economic factors and the viability of development. In this instance the redevelopment of this dilapidated site is

also a material consideration, as is the provision of much needed affordable houses. At the time of writing there was not considered to be any reason to override the DV's conclusion that the price negotiated for the site is reasonable and that, given the cost of development, £100,000 is a reasonable contribution towards education and sports, arts and leisure facilities.

## **CONSIDERATIONS**

Previously it was accepted that the provision of 46 affordable homes on this dilapidated site justified waiving education and sports, arts and leisure obligations. The proposed fallback position has been discussed with the relevant officers and the following comments have been provided:-

Strategic Housing Manager – agrees to the principle of reverting to 35% affordable, subject to all the affordable units being for rent with a 67:33 tenure split between social rented units and affordable rent units. The local planning authority would need to agree the make up of the affordable units in terms of the size of units as part of the s106 agreement.

County Education Officer – Raises no issue with the valuation. An increasing shortage of primary school places in Chard is referred to and it is suggested that any depressed planning obligations are evenly split to address the impact of the development on education and sports arts and leisure facilities in Chard.

Assistant Director (Health and Wellbeing) – accepts the principle of reduced planning obligations should the fall back position arise.

Accordingly, subject to agreement of the exact split of the planning obligations it is considered that the revised package of planning obligations is acceptable and would comply with policies CR2, CR3, HG7 and ST10 of the local plan.

## **RECOMMENDATION**

That planning permission be granted subject to:

(a) The prior completion of a Section 106 planning obligation (in a form acceptable to the Council's solicitor(s)) before the decision notice granting planning permission is issued to ensure that, in the event that grant funding is available:-

- A contribution £16,560 is made towards junction improvements at the A30/A358
- A contribution of £28,500 is made to mitigate the additional wear and tear on the adjoining recreation space that would arise for this development due to the lack of on-site POS.
- The development provides 100% affordable housing
- A monitoring fee is provided at a rate of 20% of the application fee

In the event that grant funding is not available the s106 agreement shall ensure that:-

- At least 35% of the units are provided as rented affordable housing, to be 67% social rented accommodation and 33% affordable rent accommodation and of a mix of sizes to be agreed by the Council's Strategic Housing Manager
- A contribution £16,560 is made towards junction improvements at the A30/A358
- A contribution of £28,500 is made to mitigate the additional wear and tear on the adjoining recreation space that would arise for this development due to the lack of on-site POS.
- £100,000 is provided to mitigate the impact of the development on education and sports, leisure and arts facilities as agreed by the Assistant Director (Health and Wellbeing) and the County Education Officer
- A monitoring fee is provided at a rate of 20% of the original application fee

And

- (b) The imposition of the planning conditions set out below on the grant of planning permission.

## **JUSTIFICATION**

The provision of 46 units of much needed affordable housing in Chard outweighs the failure to provide for education, open space and sports, arts and leisure contributions. However it is considered reasonable to allow for a fall back position should grant funding not be available, in which case, mindful of the need to regenerate this dilapidated site, the District Council accepts that viability of the scheme is limited and accepts that limited planning obligations are available. In other respects the proposal is of an acceptable form, design and layout that would have no negative impact on amenity, ecology, highways safety or the supply of employment land. Adequate provision has been made for possible pollution and drainage. As such the proposal complies with policies ST5, ST6, ST7, ST9, ST10, EC3, EC8, EU4, EP1, EP6, ME6, TP1, TP3, TP4, TP7, HG1, HG4, HG7 and CR3 and would contribute towards Goals 3, 7, 8 and 9 of the South Somerset Sustainable Community Strategy.

## **SUBJECT TO THE FOLLOWING CONDITIONS:**

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

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

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the following plans:-

1785/1 Rev A; received 02/04/10; drawings 2849/1000; 2849/101B; 2849/102A;; 2849/104A; 2849/105A; 2849/106A; 2849/121/A; 2849/118A; 2849/117A; 2849/116A; 2849/114A; 2849/113A; 2849/112A; 2849/111A; 2849/110A; 2849/122B; 2849/123B; 2849/124B received 28/04/10; drawings; 2849/126C; 2849/107B; 2849/103B; 2849/115B received 08/07/10 and drawings 2849/100T and 2849/128 received 24/08/10.

