

**In the North Somerset Magistrates' Court (in Taunton)**

**Between**

**Birnbeck Holdings Limited (Substituted for CNM Estates (Birnbeck) Limited)**

**Complainant**

**and**

**North Somerset Council**

**Respondent**

**CASE NO: 522100064771**

**REGARDING:**

The North Somerset Council (Birnbeck Pier) Compulsory Purchase Order 2020

AND The Planning (Listed Buildings and Conservation Areas) Act 1990

AND The Acquisition of Land Act 1981

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**TRIAL BUNDLE**

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**CLAIMANT'S EVIDENCE**

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THE NORTH SOMERSET COUNCIL (BIRNBECK PIER)  
COMPULSORY PURCHASE ORDER 2020

The Planning (Listed Buildings and Conservation Areas) Act 1990  
and the Acquisition of Land Act 1981

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WITNESS STATEMENT OF WAHID SAMADY

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I, Wahid Samady of St Georges Court, 5 St. Georges Square, New Malden KT3 4HG will say as follows believing the same to be true to the best of my knowledge and belief:

1. I make this witness statement in support of the application to substitute Birnbeck Holdings Ltd of St Georges Court, 5 St. Georges Square, New Malden KT3 4HG (CRN 13092515) (the "**New Owner**") for CNM Estates (Birnbeck) Limited of the same address (CRN 07584898) (the "**Previous Owner**") for the purposes of pursuing the application to stay proceedings for the compulsory acquisition of the Grade II listed Birnbeck Pier and the relevant land in Weston Super Mare (the "**Property**") and the associated appeal (the "**Complaint**").
2. I am a Director of both the New Owner and the Previous Owner and am the principle point of contact at both corporate entities, which are related.
3. When I made the Complaint on 23 October 2020, the Previous Owner was the owner of Property.
4. The Property was subject to a charge in favour of Mr Brian Sullivan (the "**Chargee**") by way of a legal mortgage dated 10 October 2014.
5. In December 2020, the Royal National Lifeboat Institution (the "**RNLI**") approached the Chargee stating that they would be willing to offer any receiver appointed by the Chargee the sum of £350,000 for the purchase of the Property up to 13 March 2021.
6. The Previous Owner was notified of this offer by way of a court order served on it by the Chargee (the "**Court Order**").

7. The New Owner, acting as the agent of the Previous Owner, responded to the Chargee by offering to discharge the charge pursuant to the Court Order.
8. The payment to the Chargee took place in January 2021, in full satisfaction of the charge held over the Property.
9. On 22 January 2021, following satisfaction of the charge, title to Property passed from the Previous Owner to the New Owner.
10. In light of the transfer of ownership, the Previous Owner should be substituted for the New Owner for the purposes of pursuing the Complaint.
11. Both the Previous Owner and the New Owner consent to this substitution and consent letters to this effect are annexed hereto at Exhibit **WS1**.
12. The transfer of ownership and the substitution of the New Owner for the Previous Owner has no practical effect, namely it does not affect the Complainant's intention to address the Repairs Notice.
13. The Previous Owner was working towards the redevelopment and regeneration of the surrounding area; and was willing to work collaboratively with the Council and the RNLI in order to facilitate the return of the RNLI life boating service to Birnbeck Island. The New Owner is equally committed to this.
14. The New Owner acknowledges the exceptionally challenging nature of the repair works and it will continue to instruct the Previous Owner's team of consultants and experts. Our legal representatives will also remain the same and I will remain the primary point of contact on all matters related the Complaint.
15. I ask that the Court grants permission to substitute the New Owner for the Previous Owner as Complainant for the Complaint.

Dated this 12 day of March 2021

Statement of Truth

\*I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest believe in its truth.

\*I am duly authorised by the Complainant to sign this statement.

Full name: Wahid Samady

Signed:

Position or office held: Director



~~\*(Complainant)(Litigation Friend)(Claimant's Solicitor) (if signing on behalf of a firm or company)~~

\*delete as appropriate

**THE NORTH SOMERSET COUNCIL (BIRNBECK PIER)  
COMPULSORY PURCHASE ORDER 2020**

**The Planning (Listed Buildings and Conservation Areas) Act 1990  
and the Acquisition of Land Act 1981**

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**EXHIBIT WS1**

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The North Somerset Magistrates Court

12 March 2021

Dear Sirs

**Property:** The Grade II listed Birnbeck Pier and the relevant land in Weston Super Mare

**Complaint:** The application to stay all proceedings for the compulsory acquisition of the Property and the associated appeal

My name is Wahid Samady and I am the Director of CNM Estates (Birnbeck) Limited. I am authorised to consent to the substitution of CNM Estates (Birnbeck) Limited for Birnbeck Holdings Ltd in relation to the Complaint.

Yours faithfully

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

Mr Wahid Samady for and on behalf of CNM Estates (Birnbeck) Limited

The North Somerset Magistrates Court

12 March 2021

Dear Sirs

**Property:** The Grade II listed Birnbeck Pier and the relevant land in Weston Super Mare

**Complaint:** The application to stay all proceedings for the compulsory acquisition of the Property and the associated appeal

My name is Wahid Samady and I am the Director of Birnbeck Holdings Ltd. I am authorised to consent to the substitution of the CNM Estates (Birnbeck) Limited for Birnbeck Holdings Ltd in relation to the Complaint.

Yours faithfully

A handwritten signature in black ink, appearing to read 'WMS', with a large, stylized flourish extending from the end of the signature.

