

**BATH AND NORTH EAST SOMERSET COUNCIL**  
**DEVELOPMENT CONTROL COMMITTEE – 19<sup>th</sup> March 2008**

**REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING AND**  
**TRANSPORT DEVELOPMENT ON APPLICATIONS FOR DEVELOPMENT**

*[NB: Agenda Items 1 and 2 are both dealt with within the composite Report which follows]*

Item No. 1

**APPLICATION NO.:** 07/01034/EFUL    **TYPE:** Full Application with EIA  
**WARD:** Widcombe  
**EXPIRY DATE:** 1<sup>st</sup> August 2007  
**CONSTRAINTS:** Grade II Listed Buildings, Core Employment Area, Floodplain Protection, Flood Zones 3 and 2, Forest of Avon, Hot Spring Protection, World Heritage Site, Adjoining Bath Conservation Area  
**APPLICANT:** Bath Technology Centre  
**PROPOSAL:** Bath Quays South Development – Construction of school building of 10,888 sq.m to house the Dyson School of Design Innovation, including construction of new pedestrian bridge across River Avon, and associated access, servicing and landscape areas incorporating on-site bus facilities, all following partial demolition of existing buildings.  
**SITE LOCATION:** Street Record, Riverside Business Park, Westmoreland, Bath

Item No. 2

**APPLICATION NO.:** 07/01044/LBA    **TYPE:** Listed Building Consent  
**WARD:** Widcombe  
**EXPIRY DATE:** 6<sup>th</sup> June 2007  
**CONSTRAINTS:** Grade II Listed Buildings, Core Employment Area, Floodplain Protection, Flood Zones 3 and 2, Forest of Avon, Hot Spring Protection, World Heritage Site, Adjoining Bath Conservation Area  
**APPLICANT:** Bath Technology Centre  
**PROPOSAL:** Bath Quays South Development – Demolition of ancillary buildings and partial demolition of principal building and works of alteration in connection with redevelopment of the site to provide a school building of 10,888 sq.m to house the Dyson School of Design Innovation, the building will incorporate parts of the Grade II Listed Newark Works and will include a 4/5 storey new build.  
**SITE LOCATION:** Street Record, Riverside Business Park, Westmoreland, Bath

## **1. INTRODUCTION AND SUMMARY OF PRINCIPAL MATERIAL CONSIDERATIONS**

1.1 This report concerns both a Full Planning application and an application for Listed Building Consent relating to the Dyson School of Design Innovation (DSDI) proposals at Bath South Quays.

1.2 The site currently forms part of the Riverside Business Park, and is accessed from Lower Bristol Road. These linked major applications raise complex issues and have proved to be of considerable public interest, with both support and opposition from the public. Whatever decisions are made the outcome is likely to be of significant public interest, but because of the Council's ownership of the site Members are reminded that it is particularly important that the decisions are made (and are seen to have been made) solely on the Planning and Listed Building merits of the proposals. Accordingly, the applications fall to be formally considered by the Committee.

1.2 Each of the two applications must be the subject of a separate Officer recommendation and formal decision by the Committee, but the two applications are best assessed in tandem, as many of the material considerations are common to both. In order to aid Members' assessment of the Planning and Listed Building merits of the proposals, arrangements have been made for Members to visit the site prior to the Committee meeting, to view the existing buildings on the site and the site's setting in the context of the current proposals.

1.3 Where appropriate, references to the different applications are made clear within the report. Members are asked to note that whilst this Report has been prepared on behalf of the Assistant Director by Geoff Webber, in his role as Senior Professional – Major Developments, the Report incorporates detailed comments and expert advice provided by the Planning Service's Historic Environment Team.

### **Summary of Principal Material Considerations**

1.4 The proposed development raises a number of important issues that must be weighed together in deciding whether Planning Permission and Listed Building Consent should be granted or refused. These are summarised below:

- The DSDI is an undeniably exciting and commendable concept, which has been designed to make the highest quality educational facilities available locally, as a specialist engineering and design supplement to the more traditional schools in the area. Officers are aware that the Applicant has sent Members an information book about the project, but Members must make a formal *site-specific* decision in connection with the current scheme, and must therefore consider how much weight to give to the argued educational and reputational benefits (to Bath and to the surrounding area) of the proposed School.

- The proposed development must be assessed against relevant policies contained within the statutory Development Plan. In site-specific terms, these are those policies contained within this Council's own Bath and North East Somerset Local Plan, which was finally adopted in late 2007. The Planning application should be determined in accordance with the provisions of the Local Plan unless material Planning considerations indicate otherwise.
- The proposals must be assessed with regard to their impact upon the special character and appearance of the Listed buildings on the site and of their setting.
- The Committee must have special regard to the extent to which the proposed development will preserve or enhance the character or appearance of the Bath Conservation Area, which immediately adjoins the site.
- The Committee must have regard to the flood risk associated with the development, in accordance with the Government requirements and methodology set out in PPS25 and to associated comments and advice received from the Environment Agency.
- The Committee must also take account of representations received, and any other material Planning consideration (including other Government guidance and policies).

1.5 Members are advised that the Council's interests as owner of the site are not material Planning considerations, and should be disregarded in the assessment of the merits of these proposals.

## **2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS**

### **The Site:**

2.1 The Newark Works industrial buildings, formerly occupied by the Stothert and Pitt engineering company, date from the mid 19<sup>th</sup> century but with 20<sup>th</sup> century alterations/additions. The early 20<sup>th</sup> century former machine shop which faces onto Lower Bristol Road is not included in the listed building application site but is within the planning application site. No alterations are proposed for this building.

2.2 The Newark Works were spot-Listed for their special architectural and historic interest in December 2006. The front elevation (to Lower Bristol Road) is particularly imposing and is noted in the listed building description as two storeys with the central office as three storeys. Specific reference is made to the "Monumental battered plinth ..." and the 13 bay section which has, "large multi pane (7x9) iron windows...the windows of the machine shop are the most complete with most retaining their multi pane windows." The architectural style is essentially neoclassical. Internal features of interest include plaster covings, deep skirting boards as well as architraves, and the dog leg stairs which served the office block, simple cast iron columns with roll

moulded capitals supporting the first floor in the store room area, and the more robust flanged cast iron columns and hoists in the machine shop. Within the machine shop the roof consists of rafters set on braced purlins.

2.3 To the rear (riverside area) of the site is the painted brick former foundry. It has a pitched slate roof with large vents located on the ridge. Although it has been altered it still retains interior features of interest such as iron columns and a rare form of composite timber and iron roof structure. To the east of the foundry are the former engine and boiler houses. The latter has been substantially altered but still retains historic fabric of interest in the form of external arched openings.

2.4 The former rear yard leads down to the river wall, which is constructed in natural stone. Although large areas of the yard have been covered in concrete in some locations historic rail tracks and turntables, together with attractive stone sets can be seen.

2.5 The buildings on the site are constructed in a variety of materials including natural stone, brick and slate although modern corrugated sheet roofs have been introduced in some locations. The prominent building material on the front elevation of the main range is natural ashlar limestone which is used on the upper sections, and grey rock faced sandstone used in the construction of a striking plinth.

2.6 Stothert and Pitt closed down in 1989. The site was taken over by the Council and turned into business units which were used by small individual companies and operated as Bath Riverside Business Park. The buildings on the site have recently been vacated.

2.7 Natural stone, brick and slate are also the predominant building materials in the locality. At this point the Lower Bristol Road is characterised by a larger ensemble of historic industrial buildings and visual permeability through these buildings is not an established feature. The impressive frontages are located hard up against the back of the pavements and contrast markedly with the situation on the northern bank of the river, where the street scene has a more open character

### **The Surrounding Area:**

2.8 The application site lies within the World Heritage Site. The present boundary of the Bath Conservation Area follows the southern bank of the river, and so excludes the application site and the imposing group of Victorian industrial buildings to the east. It then returns further to the south to include Wells Road, Beechen Cliff and the Victorian villas in Upper Oldfield Park. The conservation area boundary was last reviewed in 1985, since when a number of representations have been received recommending a further review in respect of the increasingly valued industrial heritage of the city. An appraisal of the city conservation area is proposed to commence later this year.

2.9 To the west of the site is the modern development of Riverside Court and to the east the group of former historic industrial buildings noted above. Two

of the buildings are listed Grade II - Camden Malthouse silo dates from the early 19<sup>th</sup> century and is constructed in natural stone with a concrete pitched roof; and Camden Mill, dating from 1879 -80, a former steam powered flour mill which is also constructed in natural stone but has a slate pitched roof.

2.10 The historic industrial building closest to the site is the former Bayer corset factory which is constructed in brick, built in 1890. Although not listed it is of group value with the other industrial buildings along this section of the river. All these buildings have been successfully converted to new commercial uses.

2.11 To the south of the Bayer factory is Oak Street which has a terrace of Grade II listed buildings dating back to the 18<sup>th</sup> century which are constructed in natural stone with clay roll pitched roofs. A railway bridge crosses the street on the line of the former Great Western Railway from which train passengers can also obtain views of the application site. Brunel's GWR railway line, including the section which passes through Bath, is on the Government's tentative list of additional World Heritage Sites.

2.12 From the top of Oak Street pedestrian access is obtained onto Wells Road which is on substantially higher ground than the application site. From the pavement adjacent Wells Road views are obtained over the traditional roofs of the buildings in Oak Street, the railway line, down to the pitched roofs of the listed buildings on the application site, and then out onto distant views of buildings in the city, such as the Royal Crescent, then open countryside, and surrounding hills.

2.13 From Wells Road and Lower Bristol Road, at the western end of the application site, views can be obtained of a building described in the Industrial Archaeology Report (IAR) Appendix to the Applicant's submitted Environmental Statement as the "Great Western Railways long goods shed used by Stothert and Pitt and now converted to offices." This building is confirmed in the IAR as "also part of the local industrial heritage of the area."

2.14 South of Wells Road the land climbs steeply up to Beechen Cliff from which extensive views are obtained back over the site, the city and out into surrounding countryside.

2.15 The northern bank of the river opposite the application site is one of only a few riverside areas within Bath that are actively used for recreational and amenity purposes. A strip of grassed open space is sandwiched between the river and Green Park Road, but is equipped with picnic tables and is well used, especially by visitors in connection with the coach park just to the north. From the open area, extensive public views are obtained from within the conservation area back over the application site, and the other industrial buildings. The footpath along the northern river bank continues onto Midland Bridge from which views are again obtained back towards the application site. Views are also obtained over the application site from the terrace of listed dwellings and the adjacent open public space at Green Park. These views demonstrate the importance of Beechen Cliff as a backdrop to the group of

industrial buildings south of the river, and to the city centre as a whole, and emphasise the group significance of the industrial buildings which flank the southern bank of the river. Whilst the industrial buildings (including the application site) are outside the conservation area, any substantive development on the south side of the river will inevitably be prominent and will directly impact upon the character and appearance of the conservation area itself.

2.16 One important characteristic of the river corridor through central Bath is its relative darkness (even compared with the rest of the city which is remarkably “unilluminated”). The existing industrial buildings on the southern bank in the vicinity of the application site contribute to this character, but what is particular to this location is that the absence of illumination is readily observed from Green Park Road and from the adjoining public areas. Any new building which does not maintain the locality’s dark appearance will potentially prejudice the existing character of the conservation area

#### **Historical Background to the Listing of the Newark Works:**

2.17 The Applicant’s IAR and other documents refer to the site’s historic importance. Further evidence of the importance of the Stothert Family, the application site, and the industrial history of Bath is confirmed by consultation responses on proposals received from the various learned societies. Further background information is given in published sources such as Hugh Torrens “The Evolution of a Family Firm: Stothert and Pitt of Bath” and “Bath at Work” by Duncan Harper.

2.18 Stothert and Pitt established a reputation as heavy engineers and became an international firm (“crane makers to the world” and “instrumental in providing equipment for the GWR”). The List description attributes the Newark Works to the architect Thomas Fuller who later worked on prominent public and governmental buildings in Canada. The Newark Works were purpose designed as a major expansion of the company with the “bold classical style” of the front elevation reflecting the ambitions of the growing firm.

#### **Officer Comments on the Listing:**

2.19 The List description suggests that the attached early 20<sup>th</sup> century former machine shop is not of special interest. However, it remains included in the general description of the site and therefore must be treated as listed for development control purposes. The phrase “not of special interest” should not be interpreted as meaning that it has no architectural or historic interest. The former machine shop is clearly of significant local interest, and indeed the Applicant’s IAR states that “The 1905 extension containing its overhead travelling crane is also a rare survival” and that the buildings which survive on the site are “a good example of an engineering works of its period in the south of England.”