**Reason:** To clarify the development hereby approved as the submitted plans have been amended.

3. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out, as part of an approved scheme of remediation must not commence until conditions 4 to 6 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.

**Reason:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved policy EP1 of the South Somerset Local Plan (adopted April 2006).

4. The further investigation and risk assessment as proposed in the applicants Phase 2 report should be completed. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) A survey of the extent, scale and nature of contamination;

(ii) An assessment of the potential risks to:

- Human health,
- Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- Adjoining land,
- Groundwaters and surface waters,
- Ecological systems,
- Archaeological sites and ancient monuments;

(iii) An appraisal of remedial options, and proposal of the preferred option(s).

This should be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

**Reason:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved policy EP1 of the South Somerset Local Plan (adopted April 2006).

5. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

**Reason:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved policy EP1 of the South Somerset Local Plan (adopted April 2006).

6. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

**Reason:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved policy EP1 of the South Somerset Local Plan (adopted April 2006).

7. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with

the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

**Reason:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved policy EP1 of the South Somerset Local Plan (adopted April 2006).

8. No development shall be undertaken unless a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details of the phasing of construction, hours of construction, routing for construction vehicles, parking for construction and contractors vehicles, measures to reduce noise and dust from the site together with other measures that will reduce the impact of the construction process on the locality. The development shall thereafter be carried out in accordance with such details unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To safeguard residential amenity in accordance with saved policies EP6 and ST6 of the South Somerset Local Plan.

9. No development hereby approved shall be carried out until surface water drainage details, including calculations, have been submitted to and approved in writing by the local planning authority. Such details shall incorporate sustainable drainage techniques and once approved shall be fully implemented prior to the occupation of any of the units and shall be maintained in good working order at all times thereafter.

**Reason:** To ensure that the development is adequately drained in accordance with saved policy EU4 of the south Somerset local Plan.

10. The development hereby permitted shall not be commenced until a landscaping scheme, which shall include details of the species, siting and numbers to be planted, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be completely carried out within the first available planting season from the date of commencement of the development, or as otherwise extended with the agreement in writing of the Local Planning Authority.

For a period of five years after the completion of the planting scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition to the satisfaction of The Local Planning Authority and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species, or the appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

**Reason:** In the interests of visual amenity in accordance with saved policies ST5 and ST6 of the South Somerset Local Plan.

11. 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. Once approved such details shall be fully implemented unless agreed otherwise in writing by the local planning authority.

**Reason:** In the interests of visual amenity in accordance with saved policies ST5 and ST6 of the South Somerset Local Plan.

12. Notwithstanding the details submitted no development shall be carried out until such this as details of the proposed levels have been submitted to and agreed in writing by the local planning authority. Once approved such details shall be fully implemented unless agreed otherwise in writing by the local planning authority.

**Reason:** In the interests of visual and residential amenity in accordance with saved policies ST5 and ST6 of the South Somerset Local Plan.

13. The windows to the west elevation of flat 42 and the south elevation of plots 44 shall be fitted with obscure glazing and shall only be operable in a manner to be agreed in writing by the local planning authority. Once approved such details shall be fully implemented, and not subsequently changed unless agreed otherwise in writing by the local planning authority.

**Reason:** To safeguard residential amenity in accordance with saved policy ST6 of the South Somerset Local Plan.

14. The development hereby permitted shall not be commenced until particulars of all boundary treatments and hard surfacing materials have been submitted to and approved in writing by the local planning authority. Such details shall include the use of porous materials to the parking and turning areas, were appropriate and once approved such details shall be fully implemented unless agreed otherwise in writing by the local planning authority.

**Reason:** In the interests of visual and residential amenity and to ensure the adequate drainage of the site and to mitigate any flood risk in accordance with saved policies ST5, ST6 and EU4 of the South Somerset Local Plan, adopted 2006.

15. No development hereby permitted shall take place until details of the solar thermal hot-water systems (or other method of renewable power generation) have been submitted to and approved in writing by the local planning authority. Once approved such systems shall be fully installed and operational prior to the occupation of any dwelling hereby approved and shall be maintained in good working order at all times thereafter unless agreed otherwise in writing by the local planning authority.