2.20 The English Heritage Advisor’s Report covers the importance of the principal Listed building, the importance of Bath’s industrial history and the Stothert Family. In this respect it should be noted that:

- English Heritage (EH) did not just list the front elevation, which was an option for them to consider; the listing embraces the whole of the building including the interior features of interest. It is not uncommon to find that Listed buildings have been unsympathetically altered by past subdivision and where such works have been undertaken your officers would advise that they are removed to try and restore the character of the listed building. The drawings of the existing building supplied by the applicant in fact require updating as the modern inserted mezzanine in the machine shop, which would have probably been present when the EH Advisor made the inspection, has since been removed. Therefore the original spaces found within the historic building are more easily appreciated, in particular the important space which stretches from ground floor to the apex of the roof.
- “The Foundry and the remains of the boiler and engine houses. Although of some historic interest as part of the Stothert and Pitt works, these have been heavily altered and are not subject of this application.” From this statement it appears that EH have not considered whether the foundry merited listing, perhaps as group value with the principal building. They do note it is heavily altered but do not clarify in detail how it has been altered, or its construction date or the role it formed within the complex. Furthermore it appears that an internal inspection may have not been made as there is no reference to the inside of the building. The foundry in fact appears to date from the early 20<sup>th</sup> century. The historic maps supplied in the Environmental Statement appear to note that the existing building was present on the site by 1902 and it seems to have replaced an earlier building. Although of no great architectural quality the AIR notes the foundry had an important function on the site and has some interesting internal features. Officers agree with the findings of the AIR report and conclude the surviving former foundry does have historic importance in its own right and that it also helps in understanding the engineering processes which took place on the site. Furthermore it contributes to the interest of the industrial complex as a whole and the setting of the adjacent Conservation Area.
- “Rail tracks between the buildings in the complex are also noted in the historic maps, some of these together with their turntables still survive on site.” It is agreed that these features are interesting surviving elements, and furthermore it would be appropriate to establish if any further historic surfaces or rails survive below the existing concreted sections of the yard.
- Reference is made to Bath’s important C19 industrial and commercial areas. “...which are little remarked upon, nevertheless the industrial growth of the town in the early 19<sup>th</sup> century was critically important to the city ... Few industrial buildings are listed within the city... although there is increasing interest in the city’s

industrial past as demonstrated by the existence of the long established Museum of Bath at Work...The historical importance of the building as the last surviving and earliest reminder of Bath's close links with the internationally renowned Stothert and Pitt firm should not be underestimated." It is regrettable that Bath has lost so much of its past industrial heritage. The demolition of mills, brewing works and industrial premises near the river serve to emphasise the importance of conserving the best of that which remains.

- The EH Advisor's Report also refers to items supplied by Stotherts earlier ironmongery business in Bath and the Stothert and Pitt site at Lower Bristol Road which are still with us today. Products of all sizes were supplied to Bath and the rest of the country, and some made their way around the world. For example cast iron bridges were erected over the canal at Sydney Gardens (listed Grade II\*) and at Widcombe (Grade II), cranes supplied to Wapping Wharf Bristol, the Faibrian Crane (Grade II\*) and the former NEM works, Wallsend, North Tyneside (Grade II\*). Reference is also made by the Advisor to the production of iron lighthouses (at least one of which survives in New Zealand, which according to the New Zealand Historic Places Trust has sections cast by Messrs Stothert and Pitt engineers of Bath, is the second permanent lighthouse built in New Zealand and is of great historical significance).
- EH confirm that under the direction of the Stothert firm works were also established in Bristol – "A locomotive factory in Avon Street, St Philips, under the name of Henry Stothert and Co and a shipbuilding firm under the name of Stothert and Slaughter." Hugh Torrens in his book 'The Evolution of a Family firm: Stothert and Pitt' 1978 notes, " When the line between Bath and Bristol was officially opened on the 31<sup>st</sup> August 1840 one of the four locomotives in use on it was Arrow built by Stothert, and the first of its kind in the West of England." Regarding the importance of the shipbuilding works "G.K.Stothert was one of the pioneers of iron shipbuilding in this country". It is understood that are no extant buildings remaining on these former important industrial sites in Bristol.

### **3. DEVELOPMENT OF THE APPLICATION PROPOSALS – THE APPLICANT'S APPROACH, AND OFFICER COMMENTS**

3.1 The Applicant's supporting documents describe the proposed School as "unique" and indicate that:

"It will operate as part of a network of National Skills Academies but will be the National Centre for this section of the UK economy. This means that the School will have countrywide significance, producing a new generation of engineers and designers....the Dyson School of Design

and Innovation will offer the new National Engineering diploma for 2009. ... The School's location in Bath will mean young people in the authority's area and the surrounding area have the greatest opportunity to use the facilities and leading edge equipment provided at the School. The School will also bring to the city the leading designers and engineers of this generation."

3.2 The Applicant suggests that the new development will:

"Provide significant economic investment not just in the site but also the spin off effects for the City Centre; and meeting the objectives of the Councils Community Strategy which seeks to "improve local opportunities for learning and gaining skills" and the objective of the "Children's and Young Peoples plan 2006-2009 which seeks to "promote lifelong learning for children and adults."

3.3 The Applicant identifies the wider benefits of the School as:-

1. Taking place in the Vision of Bath.
2. Providing for redevelopment of a brownfield site.
3. Ensuring the retention and ongoing maintenance of parts of a listed building.
4. Providing direct employment benefit for 100 staff
5. Improving links across the river.

3.4 The justification for the proposed development in the Applicant's Planning Statement reinforces the need for the School but also refers to Paragraph 3.19 of PPG15 (which sets out the criteria to be considered when applying to demolish listed buildings) and comments that "The consequence of demolition have been discussed with English Heritage and have been comprehensively addressed within the ES."

3.5 It is proposed to retain the façade of the listed building on Lower Bristol Road and the rear façade of the east machine shop as well as two party walls. Retaining more of the listed fabric is said by the Applicants to be not possible due to the following reasons:-

- In order to achieve the desired movements to the site such as greater permeability and an improved pedestrian environment on Lower Bristol Road, modifications to the listed structures are required. These improvements will be of significant benefit to the local area.
- The internal layout of the office block is unsuitable for reuse as part of a modern school building. The building has an unusual split level floor arrangement that would not allow for an efficient and accessible building. These are key requirements for the new school.
- It is necessary to provide a certain quantum of area within the retained fabric of the listed building. If the roof of the building was retained the new build could not be restricted to five storeys. A five story building is considered more appropriate in terms of scale and massing, more importantly a taller building is unsuitable for a school building. It should be noted however that design guidance issued by the

Department of Education & Skills recommends limiting the storeys of education buildings as much as possible.

- The location of the site within the floodplain limits the development building plot. The footprint of the listed building is part of the development area. The current proposals seek to make maximum uses of this developable footprint. It is therefore said to be impossible to create a low rise building occupying more of the site. Making effective use of the area occupied by the listed building is therefore necessary.

3.6 The site selection process for the DSDI commenced in July 2005 with the aim of the School being constructed on site by June 2008. Various sites are noted in the Environmental Statement as having been identified, with the assistance of Bath and North East Somerset Council, and these included Western Riverside, South Quays, and a site linking Green Park House to Radford's HiFi (in James Street West). A local property developer assisting the James Dyson Foundation also identified potential sites at The Post Office, Manvers Street and Herman Miller, Locksbrook.

3.7 The South Quays site is said by the Applicant to have been selected on the "advice of Bath and North East Somerset Council." The Council is also noted as having undertaken research using a set of criteria, outlined in paragraph 2.5 of the ES, and considering the potential of the sites under further headings which included: existing buildings/demolition, archaeology, flooding, highways, and English Heritage.

3.8 No information is provided regarding the detailed assessment undertaken in 2005 in respect of the importance of the buildings on the various sites proposed for the school or the weight given to them in terms of their architectural or historic interest, or how this was balanced against other factors such as ease of access to the city centre, or room for expansion on the site.

3.9 However, your Officers have subsequently seen information regarding the methodology used in the site selection process in 2005, and it must be recorded here that the exercise (obviously) pre-dated the Listing of the Newark Works, the adoption of the new Local Plan and the issuing of the Government advice and requirements regarding flood risk in PPS25. It is your Officers view that the category scoring applied in 2005 would be inappropriate in the circumstances that now exist, and that the 2005 site selection process has little credibility when three such important material considerations have subsequently changed.

3.10 A number of educational options for the development of the site have been identified as a development opportunity in the emerging Future of Bath Vision and an informal Masterplan was produced by Consultants acting for the Council incorporating these. However, the informal Masterplan was never brought forward through the Planning process, and has never been the subject of public consultation. Notwithstanding the very limited status of this informal Masterplan, the Applicant has included within his supporting

documentation images taken from the document. It is understood that extracts from the informal Masterplan were provided to the Applicant as part of the site selection process, but the Applicant and his professional team would have been able to assess the relatively low reliance that they should place on the suggestions and documentation being provided to them by the Council, and would have been able to engage with Planning Officers in order to test their conclusions before embarking on an expensive design exercise.

3.11 The Applicant and his team proceeded to draw up detailed proposals for the eastern portion of the South Quays site, as part of a scheme for the joint development of the site by the DSDI and by Bath Spa University, with the general support of the Regional Development Agency (SWERDA). Interventions by local and international interest groups led to the Newark Works being spot-Listed in late 2006 and to the consequent withdrawal of the original DSDI scheme (no parallel Bath Spa University application had ever been submitted).

3.12 Following the listing of the Newark Works the Dyson team “reconsidered the scheme design with English Heritage and the Council” with the result “that the northern facade of the Newark works and other features are also now incorporated into the scheme” The design of the river wall was also extensively reviewed and in view of its heritage value the Dyson team now proposes its retention. The need to address the Environment Agency’s (EA’s) objections on flood risk grounds led to a further fundamental change in circumstances at this time, which was the judgement that the site could potentially accommodate one of the two proposed occupiers, but not both. A significant proportion of the site was required to remain “open” in order to provide on-site flood storage capacity.

3.13 However, in spite of the opportunities presented by the withdrawal of the previous scheme and the submission of the current applications, there has been no opportunity for your Officers to discuss emerging proposals, or to guide the Applicant towards a development which would have less impact upon the newly-Listed fabric on the site and upon the character and appearance of the surrounding area. Pre-application meetings between the DSDI design team and your Officers took the form of detailed presentations of revised proposals that were already fully formed – the architects were simply informing the LPA of the nature of the proposals that they were just about to submit. It has subsequently become clear that rather than negotiating with the LPA in order to maximise the chances of a revised scheme being permitted, the Applicant’s team met with EH (without LPA Officers being given an opportunity to attend), and had agreed an approach with EH which would then be endorsed by EH. The effect of this has been to generally reduce the role of the LPA to one of determining the applications as submitted (although subsequent efforts to deal with flood risk (see below) have more recently led to a higher level of discussion).

3.14 The position established in the discussions between the DSDI design team and EH is understood to have been that EH would not oppose the development, but that they would prefer the colonnaded design along the

Lower Bristol Road frontage to be abandoned in favour of less intervention in to the Listed fabric of the main frontage of the principal building. However, as a result of more recent attempts to overcome EA's objections to the Applicant's flood risk assessment, it became clear that the provision of the frontage colonnade was essential if the flood storage capacity of the site were to be maximised. Accordingly, the Applicant decided to revert to their previous colonnaded scheme, in spite of EH's concerns, and EH subsequently supported the scheme (as long as there were indeed a flood-based justification for retaining the colonnade). Details of EH's response are set out later in this report. Associated discussions between your Officers and the DSDI design team led to the abandonment of earlier proposals for a substantial bus lay-by on the northern bank of the river (alongside Green Park Road), in favour of bus pick up and set down facilities within the site.

3.15 In essence, therefore, the proposed building is exactly the same as that which was shown to your officers in the pre-application presentation by the DSDI design team. In spite of widespread concerns, no attempt has been made by the Applicant to establish whether Officer objections could be overcome by a new approach to the DSDI development. In fairness, your Officers have consistently made it clear to the DSDI design team that the application could not be considered suitable to be supported unless and until the EA's flood-related objections had been overcome. Those objections remain, and are set out in more detail later in this report.

**The effect on Listed fabric:**

3.16 In order to accommodate the requirements of the DSDI and the EA, substantial demolition of the principal building is proposed. The existing historic roof structure is to be removed, the inside of the building gutted, the rear and the eastern gable walls of the former office demolished, and there will also be significant alterations undertaken to the external elevations such as the arcading introduced in front elevation. Furthermore as ground floor levels are to be raised within the buildings this will mean that the proportions of the rear elevation when viewed from inside the new build element /atrium will be significantly compromised, and sections of the historic rail network and paving covered over.

3.17 A report submitted with the application notes that consideration was given to retaining more of the historic fabric, including the roof structure and that although the historic roof structure could have been retained this would have resulted, with the increased height for the internal floor levels, in a reduced headroom under the tie of the roof which was not "ideal.". Nevertheless Members are advised that a ceiling height of approximately three metres could be achieved with the roof structure retained.

3.18 A new internal plan is proposed with ground and floor levels which do not follow the existing historic plan form, and a new roof which in some sections forms a flat roofed terrace with glass balustrade, and in others an additional storey of accommodation. The former foundry building will be completely demolished and only sections of the former arched openings to the boiler and engine house incorporated into the proposals.

3.19 The submitted report does not identify any major structural defects in the fabric of the principal listed building, or the historic foundry, and the principal building is noted as in “generally in good structural condition although water ingress through the roof and gutters has caused increased level of localised decay to the roof timbers, masonry walls, and interior and that the fabric has deteriorated due to lack of maintenance and an extensive programme of repair work would be necessary to safeguard the building long term. Extensive repairs to the existing fabric are proposed together with the substantial demolitions and alterations proposed.”

3.20 It is the intention of the project to re-use some of the removed fabric and features of interest within the proposals for the school and various options are considered for the iron columns. In those cases where elements of historic fabric are removed they will be safely stored and recorded and where not reused consideration given, amongst other suggestions, offering to the museum or a registered salvage company.

3.21 The justification given for the demolition of the historic foundry is, despite an acknowledgement that it contains a number of interesting features including the roof trusses, that that quality of the building envelope is not considered significant and its retention would present difficulties in implementing the proposals for the DSDI.

3.22 The new element of the DSDI building is explained as being three wings constructed around a central atrium which will be used as an exhibition space for the school and the general public. Each wing will provide three main teaching spaces, laboratories, workshops, and classrooms. The ground floors whilst housing workshops will also provide some public and semi public spaces including a library a resource centre and an exhibition centre café are provided to the main entrance to the school and the public.

3.23 The south wing is three storeys high and will incorporate the full length of the Newark Works apart from the 20<sup>th</sup> century section. The new wing is described as “The Crescent Wing” and that it will rise to over five storeys and will extend from the south eastern corner of the site to the northwest corner in an arc. Glass panels of different opacities will be used on the first second and third floors. The third floor would cantilever out over the front elevation of the remnants of the historic building, extending forward in line with the Listed building’s frontage onto Lower Bristol Road. The west wing is four storeys and encloses the atrium. This section of the building will be finished in a combination of metal cladding and glazing with some areas of louvres for plant and service areas.

3.24 Vehicular access would be taken from Lower Bristol Road, via Riverside Road. Pedestrian and cyclist access to the site will be gained from the new bridge over the river and via the arcading proposed to be punched into the front elevation of the existing buildings.

3.25 The scheme also comprises:-

- External spaces, including a new riverside walkway, western court and eastern piazza.
- A coach lay-by was originally proposed on the northern side of the river Avon but amended plans now show a coach pick up and set down area within the application site accessed from Riverside Road.
- These amended plans also propose the removal of the pedestrian cycle ramp on the east side of the building, and include a revised/amended Flood Risk Assessment.
- Pavement widening (and the colonnaded frontage) along the Lower Bristol Road will allow shared cycle and pedestrian access.

3.26 The report submitted with the application concludes that:

“The proposals seek to combine the retained and new build in such a way that both contribute to creating a unique building that will inspire its users. It is acknowledged that the changes to the listed building are significant; however, the proposals as developed are sympathetic in combining the fabric that is being retained and the new build elements. This results in a building that both preserves part of the built heritage of Bath but also reinvigorates it. The activities of the Dyson School speak for the future and the proposed building also reflects this. The benefits of the school to the local area are significant and diverse; from the core education activities to broader economic and social impacts.....the Dyson School will be able to successfully bridge the gap between the ambitions of modern Bath and the importance of its architectural heritage.”

## **4. CONSULTATION RESPONSES AND REPRESENTATIONS**

### **Statutory Consultees**

4.1 Environment Agency: Following considerable discussion and correspondence on flood-related matters associated with the development of this site, the Environment Agency (EA) received from the Applicant a report entitled – Sequential Test and Exception Test Report (01 February 2008) and also an amended Flood Risk Assessment (FRA) revision 2 from Buro Happold Ltd (dated December 2007). These documents have also been received by your Officers. The EA has subsequently made detailed formal comments which are reproduced in full below:

“Following a detailed review of the submitted documents, the Agency must maintain its formal objection to the proposal. The Agency would comment as follows:

#### PPS25 Sequential and Exception Tests

The Agency considers that the submitted Sequential Test fails to demonstrate that there are no reasonably available sites in areas with a lower probability of flooding that would be appropriate for the type of development proposed, contrary to the aims of Planning Policy Statement 25 - Development and Flood Risk (PPS25).

Section 2.2 on the background and history of the application states that: *“The Dyson School of Design Innovation will be a national centre of excellence for design engineering .....*”

Notwithstanding the above, the Sequential Test appears to be predicated on the assertion that the proposed national centre of excellence must be sited in Bath, specifically the South Quays site. Without a compelling explanation for the extremely limited geographical area of search, the Sequential Test document has not allayed the Agency’s previously stated concerns regarding the potential for the ‘retro-fitting’ of the South Quays site as the preferred option.

Section 2.3 on the timescale for implementation states that: “South Quays, the site for which an application has been made, is complex and will require the full two years to construct”. ..... “Other sites may present less complexity, so a slightly shorter construction period may be possible, but this would only give until November 2008 for planning and other consents and for a site to be secured.”

The Agency must question whether financial and timing arguments should be considered significant within the PPS25 Sequential Test.

Section 2.5 states that a ‘site viability comparator’ was undertaken by your Council in July 2005. PPS25 was published in December 2006 and therefore, any ‘testing’ prior to this date would not necessarily comply with the requirements of PPS25. This section of the report also refers to correspondence from the Agency, and implies that the Agency changed its position in respect of the proposal. It must be noted that the Agency’s stated position was entirely consistent with national flood risk policy and emerging policy, at the time of writing.

Section 3.4.1 reiterates that the adopted B&NES Local Plan allocates the site for commercial/office uses, and in section 3.5 confirms that the Local Plan did not identify any sites explicitly for secondary education or similar uses. This would further question the need to site the proposed national centre of excellence within the B&NES administrative area or more specifically the City of Bath. It is noted that the sites detailed in section 6.4 of the report, are exclusively within Bath.

Sections 7.2 and 8.1 both put forward an argument that the school could be considered as ‘less vulnerable’ development for the purposes of PPS25 definitions. The Agency strongly disputes this statement as PPS25 is categorical in its definition of educational establishments as ‘more vulnerable’ development. This is current National flood risk policy and is non-negotiable by any party simply to further their own development proposals.

The Agency must advise that the Exception Test should only be applied if the Council is first satisfied that the Sequential Test has been undertaken and passed. Only if the three distinct parts of the Exception Test are then passed, should the application be permitted. As your Councils formal advisor on flood risk, the Agency must advise that the Exception Test has not been appropriately demonstrated by the applicant, contrary to the assertion made on page 63 that part (c) of the Exception Test has been met.

### Amended Flood Risk Assessment (FRA)

The following critique on the amended FRA is obviously made in light of the fact that the Agency has an 'in principle' objection to the application, notwithstanding the technical analysis in the FRA, and the proposed mitigation against flood risk.

The Agency does not consider the amended FRA to be compliant with the requirements of PPS25.

Existing site levels quoted in section 4.1, when compared against the 1 in 100 year flood level with climate change stated in table 4.3 suggest that the site itself would commence flooding at approximately the 1 in 50 year event, with the Lower Bristol Road affected at return periods as low as the 1 in 10 to 1 in 25 year events, not as stated in section 4.5 of the report. This confirms that the site itself falls within Flood Zone 3 and that the Lower Bristol Road could in places potentially be flood zone 3b, the highest Flood Zone category. Within section 4.7.2, the main vehicular access to the site would be flooded to a depth of approximately 0.75m. Accordingly, the Agency does not accept that this is 'safe' development.

Within section 5, it is stated that a new bridge will be constructed across the River Avon to ensure safe access in times of flood. There are no details supplied within the FRA to prove that this bridge could be a vehicular alternative for emergency services, or that the emergency services have been consulted for an opinion and are satisfied with this proposal. Paragraph H11 of PPS25 makes it clear that the emergency services need to be fully involved in these discussions. There is no evidence to support this within the FRA.

Within section 6.3, part (c), it is stated that the FRA demonstrates that the development will be safe, without increasing flood risk elsewhere, and, due to increased flood plain storage and enhanced emergency access arrangements, will lead to a reduction in flood risk to the site itself, as well as third parties. The Agency strongly disagrees with this statement for the following reasons:

- i) The emergency alternative access arrangements have not been proven safe, and the main vehicular access along Lower Bristol Road is inherently un-safe during a flood event.
- ii) The floodplain storage compensation assumptions in section 7.4 of the FRA are erroneous, and thus the development still has the potential to displace flood waters elsewhere to the detriment of third parties.

With reference to point ii) above, the Agency would again clarify that the footprint of existing buildings can only be excluded from the volume compensation calculation where they already exclude flood waters during an event i.e. they are defended or flood-proofed. As the buildings on site at present would flood internally during an event, only the thickness of the existing building walls below the design flood level on site may be discounted against the required compensation storage. Accordingly, the Agency is not convinced that an appropriate volumetric balance has been demonstrated in the FRA for the current development proposal. Failure to demonstrate adequate provision of replacement flood storage volume may result in an increase in local flood levels in the River Avon.

Additionally, the FRA fails to demonstrate how the 1905 West Machine shed and the main building facade to Lower Bristol Road, which have floor levels well below design flood level, will be effectively protected against flood risk from the river or surface water runoff from Lower Bristol Road.

Section 9.5 of the FRA refers to the reduction of future flood risk, which is fundamental to part (c) of the Exception Test. Notwithstanding the safe access and floodplain storage concerns highlighted above, it is not clear whether the proposed flood wall has the potential to offer flood risk reduction.

In view of the above, the Agency must maintain its formal flood risk objection to this proposal.”

**[Members are asked to note that a detailed response to the EA comments has just been received from the Applicant as this report is being finalised. Neither the EA nor your Officers have had an opportunity to consider the comments made, and further information on this will be included in an Update report in time for the meeting.]**

4.2 English Heritage: EH does not wish to raise an objection to proposals. Reservations are raised regarding the justification for alterations to the plinth and they note that the original justification given to provide an improved pedestrian link and permeability to the Lower Bristol Road was unconvincing the scheme was revised to omit the arcade. It has now emerged that in order to achieve flood plain neutrality on the site the open arcade is required. If the creation of the arcade would overcome the Environment's Agency's objection, EH would concede the loss of the plinth as this would be outweighed by the overall benefits of the improved scheme. The response by EH is analysed in detail later in this report.

4.3 British Waterways: British Waterways has not yet made formal comments, but has contacted your Officers to indicate that in the event that permission were to be granted then they would be seeking a significant commitment (through a S106 Agreement) from the Developer to the maintenance and enhancement of the river and its banks in the vicinity of the proposed development. Any formal comments will be reported at the meeting.

4.4 Victorian Society: The Victorian Society is the national society responsible for the study and protection of Victorian and Edwardian architecture and other arts. It was founded in 1958 to fight the then widespread ignorance of nineteenth and early twentieth century architecture. The Society objected to the previous scheme on this site and refers to comments then made which included that the Society had been contacted by “an unusually high number of local residents concerned by the loss of Bath's industrial heritage” and remains opposed to the present listed building application.

The Society notes the importance of the grouping of industrial buildings in this area including Camden Mill and the Bayer Building which are located to the east of the site. Reference is also made to the importance of the architect Thomas Fuller, his influence/impact in Canada and the United States and that Stothert and Pitt was one of Bath's most famous and internationally renowned manufacturing firms.

The Newark Works is noted as having, “huge local significance being designed by a local architect who went onto international success. It is a fine example of mid-nineteenth century industrial architecture and should be recognised for its contribution to the wider setting of Bath as a World Heritage Site.”

The VS have two main concerns: the demolition of the listed building with the exception of the facade, and the many new openings in that facade to form a pedestrian arcade. “... original proposals for the site were drawn up with the expectation of demolishing the then unlisted building. The present scheme does not seem to have escaped from this mindset. The fact the building is listed demands a fresh approach, working with the design and character of the listed structure rather than against it.”

Reference is made to paragraph 3.15 in PPG15 which the Society notes is explicit in its condemnation to facadism: “The preservation of facades alone, and gutting, and reconstruction of interiors, is not normally an acceptable approach to the re-use of a listed building. ...The office block, for example has a different architectural character than the machine shop, both inside and out, yet internally this distinction is lost in the new scheme. The retention of facades with no relation to the floor level behind is generally considered unacceptable and a raised ground floor is proposed here..... The change in floor levels will draw attention to the fact that only the façade has been retained, and completely destroys the impression that this was once a historic building. We note that there is a considerable amount of surviving historic fabric which would be destroyed through demolition, particularly in the office block. The proposals to store “historic features...for re use where appropriate” are not acceptable mitigation to the loss.”

“The architectural quality of the Lower Bristol Road was one of the reasons for listing the building and it deserves better treatment .The continued rusticated base is designed to make the wings look especially solid, so it is perverse to cut openings to make into an arcade. We note that the applicants themselves acknowledge that this is “detrimental to the historic fabric” and that the result would be “dramatic” though we do not accept that it would be “positive” as they claim in (9.1).The creation of a pedestrian route and cycle store at the west end is also objectionable. The justification is “improved permeability” and while we can see this is desirable for the present scheme, it involves an unacceptable level of intervention in the historic fabric and considerable damage to the historic character of the building. If the need cannot be satisfied in some other way through the re-design or acquisition of additional property, then we suggest that the proposed use may be incompatible with the listed building and the applicants should consider an alternative site.”