**Reason:** In the interests of sustainable development in accordance with policy RE5 of the emerging Regional Spatial Strategy (RSS10).

16. No removal of vegetation that may be used by nesting birds (trees, shrubs, hedges, bramble, ivy or other climbing plants) nor works to or demolition of buildings or structures that may be used by nesting birds, shall be carried out between 1<sup>st</sup> March and 31<sup>st</sup> August inclusive in any year, unless previously checked by a competent person for the presence of nesting birds. If nests are encountered, the nests and eggs or birds, must not be disturbed until all young have left the nest.

**Reason:** To avoid disturbance to nesting birds thereby ensuring compliance with the Wildlife and Countryside Act 1981, as amended by the CROW Act 2000, and in accordance with Policy EC8 of the adopted South Somerset Local Plan.

17. The development hereby permitted shall not be commenced (including any further ground works or site clearance) until further survey to determine the presence of Japanese Knotweed, and if present details of a scheme to eradicate Japanese Knotweed has been submitted to and approved in writing by the local planning authority. Once approved any eradication scheme shall be fully implemented prior to the commencement of development unless agreed otherwise in writing by the local planning authority.

**Reason:** In the interests of amenity in accordance with save policy ST6 of adopted South Somerset Local Plan and in order to comply with legislation (The Wildlife and Countryside Act 1981).

18. The development hereby permitted shall not be occupied until a scheme of management for the areas of landscaping has been submitted to and approved in writing by the local planning authority. Once approved such scheme shall be adhered to at all times thereafter unless agreed otherwise in writing by the local planning authority.

**Reason:** To ensure the suitable management of the landscaped areas in the interests of visual amenity in accordance with saved policies ST5 and ST6 of the South Somerset Local Plan.

19. The proposed estate roads, footways, footpaths, tactile paving, cycle ways, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority. The submitted details shall include the phasing of all aspects, including the delivery of the cycle path link to the existing cycle path to the east of the site. Once approved such details shall be adhered to at all times thereafter.

**Reason:** In the interests of visual amenity and highways safety in accordance with saved policies ST5, ST6 and TO4 of the South Somerset Local Plan and policy 49 of the Somerset and Exmoor National Park Joint Structure Plan (April 2000).

20. The proposed roads, including footpaths and turning spaces where applicable, shall be constructed in such a manner as to ensure that each dwelling before it is occupied shall be served by a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.

**Reason:** In the interests of highways safety in accordance with saved policies ST5 and TP4 of the South Somerset Local Plan and policy 49 of the Somerset and Exmoor National Park Joint Structure Plan (April 2000).

21. Prior to first occupation of the dwellings hereby approved details of the improvements to the junction of the existing cycle path with Great Western Road shall be fully implemented in accordance with a design and specification to be approved in writing by the Local Planning Authority and to be fully implemented in accordance with the approved details

**Reason:** In the interests of highways safety in accordance with saved policies ST5 and TP4 of the South Somerset Local Plan and policy 49 of the Somerset and Exmoor National Park Joint Structure Plan (April 2000).

22. There shall be no obstruction to visibility greater than 600mm above adjoining road level forward of a line drawn 2.4m back and parallel to the nearside carriageway edge over the entire site frontage. Such visibility shall be fully provided before works commence on the development hereby permitted and shall thereafter be maintained at all times.

**Reason:** In the interests of highways safety in accordance with saved policies ST5 and TP4 of the South Somerset Local Plan and policy 49 of the Somerset and Exmoor National Park Joint Structure Plan (April 2000).

23. No dwelling hereby approved shall be occupied until such time as a scheme for the allocation and management of the parking spaces has been submitted to and



approved in writing by the local planning authority. Once approved such management plan shall be adhered to at all times thereafter.

**Reason:** To ensure that adequate parking is provided to meet the future needs of existing residents and future occupiers of this development in accordance with saved policy TP7 of the South Somerset Local Plan.

**Informatives**

1. The information required in relation to condition 10 should take into account the comments of the Council's tree officer, a copy of which is attached.
2. It should be noted that given the nature and scale of the works required to create the proposed new access it is likely that these works will need to be secured via a suitable legal agreement rather than a standard 184 License. Please ensure that an advisory note is attached requesting that the developer contact the Highway Authority to progress this agreement.