The Society does not believe there are any conditions which could be imposed to make the consent more acceptable and in their latest letter of the 13<sup>th</sup> February they reiterate that the proposed scheme is entirely inappropriate, urge the local authority to refuse the listed building consent and

that the applicant should be urged to develop a new proposal which seeks to retain as much of the fabric and character as possible.

4.5 Council for British Archaeology: The CBA is an educational charity working to involve people in archaeology and to provide the appreciation and care of the historic environment for the benefit of present and future generations.

The CBA objects to proposals and ask for the scheme to be revised along the following lines which they note as being in accordance with the advice given in PPG15:-

1. Keeping the historic façade intact with no breaking through of the plinth (the created corridor also sits awkwardly with the adjacent floor levels)
2. Retain more of the existing structures-facadeism is rarely acceptable.
3. Rethink the design of the new build as it should not overpower the extant building- i.e. it should not overhang the historic building but be stepped back.

The panel noted that although Bath is primarily known for its Georgian buildings it is much more than this. "Evidence for its industrial archaeology is a vital story and the local and national significance of the site ....."

### **Internal Consultees**

4.6 Senior Urban Designer: Objects to the present scheme and (in summary) refers to the following summary of relevant points.

- Discussions between the LPA design team and applicants' design team would be beneficial to aid improvement of proposals for this site.
- Relevant local plan policies include D2 and D4. Reasons for refusal of this application should include: The scheme is not well connected to its surroundings and buildings do not relate positively to the public realm. Car parking and access roads dictate the design of the development and dominate the public realm (D2). The scheme does not respond to the local context in terms of materials, siting, spacing and layout and does not complement the locally distinct qualities of the site, or safeguard important views of and through the site. Hard landscaping does not enhance the development or complement its surroundings (D4).
- If permissions are to be given, Conditions should include a request for material samples, lighting and street furniture details.

The Senior Urban Designer's full response is extremely detailed, but essentially follows the points set out above. More details can be provided on request.

4.7 Landscape Officer: Objects to the proposed scheme and refers to the following summary of relevant points:

The proposals do not protect and enhance the historic character of this part of Bath and the Grade II Listed buildings in particular. The development would be too tall and bulky for the site and would have a detrimental impact on landscape character and quality. The proposals would not be in accordance with PPG15 and PPS1 or with Local Plan Policies D2, D4, BH1, and BH2 in relation to the impact on views and the Grade II Listed building.

Three main aspects are identified:-

- The contribution of the existing buildings and associated features to the sense of place of this part of Bath and more specifically to the social and historic fabric of Bath and the effects of the proposed development on this asset
- The impact of the proposals on views and the character of Bath
- The impact on the landscape / public realm and surrounding area

The Landscape Architect's full response is also extremely detailed. Again, more details can be provided on request.

4.8 Archaeological Officer: The proposed development is situated within an area of Bath that contains nationally important industrial buildings and structures, including Brunel's Great Western Railway, goods sheds, grain mills and the Stothert & Pitt crane works (Newark Works). These structures are significant features within the historic landscape, which offer clear visual reminders of Bath's industrial past that help to balance the emphasis often placed on Bath's Roman and Georgian heritage.

In December 2006 The Newark Works were listed (Grade II) for their special architectural and historic interest, and to afford them adequate protection in respect of future development. It therefore seems counter-intuitive to accept the demolition of the historic core of the site (the original works building), whilst leaving intact the later 1905 extension. Furthermore, it is questionable whether the lifespan of the new school building (30-50 years?) outweighs the longer term benefits of retaining the intact listed building and associated industrial structures. The proposed 'facadism' of the original Newark Works street frontage includes the removal of the window sills and sections of wall below to create a new arcade, which yet further reduces the integrity of the Listed Building.

In effect the proposed 'School of Design and Innovation' does not appear to draw on or learn from its industrial heritage, but rather ignores it. I would therefore recommend that this application is refused.

4.9 Highways Development Officer: Has expressed concern regarding a number of details of the proposed development which are currently being discussed. He advises that none of these details are issues which cannot be overcome and be dealt with by Conditions. However, discussions are continuing between officers regarding the principle of establishing a new

pedestrian river crossing in this location, and any additional comments will be reported in an Update report prior to the meeting.

### **External Representations – Societies and Groups**

4.10 Bath Preservation Trust: Supports the concept of the Dyson School of Design and Innovation, however has concerns regarding five aspects of the proposals:

1. The absence of a Strategic Flood Risk Assessment for Bath and North East Somerset (which the Trust suggests is not the responsibility of the applicant). The SFRA, which is being prepared by B&NES in consultation with the EA, will identify levels of risk and necessary flood alleviation measures. This document has not been completed and should have been published before this or other significant applications in the river basin were considered. In the absence of this the EA will need to provide reassurances that the compensation measures proposed are satisfactory.

2. Removal of Plinth fronting Lower Bristol Road. They recognise the functional argument for the proposed arcade and that this is intended to provide circulation and allow for flood compensation, however, they would like to see the substantial loss of historic fabric mitigated by reducing the number of places at which the plinth will be breached “This would leave a more accurate representation of the old building and retain the prominence of the facade yet still provide adequate access.”

With regard to flood compensation, the Trust understands that a debit in the capacity for compensation on the South Quays site could be credited elsewhere, in this case on the opposite side of the river. This may counterbalance the capacity needed for the South Quays site which is necessitating the breach of the plinth at least at every point. If this is so they hope it could mean that the number of places where the plinth is breached is far fewer.

3. The cantilevered element of the new building. The Architecture and Planning Committee supports the introduction of a high quality contemporary building in this location is pleased with the relationship between the historic structure and the crescent shaped modern building as proposed. However the cantilevered, suspended element of the new building is insufficiently set back and therefore it may have an overbearing impact on the amenity of the street scene and could also be to the detriment of the character and special interest of the building and its group value.”

4. Glass Façade. Concerns are expressed at the scale of the glass façade which they understand to be of a mix of clear and grey tinted non-reflective glass and they hope that sample panels will be erected to allow appropriate choices. Bath is a low luminosity city and there are no proposals to demonstrate that glare and light emission will be minimised at night.

5. The internal columns. The Trust is pleased to note that it is proposed to retain and reuse the internal columns in the scheme. However they would prefer the columns to be retained in their current positions or as close as possible to them “The interior space should be designed to incorporate the columns functionally into the new building.”

If all the above matters could be addressed and resolved either within the remaining time or by condition the Bath Preservation Trust would not wish to object.

4.11 Bath Society: Objects to proposals. They note that the listing states that the works have a strong group value with other building in the area of industrial development along the River Avon and that “Listing considers a building, or in this case a group of buildings an entity and it is assumed that this adds a measure of protection to maintain it, or them as intact as possible. In the present application not much, if anything, is left of this strong group value. The incorporation in the road façade of the arcading makes a mockery of the listing; if this is acceptable treatment then there seems little point in the listing process.”

“The whole of the present Dyson development depends on the fate of the listed buildings. If they cannot be demolished then the new building in its present form cannot proceed. If this is so, then it is an indication that this is not the correct site for the building.”

4.12 Bristol Industrial Archaeological Society: BIAS was established in the 1960’s in a response to comprehensive urban developments at that time which demolished significant features of industry and the transport system. Although happy to see the Dyson Academy sited in Bath they express concern at the application to demolish parts of the former Stothert and Pitt Newark Works engineering site. “ As a rare survival of a 19<sup>th</sup> century architect designed factory the Newark Works has been recognised by English Heritage and other organisations as a building of local and national significance and the proposals to demolish substantial sections of the building will remove a building which could be easily adapted for re-use. In addition the creation of a colonnade from the south elevation will inevitably compromise the industrial setting of this stretch of the Lower Bristol Road. This varied and interesting stretch of 19<sup>th</sup> century buildings begins just west of the Churchill Bridge and continues to the western edge of the Newark works site and is unique in Bath.”

4.13 Heritage Canada Foundation: The Heritage Canada Foundation is a national, not for profit and non-governmental organisation established in 1973 to promote the preservation of Canada’s heritage buildings and historic places.

The foundation objects to proposals to demolish the vast majority of the Newark Works buildings on Bath’s Lower Bristol Road as it was designed by Thomas Fuller, architect of Canada’s Parliament buildings, and the Newark

Works stand as an important historical and intellectual link between England and Canada.

The foundation notes Thomas Fuller was born in Bath in 1823, designed the Newark Works for Messrs Stothert and Pitt 1857 and emigrated to Canada shortly afterwards. "In 1859 he won the country's most important architectural competition-to design the Parliament Buildings in Ottawa, while Fuller's Parliament building burned down in 1916 his elegant Library of Parliament survived. This masterpiece, often called the most important Gothic Revival building in North America, underwent extensive refurbishment and was unveiled to much fanfare in 2006. From 1881 to 1896 Fuller was Chief Dominion Architect designing and supervising more than 140 buildings across Canada at a crucial stage of the nation's development. Thomas Fuller's strong influence on Canadian architecture is evident in the enduring presence of his buildings in Canadian communities to this day." "The Newark Works, in other words, is a building of international importance. The scale and materials Fuller employed in its construction – the long façade, use of local stone, mixture of classical motifs, and rock faced voussoirs around the door and windows- demonstrate how he developed the skill and aesthetic sensibility to produce the kinds of buildings he went on to design in Canada."

4.14 Bath Heritage Watchdog: The advice from English Heritage is unlawful and flawed. It also fails to comply with S33.1 of the National Heritage Act. If this advice influences any eventual planning decision the local authority will be guilty of condoning an unlawful act.

The arguments put forward for the alteration and virtual demolition of the listed building are questionable. The assumption that the financial and other benefits of the scheme will bring outweigh the loss of historic fabric should not be considered as part of the equation.

There were existing businesses on the site, and these businesses were evicted from this site, thus creating the present situation. These buildings could be occupied by industrial businesses and this would not lead to the scale of destruction proposed.

PPS 25 permits industrial premises in this location, educational establishments are not. PPG 15 makes it clear that preserving the original use of a building is far more important than a new, albeit more profitable, use.

The appearance of the car/coach park on the site, in the revised plans submitted to the local authority, would use up the space on the site which could have been used to allow more room for the academy, thus facilitating a reduction in height to the main glass structure, and also possibly the retention of more of the fabric of the Fuller building. The apparent lack of use of the 1905 Workshop is also noted.

A full set of up to date plans/drawings showing what is exactly proposed would be welcomed by the BHW.

“This is more than a matter of ‘mere local importance’; this is a building by an international architect and the last remnant in Bath of a company whose products were exported to all four corners of the world. We are appalled by the disregard these current proposals show to it.”

4.15 Norfolk Crescent Green Residents’ Association: Object to proposals because of flood risk concerns, it would be premature to consider these applications and they urge that a review of all available sites is undertaken in accordance with EA criteria before applications for this site is considered.

4.16 BMT Defence Services: Support the application. The proposals appear to offer a more modern attractive environment consistent with the aims of the school.” The building provides an appropriate balance between Baths engineering industrial heritage (the Victorian frontage on lower Bristol Road) and the enhancements now available through modern materials and innovative design ideas. It is essential that the country invests in young engineers and designers as the future wealth creators for the UK economy. There is a genuine need for this school.”

#### 4.17 External Representations – Individuals

Letters and Emails Raising Objections:

4.18 A number of individuals have raised objections. Members are advised that comments are still being received, and an update regarding the numbers of objectors and the issues raised will be produced in time for the meeting. Issues raised to date include:-

- The international importance of the building. Attention is drawn to the comments received from interested parties from Canada on the importance of the architect and the building which includes a statement that few architects have left their mark as fully across the face of a country as large as Canada.
- Proposals would cause harm to the World Heritage Site.
- The special architectural and historic importance of the building, recognised nationally by its listing.
- Bath is recognised for Georgian architecture and Roman baths but every generation has made a contribution to its development .The best examples of each should be preserved and used as it has little of its industrial heritage left. It represents the industrial period in Baths development; it is the last and oldest remaining building that belonged to Baths largest industrial employer and is also associated with the working people of the City. It is of social, as well as architectural and historic interest.
- Consent should not be given without exhausting all possibilities of continuing its present use or finding a new use which does not require such drastic alterations. The site could have continued in its former business use without harming the fabric and infrastructure of the site and the building could still be used for small industrial uses, which it is more suited for, and there is a demand for premises for small industrial

businesses in Bath. No significant effort has been made to sustain the existing use as required by policy E4 of the Local Plan, indeed, quite the opposite because the Council issued the quit notices to the occupying businesses. This was the only business park within reasonable walking distance of the City Centre.

- No objections to reuse of the building for a contemporary purpose in principle
- A mixed used is required for the site in order to create an interesting environment which can be used at all times of the day and night.
- Significant harm is caused to the listed building by alterations to the front elevation to create an arcade, the removal of its roof, the gutting of the interior (specific mention is made of the proposed alterations to the existing internal historic columns and removal of the internal staircase) and removal of external walls. Listing includes protection for internal as well as external features.
- The building is still structurally sound and needs no major repairs.
- The demolition of the foundry building to the south of the main range, which is also in sound condition.
- Inappropriateness of the design of the new building for this location. The architects are distinguished modern architects but this is no guarantee that their building will be appropriate to Bath. The design, materials, colours, height and bulk of the building are inappropriate, and it is described by objectors as “the building screams I am different.” “It is an eyesore” “poor quality design” and “uncharacteristic of the area.” Reference is made to the absence of vertical subdivision in the new build, its long horizontal form, the curve is a “hollow gesture to the city’s crescent” and that the materials will appear “bright and shiny.” It will detract and overpower the existing listed building and compromises its importance.”
- The development does not promote the use of local materials.
- Uncertainties which make the application premature, for example what is happening to the other building in the complex? There is a need to look at the whole site including the 20<sup>th</sup> century former machine building which is at present not included in the application site. If this was considered some of the problems may be overcome. Reliance is also placed on the Master Plan and the “Smart” city quarter identified in the Vision for Bath yet there has been no public consultation on the documents and they have not been adopted as planning policy.
- The amended plans show car and coach parking within the grounds it would be far better if this land were used to design a lower and less damaging design. This is also in direct contravention with the original transport assessment and therefore the application requires a fully revised transport assessment. The development, and widening the pavement, will also have a detrimental impact.
- Harm is caused to the setting of the 20<sup>th</sup> century former machine works, which although not forming part of the existing application, is a listed building and other listed and unlisted industrial buildings which form an important group with the Newark Works and also lie adjacent to the river.

- The adverse impact of the development on the City's skyline in particular views from Beechen Cliff and views of Beechen Cliff from approach roads from Green Park Road and from Green Park itself.
- The applications would contravene the World Heritage Management Plan, advice in PPG15, and local plan Policies C12, C13, C14, C15 and C17.
- In the extant local plan this area is zoned for B1-B8 use so an educational use is appropriate.
- PPG25 notes that educational establishments cannot be built on flood plain unless all other possible sites have been investigated and found unsuitable.
- The development will increase flood risk and PPS25 focuses on flood risk.
- Owners of listed building would find it hard to alter their own listed buildings to the extent now proposed with the approval of the local authority.
- The regulations of the World Heritage Sites include a specific obligation that Authorities should ensure that the Royal Fine Art commission is consulted on all planning applications raising conservation issues of more than local importance and should take the RACS views fully into account in reaching their decisions. The building is clearly of international importance and the Royal Fine Art Commission has not been consulted on the planning application.
- Concern is expressed at the advice from English Heritage in view of the advice given in PPG15 and PPS25. The advice from English Heritage is also unlawful in that it fails to comply with section 33-(1) of the National Heritage Act 1983, which governs the actions of English Heritage.
- Another method should be found of protecting the site from high water rather than raising existing levels on the site.
- The building is worthy of upgrading to Grade II\*.
- Potentially if this academy is built it could be obsolete in a couple of years.
- The assessments make mention of the hot springs. Any development which could put an additional risk to the springs cannot be permitted.
- The report states that there is unknown impact from specialist equipment which may be installed after construction. All aspects whereby there is potential from exhaust and air pollution must be assessed prior to any permission being decided.
- Using river water for heating and cooling requirements is likely to pose a danger to wildlife and could lead to avoidable contamination.
- Procedural concerns that the plans have not been available for public viewing at the planning office, discrepancies between the planning and listed building application plans, the need for an amended Transport Assessment and comments from the Highways Agency and Environment Agency on amended plans.

Letters and Emails in Support:

4.19 A number of Individuals have supported the scheme. Members are advised that comments are still being received, and an update regarding the numbers of supporters and the issues raised will be produced in time for the meeting. Issues raised to date include:

- The plans which incorporate the Fuller building are an important contribution to the development of architecture in Bath.
- The concept of a school and its contribution to design engineering education are important to our nation, and Bath should feel proud that this national centre is to be established in our city.
- Many of the existing, neglected buildings are to be kept and integrated into the listed buildings – a new school is an excellent idea.

## **5. RELEVANT LEGISLATION AND POLICY**

5.1 The UK Planning system is “Plan-led”, which means that statutory Development Plans for each area are the principal guide to the making of Planning decisions. One of the main purposes of Development Plan is to give developers and the public confidence as to the manner in which development proposals are likely to be determined, by setting out in advance the specific Planning policies which will be applied in each area. Local Planning Authorities are required by the provisions of the Town and Country Planning Act 1990 (as amended) to determine all applications for Planning permission with regard to the provisions of the statutory Development Plan, unless material considerations indicate otherwise.

5.2 There is in addition a statutory requirement (under S72 of the Planning (Listed Buildings and Conservation Areas) Act) for the LPA to pay special attention to the preservation or enhancement of the character or appearance of the adjoining Conservation Area and to pay special regard to the desirability of preserving the setting of the protected buildings.

5.3 The primary consideration as regards the application for Listed Building Consent is the statutory duty placed on the Local Planning Authority under S16 of the Planning (Listed Buildings and Conservation Areas) Act to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

5.4 Applications must also be assessed in relation to Government Planning Policy Guidance and Planning Policy Statements and other appropriate guidance. The list below summarises the documents and policies to be taken into account in this case. In the officer assessment which follows specific references will be made to the appropriate policies.

### **5.5 Relevant National Planning Policy and Guidance**

- PPS 1: Delivering Sustainable Development.
- PPG 4; Industrial, Commercial Development and Small Firms

- PPS 6 Planning for Town Centres.
- PPS 6 Biodiversity and Geological Conservation.
- PPG 13 Transport.
- PPG 15: Planning and the Historic Environment. *[NB: This is of particular relevance to the present proposals as it gives guidance on development affecting listed buildings and conservation areas and is discussed in more detail in the officers' assessment.]*
- PPG 16. Archaeology and Planning
- PPS 25 Development and Flood Risk. *[NB: This is of particular relevance to the present proposals as it establishes the procedures to be followed in the assessment of development affecting land which is subject to flood risk and is discussed in more detail in the officers' assessment.]*

## 5.6 Regional Planning and Structure Plan

5.7 The current Regional Spatial Strategy is contained within RPG10 which was published in September 2001. Relevant policies to the planning application are:

- SS9 Bath
- EC1 Economic development
- EN3 The historic environment
- EN4 Quality and the Built environment
- EN5 Health, Education Safety and other social infrastructure.

5.8 The Joint Replacement Structure Plan covers the period up to 2011. Relevant policies include:

- Policy 2 Local Strategy
- Policy 24 Flood Risk
- Policy 30 Safeguarding Employment sites.

*[NB: Generally, Regional and Structure Plan Policies are of limited relevance in development control as they are not site specific. Their role is typically to establish a Policy direction and baseline for the more detailed Policies contained within the Local Plan or Local Development Framework]*

## 5.9 Relevant Local Plan Policies

5.10 The Bath and North East Somerset Local Plan (including minerals and waste proposals) was adopted in late 2007. The main relevant policies in this case are:-

- D2, D4, ES15, ET2, BH1, BH2, BH3, BH4, BH6, BH12, NE13A, NE14, NE14, T1, T24, T25, and T26

5.11 The Bath City-Wide Character appraisal provides supplementary planning guidance, particularly with regard to the interpretation of the built environment.

## 5.12 Other Guidance

5.13 The Council has been working on a *Strategic Flood Risk Assessment* for the District, in collaboration with the Environment Agency. The survey element of that exercise is now complete, but the results have not yet been made public pending the conclusion of final discussions with the EA. Publication is imminent, but Members should be aware that the documents to be published do not include policy provisions in respect of how identified flooding risks can be addressed. Rather, the documents will inform the preparation of future policy material, in particular the Local Development Strategy and Local Development Framework.

5.14 The *City of Bath World Heritage Site Management Plan 2003-2009* offers guidance on significant developments.

5.15 Members may wish to note that an informal *South Quays Masterplan* produced for the Council by Consultants has identified the application site as part of a possible new 'Smart City' but this has not been published, has not been subject to public participation and is not adopted as for the purposes of planning policy. Therefore **no significant weight** can be given to the proposals suggested in the document.

## **6. OFFICER COMMENTS AND ADVICE**

6.1 A surprisingly small number of "big" issues need to be assessed in the consideration and determination of these applications.

### **FLOOD RISK ISSUES**

6.2 The first of these main issues relates to Flood Risk, and the formal comments of the EA in this regard have been reproduced earlier in this Report.

6.3 PPS25 emerged from an increasing national awareness of the risks associated with building in areas liable to flood, with growing concerns about the effects of global warming, and from a realisation that Insurance companies are becoming increasingly hard to satisfy. PPS25 thus represents still new policy, which has yet to build up a body of associated case law, and which is therefore not always straightforward in application. The document was published in November 2006, and sets out national Government "... policies for planning authorities to:

- ensure flood risk is properly taken into account at all stages in the planning process;
- prevent inappropriate development in areas at high risk of flooding; and
- direct development away from areas at highest risk."

6.3 Within PPS25, different types of development are categorised according to their vulnerability to flood risk. Similarly, land areas are categorised

according to the probability of flooding occurring (making allowances for climate change) as follows:

Flood Zone 1	Low Probability
Flood Zone 2	Medium Probability
Flood Zone 3a	High Probability
Flood Zone 3b	High Probability – Functional Flood Plain

6.4 In the Council's Strategic Flood Risk Assessment, the South Quays site has been identified as being partly within Flood Zone 2 and partly within Flood Zone 3a. These categories are of direct significance in the interpretation and operation of the Government requirements set out in PPS25, and reference is made to these issues in the EA's formal comments and objections. Members must note that in order to comply with Government requirements the Flood Zones in the new assessment are based upon probable flood levels which (for the first time) take account of anticipated climate change. Thus, Members should be extremely careful not to subconsciously apply their own personal perception of flood risk associated with the historic incidence of flooding in any particular area. The new Strategic Flood Risk Assessment is now becoming the firm basis upon which all future Planning decisions will be based.

6.5 In PPS25, Educational Establishments of all types, including the proposed DSDI, are grouped (together with a range of other uses including residential) within the "More Vulnerable" category. These More Vulnerable uses are stated to be appropriate for sites within Flood Zones 1 and 2, but should only be permitted on a site wholly or partly within Flood Zone 3a if it has been shown by means of a Sequential Test that there is no readily available appropriate alternative site which is less liable to flood. It is the main aim of the new Government Policy that flood-sensitive uses should be directed to safer sites, and PPS25 makes it clear that the responsibility for this testing rests with the Developer.

6.6 In the event that a particular proposal emerges successfully from a Sequential Test, then it should even then only be permitted on a site with flood risk if it also passes an Exception Test designed to assess its suitability. PPS25 indicates that to pass an Exception Test, a proposal relating to previously developed land must provide "... wider sustainability benefits to the community that outweigh flood risk", and must be accompanied by a site-specific Flood Risk Assessment which shows that "... the development will be safe, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall." PPS25 also indicates that the Exception Test should not be applied unless a Sequential Test has been passed – i.e. that the Exception Test cannot be legitimately used as a means of sidestepping the implications of a failed Sequential Test.

6.7 Members will note from the comments of the EA that the Agency view is that the Sequential Test in this case is NOT passed, and that (even if it were then appropriate to move on to an Exception Test), that the Flood Risk Assessment prepared by the Applicant is also NOT passed. The Agency

therefore recommends that Planning permission be refused on Flood Risk grounds.

6.8 Your Officers have no specific expertise in strategic flood matters, and cannot legitimately challenge the conclusions and advice of the EA in respect of the Applicant's Flood Risk Assessment. However, as noted above, the Applicant has made comments in that regard which will be assessed by the EA, and a representative of the EA will be available at the meeting in order to give further advice. The Applicant's comments and any subsequent response from the EA will be reported in an Update Report prior to the meeting.

6.9 What is clear to your Officers, however, is that the EA advice regarding the Sequential Test can be supported. The requirements of PPS25 have been known to the Applicant since the document was published by the Government in November 2006, and the Applicant has been professionally advised throughout that period. Your Officers (and also Officers elsewhere within the Council) have repeatedly advised the Applicant's Agents that it was necessary for the Applicant to undertake a Sequential Test in accordance with the specific requirements of PPS25, and yet it was only on 4<sup>th</sup> February 2008 that such a document was received by the LPA. Far from demonstrating that no appropriate alternative site is available within a realistic area of search, the document fails on two counts.

6.10 The Applicant's publicity material and supporting documents refer to the proposed DSDI as a "national" centre of excellence, and make the point that as well as supporting local schools in the Bath and North East Somerset area, the DSDI will provide opportunities for students from across the country. In spite of this "national facility" styling, the Sequential Test document pays only passing attention to sites outside Bath and concludes that only Bath sites will meet the operational requirements. "Representative" sites in central and outer Bristol are dismissed as inappropriate, but no attempt is made to assess potentially available sites in Keynsham, Norton-Radstock, or the remainder of the sub-region, and it is unclear as to exactly why a one-off development such as this can only be located in Bath. In fact much is made of the personal preference of Sir James Dyson for a Bath location, an issue which your Officers and the EA conclude should be given no significant weight as a Planning consideration. Sir James Dyson has been quoted as saying that if his Bath proposal is unsuccessful then he will look at sites in Bristol and elsewhere, and (notwithstanding the attempt made by his Agents to argue that his future intentions are not relevant) this approach leaves the "only-in-Bath" argument floundering.

6.11 If this proposal were the first in an intended chain of centres of excellence being proposed across the country, then these "local" claims would carry greater weight, but it is presented as a single proposal, and so the scheme could quite simply be located anywhere that its sponsor selects. The Applicant's Sequential Test should properly reflect this.

6.12 That said, even within Bath, the Applicant's Sequential Test document actually identifies other suitable sites, but these are ruled out by the Applicant because they are too expensive or not available within the (now very short indeed) project timetable. Your Officers' view is that had the Sequential Test been undertaken at the time that the application was being prepared in the winter of 2006/7, then these alternative sites would have been both suitable and available, and there would have been ample time for a mixed-use development to emerge. It is self-evident that **any** applicant for Planning permission could delay his Sequential Test until the very last moment in order to "design out" other sites, and your Officers share the view of the EA that this cannot be a legitimate approach to the requirements of PPS25.

6.13 It is your Officers' firm view that the requirements of PPS25 have not been met, and that the Sequential Test fails to support the development of this (part) Flood Zone 3a site for a "More Vulnerable" educational development. Quite astonishingly, the Applicant's Agents attempt to argue that PPS25 is incorrectly worded, and that this LPA should unilaterally apply a more flexible interpretation of the Government's policy. *Members are advised that that is simply not an option, and that any misdirection of that sort would almost inevitably lead to legal challenge from the public against any decisions made.*

6.14 In circumstances where the EA is recommending refusal on flood protection grounds associated with PPS25, the Government makes it plain that a local planning authority is expected to give significant weight to the Agency's recommendations. If an LPA decides that the Planning merits of a particular case are such that other considerations outweigh objections based upon flood risk issues, then the Government requires the case to be referred to the Secretary of State for consideration. The secretary of State can decide to refer the case back to the LPA for determination, or can decide to determine the matter herself (in which case it can be anticipated that a public inquiry will be arranged).

6.15 In the Bath and North East Somerset Local Plan, Policy NE14 indicates that development will not be permitted on sites that are liable to flood or which will result in problems of additional flooding elsewhere, unless the flood risk can be mitigated. This Policy sits comfortably alongside the requirements of PPS25. Flood Risk is an issue for the Planning application only. Your Officers are concerned that the Applicant's Flood Risk Assessment appears to propose that the bridge will offer not only an escape route from the site above flood levels, but also a route into the site for emergency vehicles. It is not clear from the submitted plans how these seemingly incompatible uses can be accommodated safely.

## **LISTED BUILDING ISSUES**

6.16 PPG15 sets out national guidance in respect of Planning and the Historic Environment. It states that "It is fundamental to the government's policies for environmental stewardship that there should be effective protection for all aspects of the historic environment. The physical survivals of our past are to

be valued and protected for their own sake, as a central part of our cultural heritage and our sense of national identity. They are an irreplaceable record which contributes through formal education and in many other ways to our understanding of both the past and present ....The historic environment is also of immense importance for leisure and recreation.”

6.17 PPG15 goes on to say that when determining planning applications local planning authorities “...should have special regard to the desirability of preserving any listed building or its setting ,or any feature of special architectural or historic interest which it possesses .....”. The Guidance requires applicants to justify their proposals that affect listed buildings but this will be difficult for a use that has no track record and which may not be sustainable in the long term. Accordingly, Members should proceed with appropriate caution in dealing with a wholly new concept such as the DSDI.

#### USES FOR LISTED BUILDINGS:

6.18 PPG15 notes the importance of exploring the range and acceptability of possible alternative uses for historic buildings and that usually this is a major consideration when the future of a listed building is in question. Generally the best way of securing the upkeep of historic buildings is to keep them in active use and the principle aim should be to identify the optimum viable use. The best use will very often be the use for which the building was originally designed, and the continuation and reinstatement of that use should certainly be the first option to consider.

#### ALTERATIONS AND EXTENSIONS

6.19 The Government Guidance indicates that in judging the effect of any alteration or extension it is essential to have assessed the elements which make up the special interest of the building. LPAs, landowners and Developers are advised that achieving a proper balance between the special interest of a listed building and proposals or extensions is demanding and should always be based on specialist expertise, but is rarely impossible.

#### DEMOLITION

6.20 The works to the principal building on the current application site involve “substantial demolition”, as only sections of the original building would remain and the curtilage listed foundry is completely demolished.

6.21 PPG15 states that the following issues are “... generally relevant to the consideration of all listed building consent applications:

1. The importance of the building, its intrinsic architectural or historic interest and rarity in both national and local terms.
2. The particular features of the building (which may include its design, plan, materials or location) which justify its inclusion in the list: list descriptions may draw attention to features of particular interest or value but are not exhaustive and other features of interest or value, (e.g. interiors) may come to light after the building’s inclusion on the list.

3. The building's setting and its contribution to the local scene, which may be very important e.g. where it forms an element in a group, park, garden or other townscape or landscape, or where it shares particular architectural forms or details with other buildings near by.
4. The extent to which the proposed works would bring substantial community benefits for the community, in particular by contributing of the economic regeneration of an area or the enhancement of its environment (including other listed buildings)."

6.22 The Guidance continues: "The preservation of facades alone, and gutting and reconstruction of interiors, is not normally an acceptable approach to the reuse of listed buildings: it can destroy much of a building's special interest and create problems for the long term-term stability of the structure".

6.23 With regard to "substantial demolition", PPG15 advises that "where the proposed works would result in the total or substantial demolition of a listed building, or any significant part of it, the Secretary of State would expect the local authority in addition to general consideration set out in paragraph 3.5 above to address the following considerations:-

1. The condition of the building, the cost of repairing and maintaining it in relation to its importance and to the value derived from its continued use. Any such assessment should be based on consistent and long term assumptions. Less favourable levels of rents and yields cannot automatically be assumed for historic buildings....any assessment should also take into account of the possibility of tax allowances and exemptions and of grants from public or charitable sources. In the rare cases where it is clear that the building has been deliberately neglected in the hope of obtaining consent less weight should be given to the cost of repairs;
2. The adequacy of the efforts made to retain the building in use. The Secretaries of State would not expect listed building consent to be granted for demolition unless the authority (or where appropriate the Secretary of state himself) is satisfied that real efforts have been made without success to continue the present use or to find a compatible alternative use for the building. This should include the offer of the unrestricted freehold of the building on the open market at a realistic price reflecting the buildings condition (the offer of a lease only, or the imposition of restrictive covenants, would normally reduce the chances of finding a new use for the building);
3. The merits of the alternative proposals for the site. Whilst this is a material consideration, the Secretaries of State take the view that subjective claims for the architectural merits of proposed replacement buildings should not in themselves be held to justify the demolition of any listed building. There may be very exceptional cases where the proposed works would bring substantial benefits to the community which have to be weighed against the arguments in

favour of preservation. Even here, it will often be feasible to incorporate listed buildings within the new development, and this option should be carefully considered: the challenges presented by retaining listed buildings can be stimulus to imaginative new designs to accommodate them.”

**6.24 Members’ attention is particularly drawn to the extracts from PPG15 set out above in Paragraph 6.23.** In the current case, the site is owned by Bath and North East Somerset Council, and there can be no doubt that whilst the buildings on the site have not been neglected in the manner suggested in quoted sub-paragraph 1, there has been no attempt made by the Council to market the site in accordance with the very clear expectations in sub-paragraph 2. Sub-paragraph 3 quoted from PPG15 is particularly relevant here, and Members are advised to proceed with extreme caution in making an assessment of the perceived benefits to the community which the Applicant claims will flow from the DSDI proposal.

6.25 It is not clear that the proposed development could NOT have been designed differently so as to safeguard significantly more of the listed fabric on the site. From an architectural point of view, the scheme came to your Officers fully formed, and as noted above there has been no effective opportunity for your Officers to influence the design in order to align more closely with the advice given in PPG15. Demolition of a Listed building should properly be contemplated only as a last resort, and yet here the architectural aspirations of the Applicant appear to have jumped over and seriously underplayed the importance of making real attempts to secure the retention of the Listed buildings.

6.26 Unusually, your Officers find themselves having to disagree with the comments and recommendations received from English Heritage. EH is the nationally-recognised authority on all matters associated with Listed Buildings and is, of course, a statutory consultee on applications such as those currently under consideration. Sadly, it is your Officers’ view that EH has also jumped over and seriously underplayed the intermediate steps set out in PPG15 before reaching a conclusion that substantial demolition can be supported. Whilst it is in principle appropriate for the community benefits of the scheme to be assessed (as provided for in sub-paragraph 3 quoted above from PPG15), this should only follow once proper consideration has been given to the importance of the Listed buildings and to the extent to which efforts have been made to retain those buildings without substantial demolition. This issue has also been identified by Bath Heritage Watchdog and by other objectors.

6.27 In respect of demolitions, alterations, and the setting of listed buildings, only fourteen months have elapsed since English Heritage caused the building to be listed. Its current acceptance of the substantial demolition of the principal building may be regarded as counter intuitive. English Heritage suggests that the Dyson School will maintain the legacy of the site’s original use. The Stothert and Pitt site was indeed, in a sense, a school for the many apprentices who worked there. For this reason an educational use for the site

also associated with engineering might be regarded as appropriate in principle. However PPG 15 states that a use should be found which as far as possible is compatible with the maintenance of its historic fabric, and that there is a need to explore possible alternative use for the site if substantial demolition is involved. Also there is a requirement for the site to be placed on the open market if the matter cannot be satisfactorily resolved.

6.28 It is acknowledged that if the existing buildings continued in their original use that this may not lead to wider enhancements. However, it is not felt this outweighs the damage caused to irreplaceable listed buildings which can be viewed in their own right as an educational resource for future generations. The buildings represent not only an important part of the industrial heritage of Bath but also of the country. The question must also be asked as to whether there is another site which can accommodate the Dyson School in Bath in view of the recent listing of the buildings.

6.29 The English Heritage officer's comments that "The interiors have been largely compromised by alteration..." and "The elements which would be namely lost; the roof and the altered utilitarian interior are of lesser significance," are questioned as many of the partitions are modern and could be removed in a more sensitive scheme for the building. Indeed a large section of an inserted mezzanine has already been removed from the building. Your officers are concerned that English Heritage has given insufficient weight to the fact that all aspects of the building are listed and that the interiors of industrial buildings sometimes do not have outstanding architectural features due to their function. Limited reference is made by English Heritage to the iron columns which are found in the building no reference is made to other features of interest such as the crane jib the timber truss installed between two existing walls on the ground floor, or the unusual circular inscribed marks in a stone wall which also has what appears to have been a former central opening in filled with stone. This may give a clue to historic machinery once used in the building. Apart from the staircase no mention is made of the other features of interest found in the office which for many years was the 'nerve centre' for administration of the site and the company.

6.30 English Heritage notes that the alterations to the listed building are "outweighed by the benefits of the proposals in terms of the continued use of the site for engineering related use, and the retention of the principal elevation and the rear and the overall positive future this provides for the site and community benefit for Bath." If the site had been retained in its former industrial/business use this would have also been an appropriate use for the buildings and no alternative uses other than educational appear to have been investigated. Only parts of the principal elevation are retained, its importance, attractiveness and its contribution to the street scene has been seriously compromised by the new arcading which has removed substantial sections of historic fabric, the rear elevation of the office is demolished, and the proportions of the remaining rear elevation compromised by the changes in external levels. Insufficient weight has been allocated to the community value/benefit given to the Stothert and Pitt site as The Victorian Society states

that the site is of “Huge local importance” and the international value of the site has been established in comments from interested parties in Canada, in particular the Canadian Heritage Foundation.

6.31 EH’s comments that “...the option for retaining more of the historic fabric has been investigated however it is to some extent constrained by the flood provision and the requirements of the new use.” This raises questions over both the appropriateness of the proposed use and the flexibility of the applicant to fit his proposals to the constraints of the site. EH reluctantly accepts the need to cause significant harm to the front elevation of the building by the introduction of the arcading. However, it may have been possible to investigate removing the lower section of the plinth within the arcade whilst retaining the historic fabric above to provide for flood risk requirements of the Environment Agency.

6.32 The 20<sup>th</sup> century former machine shop, including in the planning application site, appears not to have been not considered by EH as a means by which further accommodation could be provided to take some of the pressure off the principal building. Neither has thought been given to handing the new development on the site so that its impact on the 19<sup>th</sup> century section is reduced. Similarly the possibility of locating any new block behind the 20<sup>th</sup> century section, on stilts if necessary, would minimise the impact on the flood plain and help to spread the development across the site and take pressure away from the listed building and the height of the new build section.

6.33 English Heritage make only a brief passing reference to the ancillary buildings on the site and fail to make specific reference to the architectural or historic importance of the curtilage listed foundry, its history and function within the group of buildings found on the site. The assessment of the importance of the complex on the site is therefore incomplete.

6.34 In respect of the design of the new development, and its setting within the conservation area and World Heritage Site, EH makes no reference is made specifically to Listed buildings found in the surrounding area and the impact of proposals on their setting. EH notes that they have considered the impact of the scheme on its wider context, the wider setting of the conservation area and the World Heritage Site and do not feel that the new development is out of context with the existing group of industrial buildings.

6.35 The industrial group of buildings south of the river, including the principal building, do however have common characteristics that help give this quarter of the City a specific character. The verticality created by the location of the many window openings, the hard impermeable edge created at the edge of the footpath in Lower Bristol Road, and the simple angular lines of the historic buildings, for example, characterise the area. The historic group of buildings are also visible from the northern side of the river where their historic setting and context with the river can be clearly seen.

6.36 The new development is monolithic and for the most parts blocks views of the principal listed buildings facing onto Lower Bristol Road when viewed

from the northern bank of the river. In those cases where one will be able to see the building from the northern bank it appears a poor reflection of its former self as its historic roof has been removed and replaced by a flat roofed terrace.

6.37 EH accepts that the development is “a large scale new development”. In your Officers’ assessment the new build is noted as monolithic / too large for the site and its surroundings. EH consider it forms a “convex crescent” which is an architectural reference to the “crescents and circuses of Bath”, but the site is in a Victorian former industrialised part of the city where it is suggested a more angular form of development would have been far more appropriate. The new development does not have to be curved to address the river frontage or provide for access along the river bank.

6.38 In relation to the impact on the skyline and views over to Beechen Cliff from the northern bank of the river the harm caused by proposals has been clearly demonstrated in the Officers’ assessment. The river itself is noted as a “visual and social amenity but with limited access” but it already has three bridges in relatively close proximity from which views can be obtained over it and there is also a public footpath which follows the lower river bank on the northern side which continues past the application site and at higher level nearest the road the footpath also allows views over the river. “The area to the north is dominated by a multi storey car park”, but this not a reason for accepting proposals on the present site which are plainly out of context.

6.39 EH suggest that “The introduction of a frontage which addresses the river in conjunction with providing physical access via a new bridge and riverside walkway would be a positive benefit to the urban design of the area” However, your Officers question the benefits of the development proposed and do not feel in any event that such works can outweigh the harm caused to the listed building.

6.40 EH considers that “The proposals would preserve the setting of the Conservation Area and the Outstanding Universal Values of the World Heritage Site“. Your Officers are readily able to demonstrate that the proposals will harm the setting of the Conservation Area and the WHS.

6.41 The responsibility for making formal decisions on these applications currently rests with the LPA, and irrespective of the comments made by English Heritage it is this Council which must demonstrate that the relevant statutory duties have been properly applied and that correct procedures have been followed.

**6.42 Your Officers thus regrettably find themselves in the unusual position of having to advise members that in this instance only very limited weight should be given to the advice and recommendations received from English Heritage. If Members are minded to support the scheme, this should be on the basis of their own assessment of the Listed building merits of the proposals, and NOT on the basis of the flawed approach adopted by English Heritage.**

### CALLED IN APPLICATIONS

6.43 PPG15 indicates that “The Secretary of State may require applications for listed building consent to be referred to him for decision, but this call in power has only been exercised in a small number of cases per year in recent years..... Cases are likely to be called in where the Secretary Of State considers that the proposals raise issues of exceptional significance or controversy...” Members will have noted above that there are flood-related reasons why this proposal may have to be referred to the Secretary of State – i.e. if the Committee were to support the proposal contrary to the Refusal recommendation received from the Environment Agency. It is likely that if the Planning Application were to be referred to the Secretary of State, then the application for Listed Building Consent would be considered for call-in in order that all the related issues could be considered together. The Listed Building issues are common to both the current applications.

### ALTERATIONS TO LISTED BUILDINGS

6.44 PPG15 Annexe C refers to the fact that features of special interest are not restricted to external elements but may also include plan arrangements and historic plan forms which can be one of its most important features. Interior plans and individual features should be left respected as far as possible and old work should not be sacrificed merely to accommodate the new. Alterations to walls are usually the most damaging to the overall appearance of the building, and door and window openings establish the character of an elevation and should generally not be altered where they are conspicuous elements of the design. Also the roof is nearly always the most dominant feature of the building and is important.

6.45 The present proposals therefore fall considerably short of the advice given by PPG15 in a number of key areas. Although the buildings are no longer used by an engineering company they have until recently be used by small scale industrial and business users and their continued use for such should be viewed as an appropriate use especially as this would not have not resulted in Environment Agency requirements under the provisions of PPS25 for raising levels on the site due to flood risk. No Planning Permission or Listed Building Consent would be required for the resumption of the former uses of the site.

6.46 A number of options for development of the site have been investigated but they appear to have been educational uses only, and more compatible uses (having proper regard to the listed status of the fabric and the flood risk problem) have not been investigated. The Applicant’s Sequential Test has demonstrated that there are other sites within Bath which ought to have been considered for the DSDI subsequent to the buildings at the Newark Works being listed.

6.47 A key point is the potential of the early 20<sup>th</sup> century former machine workshop which has a flexible internal space and could provide additional accommodation which would then take pressure away from the principal building. The workshop may also be considered suitable for arcading, rather

than the earlier range, to meet the Environment Agency's concern over flood risk.

6.48 The need to disturb so much of the historic fabric to satisfy the Environment Agency requirements needs to be questioned. It would appear feasible with creativity for also the lower sections of the plinth in the earlier principal listed range to be removed with the existing historic windows retained above. The internal floor levels, which are to be raised in any event, would then provide for a channel below through which water could flow in the event of flood and continue out of the openings in the plinth on the front elevation.

6.49 It should also be possible to include a raised ground floor level, as required by the Environment Agency, and insert a new first floor without removing the existing roof structure or present historic columns. This would give a height of approximately 3.5 metres between the floor/ceiling on the ground floor and between the first floor and the underneath of the existing roof ties. However, it should be noted this would also mean the loss of the important and dramatic spaces found within the sections of the former machine shops and this would remain a cause for concern.

6.50 The applicant also does not appear to have investigated the option of "handing" the building on the site so that the new development is mainly concentrated behind the early 20<sup>th</sup> century former machine workshop, or alternatively building the new accommodation on metal columns that would probably minimise the risk of development on the flood plain. The opportunity to investigate this option would have presented itself when the earlier applications 06/03857/EOUT and 06/02958/Ful were withdrawn and when Bath Spa University were no longer interested in the site. However, there is no evidence to suggest that the current Applicant took this opportunity, and the current scheme uses the increased flexibility offered by the removal of the Bath Spa University element from the site to provide additional on-site flood storage and servicing capacity rather than to revisit the entire design approach. Once again, this is an issue that has also been identified by third party objectors to the scheme.

6.51 The former Smithy, where only the front elevation is of architectural and historic interest, could provide more accommodation behind its façade if the access arrangements were adjusted. The existing office building floor levels would be more difficult to integrate into the new use but this may be possible if consideration were given to a new stair from the existing first floor level of the machine workshop through the existing gables of the office and into the floors at higher level within the office. This may not be an ideal situation for the applicant as it would not provide standard spaces but this is a listed building where it should be expected some compromises are made to retain its character.

6.52 The challenges in adapting the existing principal listed building and the foundry are acknowledged, but it is felt that there should be more flexibility and imagination used in trying to work through these problems bearing in

mind the constraints imposed by the protected buildings. Normally, your Officers would have been able to negotiate at the pre-application stage in order to secure an appropriate form of development, but that opportunity was effectively denied, with the Applicant electing to hold discussions with English Heritage rather than with the local planning authority.

6.53 In your Officers' view, the substantial demolition/alteration of the principal listed building and the demolition of the foundry would significantly harm their special architectural and historic interest and insufficient justification has been provided to show that alternatives to the present scheme have been properly investigated. The works proposed to the listed buildings are in conflict with both Policy B2 of the Local Plan and the advice given in PPG15.

#### IMPACT ON THE SETTING OF LISTED BUILDINGS

6.54 PPG15 advises that the setting of a Listed building should not be interpreted too narrowly and that the setting of a listed building may in some cases be limited to obvious ancillary land but will often include land some distance away. "Even where a building has no ancillary land, for example in narrow urban streets, the setting may encompass a number of other properties. The setting of a listed building very often owes its character and harmony produced by a particular group of buildings (not necessarily of great individual merit) and to the quality of spaces created between them. Where a listed building forms an important visual element in the street it would probably be right to regard any development in the street as being within its setting. A proposed high or bulky building might also affect the setting of a listed building some distance away, or later views of a historic skyline...."

6.55 The analysis undertaken in the applications does not give sufficient weight to the impact of the development on the setting of adjacent surviving listed buildings. Unfortunately, this is also an issue that has apparently been given little weight by English Heritage.

6.56 The development proposed would have a significant detrimental impact on the setting of listed buildings such as those in Oak Street, the two listed former historic industrial buildings to the east of the site, and the historic skyline of the city. Furthermore as identified in the observations provided by the Senior Urban Designer and the Landscape Officer, proposals for the landscaping and the public realm on the site require further detailed consideration. The current proposals would be contrary to policies D2, D4, BH1, and BH2 of the Local Plan and to the advice given in PPG15.

#### THE LOCATION, DESIGN, SIZE, HEIGHT AND MATERIALS PROPOSED TO BE USED IN THE NEW BUILD

6.57 In one sense the new building can be seen as an extension to the existing historic building and therefore the advice given in PPG15 Appendix C7 is relevant. This states that "... modern extensions should not dominate the existing building in scale, material or situation. Successful extensions require the application of an intimate knowledge of the building type that is being extended together with a sensitive handling of scale and detail." In your Officers' view, the new building will tower over what remains of the Listed

building and will not respect its character or its important setting. The new development is clearly contrary to the official guidance in this respect, and yet once again, this is an issue to which English Heritage appear to have given insufficient weight.

6.58 It is not entirely clear how the proposed design has emerged. It seems the end result is what some might describe as part of an emerging architectural trend in which a proposed building has been apparently been designed to draw attention to itself, and where the importance of existing buildings on the site, site context and local distinctiveness appear to have counted for little. Supporters of the scheme consider that the design of the building is unique and exciting and will be a good example of modern architecture. Your Officers recognise that appropriate contemporary design is beneficial to the evolving character of the city and that the Local Planning Authority must be fully committed to conservation as a means of managing change rather than preventing it. However Officers remain wholly unconvinced by the argued architectural merits of the present scheme.

## **CONSERVATION AREA ISSUES**

6.59 A key feature of the design is its quadrant plan form but this is out of context with the form of the existing historic industrial buildings on the site or in the important group to the east of the site. The arc's non-conformity is further emphasised by the bulk, height, design, and materials which overpower the existing historic building and obscure views from the north of the river. The important context of the listed industrial building and its relationship with the river is therefore also significantly compromised.

6.60 The cantilevered section, which at a higher level is proposed to continue over the remains of the historic building, will appear incongruous as it juts out towards the Lower Bristol Road. The new development has a strong horizontal emphasis and lacks vertical elements to break up the bulk of the building. It thus fails to reflect the vertical rhythm of the ensemble of former industrial buildings in the locality.

6.61 When viewed from higher ground to the south, or from within the Conservation Area from the northern bank of the river, its inappropriate design would be further emphasised as it would break up the visual rhythm provided by the existing series of pitched roofs on the industrial group of buildings to the east and the new roof line contrast markedly with the traditional pitched roofs found on the existing listed buildings.

6.62 The new building design is a deliberately bold statement, but it will sit too assertively on this site. During the hours of darkness its effect will be particularly intrusive, and your Officers are concerned that the uninterrupted areas of glazing proposed throughout the building will become a dominant and highly luminous feature of the area/skyline. Some Members will recall that the internal illumination of a glass building was a major consideration when the Spa development was being considered by the Development Control Committee. In that case, great care was taken to secure a

comprehensive lighting scheme which was designed to minimise light impacts during the hours of darkness. A similar approach would be essential here as a minimum, but the context of the current site is more challenging because of the extreme darkness of the site and its surroundings. The adjoining industrial buildings do have windows on many levels, but the ratio of glass to solid structure means that even when these buildings are fully lit, their visual impact is subdued.

6.63 The combination of the size, height, design and materials proposed for the DSDI is considered to be inappropriate. In your Officers' view, what is required is a far lighter touch – one which respects the significance of the Listed buildings and also carefully considers the special sensitivity of the surrounding area. Planning Policy Statement 1, Paragraph 34 states that “Design which is inappropriate in its context or which fails to take the opportunities for improving the character and quality of an area and the way it functions should not be accepted”.

6.64 The new development will significantly detract from the setting of the listed building, setting of other listed buildings, and character of the conservation area and will harm the World Heritage Site, contrary to Policies BH1, BH2, BH3, BH4 and BH6 of the Local Plan.

#### THE PROPOSED BRIDGE

6.65 The location and alignment of the proposed new river bridge is questioned. It is proposed to spring from the path adjacent to Green Park Road opposite the current coach park, whereas a more appropriate site in relation to the public open spaces and buildings in the area would have been closer to the existing amenity spaces off Green Park Road further to the west. The location of the bridge appears to have been selected because the South Quays Masterplan shows a bridge in this location. However, that plan has not been made public and carries no significant weight in the assessment of the current applications.

6.66 The establishment of a bridge in the location proposed would significantly constrain potential future redevelopment proposals on sites north of the river, and it is arguably premature for the bridge position to be fixed in advance of a formal master planning exercise (involving appropriate public consultation). As noted earlier, British Waterways have indicated that they will be seeking a significant contribution towards the enhancement of the river and its banks in the vicinity of the site, but your Officers are concerned that the bridge design and location (including extensive access arrangements on the northern river bank) will significantly reduce the extent and amenities of the valuable grassed area between the river and Green Park Road, which is currently used actively by visitors to the city.

6.67 As noted earlier, your Officers are concerned that the Applicant's Flood Risk Assessment appears to propose that the bridge will offer not only an escape route from the site above flood levels, but also a route into the site for emergency vehicles. It is not clear from the submitted plans how these seemingly incompatible uses can be accommodated.

## IMPACTS UPON THE CONSERVATION AREA

6.68 PPG15 advises that "...The desirability of preserving or enhancing the character of the conservation area should also, in the Secretary of State's view, be a material consideration in the planning authority's handling of development proposals which are outside the conservation area but would affect its setting or views into or out of the area....".

6.69 The analysis submitted with the application acknowledges that the site lies adjacent to the conservation area and that the existing buildings are in good condition, but then states that the area is only of a low sensitivity to the proposed development since only Green Park Road will be affected by proposals. This conclusion severely underestimates the wider impact of the development on views into and out of the conservation area from the various vantage points such as the path along Wells Road, the footpath at Beechen Cliff, and views from Green Park Road and adjacent amenity area back across to the application site and onto Beechen Cliff.

6.70 In your Officers' view, the Applicant's computer-generated views of the development from vantage points within the existing conservation area clearly demonstrate the inappropriate bulk, height and design of the proposed building. The new build element dwarfs the existing listed building and would substantially obscure views of Beechen Cliff, which is an important feature of the conservation area whilst also contributing to the setting of the historic group of buildings facing onto the river and the landscape quality of the city.

6.71 Looking from the higher ground on Beechen Cliff and Wells Road and back over the site across the attractive pitched roofs of the listed building in Oak Street, and the former GWR line, views of the existing pitched roofs on the listed buildings are replaced by the taller new development with flat roofs and the incongruous cantilevered section. The height and bulk of the new build also interrupt views over to the roofs of buildings in Green Park Road and in the distance Royal Crescent. This attractive view over to the above buildings and then and into open countryside and surrounding hills would be significantly harmed.

6.72 The scheme would be in very close proximity to the conservation area. Proposals would significantly detract from the setting of the conservation area contrary to policy BH6 of the Local Plan.

## WORLD HERITAGE SITE ISSUES

6.73 PPG15 specifies the "... Inclusion of a World Heritage Site as being a material consideration to be taken into account by the local planning authority in determining planning and listed building applications....". In relation to comprehensive management plans for the WHS the Government guidance notes that these plans should include:-

- Appraising the significance and condition of the site.
- Ensure the physical conservation of the site to its highest standard
- Protect the site and its setting from damaging development
- Provide clear policies for tourism as it may effect the site.

6.74 The City of Bath World Heritage Site Management Plan 2003-2009 (WHSMP) confirms these aims in a series of objectives for the management of the WHS and describes features which are important for example, contemporary architecture of outstanding quality should be encouraged where appropriate, owners and users of historic properties or sites within the WHS or its setting should be aware of their care and enhancement, the need to maintain a consistent and clear management approach to conservation areas and to take into account the character of different areas of the city and the impact individual areas and their needs have on the wider City.

6.75 The analysis undertaken in the Applicant's Environmental Statement notes that "The industrial heritage is not specifically noted as being an aspect of the WHS designation." This is not correct as the management plan does note the stone mines and associated works, and the transport system (which by inference would have included the river and communities. Page 45 of the WHSMP indicates that, "Other elements have been largely overlooked until recently and are undervalued as important elements of the WHS. This is particularly relevant to the geological and industrial elements, the waterways, parks gardens and public realm."

6.76 The study of industrial development in Bath includes the role that George Stothert played. As noted previously he supplied some of the structures/buildings which are still in existence today; he also had links with the development of Sydney Gardens and other associations with the Georgian period. The history of crane making in Bath not only encompasses Stothert and Pitt as it goes back to Padmores cranes in the 1730s (which were first developed to service the quarry industry of Ralph Allen about 120 years before the Stothert era). Stothert cranes were also in use in the local quarrying industry.

6.77 The summary of outstanding values in the WHSMP refers not only to such factors as the 18<sup>th</sup> century town planning but its social setting in which George Stothert would have no doubt played a role. In Appendix 2 History of the World Heritage Site specific reference is made to the Victorian changes such as the introduction of the railway by Isambard Kingdom Brunel, with fine viaducts, bridges and stations.

6.78 The assessment undertaken by the Applicant underestimates the visual impact of the development on the landscape qualities of the city, and in particular on its historic skyline, as noted above. The development would have a significant detrimental impact on the character and appearance of the World Heritage Site contrary to policies BH1 of the Local Plan and the advice given in PPG15.

## **LOSS OF OFFICE ACCOMMODATION – LOCAL PLAN POLICY ET2**

6.78 In the Bath and North East Somerset Local Plan, the site is included within the Bath City Centre Core Office Employment Area, identified under Policy ET2. This Policy seeks to retain existing office floorspace within the identified area, and the relevant part of the Policy reads as follows:

*“Planning permission will not be granted for developments involving the loss of established office floorspace unless:*

- (i) it can be demonstrated that the aims of policy ET.1(A) for an increase in office floorspace in Bath will be met without retention of the premises in question; or*
- (ii) the site is no longer capable of offering office accommodation of adequate standard; or*
- (iii) the proposal will secure suitable alternative employment opportunities of at least equivalent economic benefit to the city centre; or*
- (iv) the proposal brings benefits to the city centre which assists the overall objectives of the plan and outweigh the loss of the office floorspace.*

6.79 The proposed development would result in the loss of office floorspace, contrary to the provisions of Policy ET2, and for the reasons set out in this report your Officers are of the view that the argued merits of the proposed development can only be given limited weight, given the strong flood-risk and historic environment objections to the scheme. The continued use of this site for commercial purposes would not require new planning permissions to be granted (and would not in any case raise any adverse flood-risk issues associated with PPS25, as such uses are classed as “Less Vulnerable” in that document and would thus be entirely acceptable on this site). Accordingly, the proposed development is considered to be contrary to Local Plan Policy ET2.

## **OTHER PLANNING ISSUES**

6.79 The list of relevant Planning policies set out above includes Local Plan policies which relate to transport and traffic issues. However, the current comments of the Highways Development Officer indicate that with one specific exception noted below, the details of the scheme are unlikely to raise highway related matters which cannot be dealt with by means of Conditions or a S106 Agreement. The securing of provision of the proposed footbridge and the maintenance and enhancement of the river and its banks are also matters which can be dealt with by these means. However, there are Planning and Highways concerns relating to the principle of providing a pedestrian river crossing in this specific location, which are the subject of on-going discussions between Officers. Any further comments will be reported in an Update report prior to the meeting.

6.80 As mentioned above, the Council is the owner of this site and therefore has a clear interest in its future development. However, it is essential that the Development Control Committee does not have regard to the Council’s interests as landowner in making decisions on these two applications.

Members are advised that those interests are NOT material Planning considerations.

6.81 In contrast, the educational and community benefits of the proposed development, which have been identified by the Applicant (and which have been taken into account by English Heritage in reaching their conclusion that they could support the scheme) are material Planning considerations to which the Committee can rightly have regard. The issue is not whether these matters are material, but how much weight can be given to the claims in determining the current applications.

6.82 It cannot be denied that these benefits exist (albeit on paper only at this stage because of the fact that this is a unique concept, without local or national precedent). However, in spite of requests from your Officers, no definitive expression of commitment to the financing of this project has been received, with the Applicant's team indicating merely the sources of funding.

6.83 Your Officers are concerned that it is easy to assume that because the project is innovative and intuitively appealing, that its delivery can be guaranteed. That is not an appropriate approach to the case, and the weight that might otherwise be attributed to the project's benefits must be tempered by an air of realism. Furthermore, the fact that there are clearly opportunities which have not been explored by the Applicant to design a more appropriate scheme for this site, or to relocate the project to other potential sites (both within Bath and outside the immediate locality) means that the Applicant's "only one solution" approach unravels under close scrutiny. In these circumstances, it is your Officers' view that the weight which should be attached to the argued merits of the proposals is significantly limited by the approach adopted by the Applicant to the evolution of the scheme in its sensitive context of significant adverse policy considerations.

6.84 Your Officers have had regard to the representations received both for and against the development, and conclude that, save for the matters dealt with in detail earlier in this report, these do not raise issues that outweigh the general view that the proposals should not be supported. Similarly, other national and local policies and guidance must be considered, but do not materially impact upon the determination of these applications.

## **7. CONCLUSIONS**

7.1 The end result of all the preceding assessments is that it is essential that Members untangle the potential for supporting the *principles* of the project from the wide-ranging technical objections to the site-specific scheme which is before the Committee. Ultimately, it is for the Committee to decide how much weight should be attached to the argued educational and community benefits of the Applicant's project, in the context of dealing with Planning and Listed Building proposals for a scheme which (in Planning terms) simply proposes an Educational Establishment on an inappropriate site.

7.2 The Committee must consider this specific proposal, and balance the benefits of the project against the demonstrable harm that the development would bring to the character and setting of the Listed buildings on the site, and to the character and appearance of the World Heritage Site and the Conservation Area. Furthermore, the scheme is considered to be premature to the extent that it proposes a new footbridge across the river in a location that has not emerged from any public consideration of its transportation or community implications. The support given by English Heritage to the scheme is not soundly based upon the requirements of PPG15 and should therefore be given limited weight, and your Officers conclude that the proposals are contrary to National and Local policy and guidance relating to the historic environment.

7.3 In addition, the scheme is the subject of detailed objections from the Environment Agency in respect of flood related issues. Accordingly, the proposals are considered to be contrary to PPS25 and to the relevant provisions of the Local Plan.

7.4 Finally, the proposed development is contrary to Policy ET2 in the Local Plan, in that it seeks to replace existing office accommodation within the designated Core Office Area, with an alternative use for which inadequate justification has been submitted.

7.4 For these reasons, your Officers recommend that these two applications be Refused.

## **8. RECOMMENDATIONS**

8.1 As indicated at the beginning of this report, each of the applications must be the subject of a separate formal decision by the Committee. The Officer recommendations in respect of the applications are as follows:

### **Item 1 – Planning Application 07/01034/EFUL**

#### **Refuse for the following Reasons**

1. The development proposed by virtue of the demolition and alterations proposed to the principal listed building, the curtilage listed foundry, the setting of listed buildings, the combined effect of height, scale, design and materials (including substantially glazed elevations) used in the proposed new building, the location of the new bridge, landscaping and public realm proposals, harm caused to the character and setting of the Conservation Area and to the World Heritage Site, would be contrary to policies BH1, BH2, BH4, BH6, D2 and D4 of the Bath and North East Local Plan and the advice provided in Planning Policy Guidance 15 'Planning and the Historic Environment' and Planning Policy Statement 1 'Delivering Sustainable Development'.

2. The proposed development would be contrary to the requirements of PPS25 'Development and Flood Risk', in that it has not been adequately demonstrated that no other more suitable site is reasonably available. In addition, it has not been adequately demonstrated that the site can be developed in a manner which would be safe and which would not give rise to unacceptable on and off site flood risk. The development as proposed is therefore contrary to Policy NE14 in the Bath and North East Somerset Local Plan.
3. The proposed development incorporates a proposed new pedestrian river crossing, the location of which has not been demonstrated to have been optimised through a comprehensive design approach involving land on both north and south river banks. The location and provision of the proposed crossing is unrelated to existing patterns of development on the northern side of the river and would be likely to prejudice the future development of such land on a properly planned and comprehensive basis, contrary to the provisions of Policy T16 in the Bath and North East Somerset Local Plan.
4. The proposed development would result in the loss of existing office accommodation, contrary to the provisions of Policy ET2 in the Bath and North East Somerset Local Plan, in which the site is included within the designated Bath City Centre Core Office Employment Area.

## **Item 2 – Listed Building Consent Application 07/01044/LBA**

### **Refuse for the following Reasons**

1. The works proposed by virtue of the demolition and alterations proposed to the building fronting Lower Bristol Road and the curtilage listed foundry fail to preserve the special architectural and historic interest of the protected buildings.
2. The proposed works, in particular the combined effect of height, scale, design and materials (including substantially glazed elevations) used in the proposed extension, would be harmful to the setting of listed buildings, and to the character and setting of the adjacent conservation area and the Bath World Heritage Site.
3. The proposals are contrary to the intentions of the Planning (Listed Buildings and Conservation Areas) Act and to the advice provided in Planning Policy Guidance Note No.15 'Planning and the Historic Environment' and Planning Policy Statement 1, 'Delivering Sustainable Development'.



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