Mr Wahid Samady for and on behalf of Birnbeck Holdings Ltd

**THE NORTH SOMERSET COUNCIL (BIRNBECK PIER)  
COMPULSORY PURCHASE ORDER 2020**

**The Planning (Listed Buildings and Conservation Areas) Act 1990  
and the Acquisition of Land Act 1981**

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**WITNESS STATEMENT OF WAHID SAMADY**

**Case Number 522100064771 May 16<sup>th</sup> 2022**

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I, Wahid Samady of St Georges Court, 5 St. Georges Square, New Malden KT3 4HG will say as follows:

1. I am a Director of Birnbeck Holdings Ltd ("BHL") of St Georges Court, 5 St. Georges Square, New Malden KT3 4HG (CRN 13092515)
2. I make this witness statement in support of BHL's applications to:
  - a. Stay of these proceedings pending clarity of the Statement of Case of NS Council in relation to the CPO; OR
  - b. Requiring NS Council to provide evidence that it had the means to fulfil its obligation under its Statement of Case; AND
  - c. Variation of the direction of January 26<sup>th</sup> 2022 to allow further time to submit evidence in relation to the BHL application for stay in the proceedings for the compulsory acquisition of the Grade II listed Birnbeck Pier and the relevant land in Weston Super Mare
3. I am afraid we have not been able to agree a way forward with NS Council so far.
4. On 10<sup>th</sup> May 2021 Rachel Lewis from NS Council confirmed: "I have Leaders approval to acquire site at £480k as per the plans": [WS1-email, WS2-plan 1, WS3-plan 2]
5. When the Heads of Terms ("HoTs") were signed in July 2021, attached [WS4], it was anticipated that exchange will happen in July and completion to follow soon after. The Council asked us on numerous occasions not commence works in relation the repairs notice as clearly this would conflict with the HoTs agreed and would add abortive repair costs.

6. Just prior to this, the RNLI with whom we were negotiating with confirmed to us that it was unable to enter into an agreement as they did not have the necessary funds and approval to do so and required a 6-9 month option to procure the necessary funds to proceed.
7. The Council at all times intended to back-to-back the purchase from BHL with the RNLI as they did not have the funds to repair the Pier itself, it would appear contrary to confirmation given in para 2 above.
8. Despite signing the HoTs, the Council only obtained internal approval in November 2021 as reported in the press, and despite confirming that it was ready and able to proceed to complete the sale, announcements were made to press without the knowledge of BHL [WS 6], confirming that a sale from BHL to NS had been agreed.
9. The Council therefore was not in position to commence the CPO process when it did, as it had stated, as it did not have the committed funds to undertake the repairs nor did it have a partner with committed funds to undertake the repairs.
10. As this is now common and public knowledge, we hereby would like to make an application for a stay of these proceedings until the Council provides satisfactory evidence in support of its statement of case in the CPO [confirming it had or access to the necessary means] which clearly has now proven to be misleading. Or if not a stay, in the alternate, -the Council be given 7 days [so that the current process can safely continue] to assure the Court that its statement of case, upon which these proceedings are based, does not have any material inaccuracies and to provide evidence to that effect.
11. Without this clarity the CPO process may need to be investigated, paused, ceased or as a minimum restarted, and potentially rendering these proceedings premature [or unsafe to proceed] as these proceeding must follow a proper CPO application process.
12. Notwithstanding the above, the Council having deliberately “ran down the clock” to these Magistrates hearings. It would appear the Council had no intentions of adhering to the signed HoTs, or the email of May 10th in para 4, prolonging and stringing along discussions.
13. On Friday May 13th NS issued new terms attached [WS7] which have no resemblance to the agreed HoTs and in the last-minute proposing unworkable



and commercially unacceptable terms

14. On the 26th of January 2022 I received an email from Jon Cooper acting for NS Council, attached [WS8], confirming that he had attended Magistrates court and that the agreed direction had been approved. In that email he mentioned the Case Management Hearing has been listed for 17th May 2022. He confirmed in his email that **“the formal order from the Court will be issued shortly”**.
15. Having understood that “a formal order” will be issued and received by BHL, Mr Cooper’s email of 26th January 2022 remained in my inbox and not actioned. We have a process to deal with court orders which diarises them into a legal calendar. As an order was not received [confirmed not sent by Mr Andy O’Brien] this did not enter the legal calendar and response process [and the email sat in my inbox] and regrettably the date to serve the evidence went by without BHL summing evidence necessary to support its application for a stay. This was a genuine misunderstanding already explained to Mr Cooper [and an unfortunate but unintended addition in Mr Cooper’s email, and we now believe he was referring to a Notice of a hearing date, rather than “a direction order”]. And we apologise to the Court for this error in mis interpreting Mr Coopers email.
16. On the 25th of April 2022 Mr Cooper [the first correspondence after Jan 26th email relating to this] wrote in a letter that we are breach of the directions of 26th of January and they intend to have our representation struck out. [WSS] P27
17. This was the first time we had found out that we missed the date of April 18<sup>th</sup> per the agreed directions.
18. We have started and made good progress to collate the necessary evidence and have already served some of it. We are gathering the rest. We asked the consent of NS to allow further time of about one more week to complete this process and as of 15:00 May 16th this was not forthcoming. Of course, we offered corresponding time for their response to be extended.
19. Our application for the stay at trial will have the following two main streams with evidence to support it
  - a. NS requesting for works not to commence and no further funds spent to allow the HoTs signed in July 2022 to be contracted
  - b. Repairs works undertaken - to assist the Court we have listed the -detailed, complex and expensive stream of work that needs to be undertaken, what has been done/completed to date, in CAPS
    - i. Appointment of professional team- COMPLETED

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- ii. Condition and technical surveys- COMPLETED
- iii. Procuring of phased planning permission
  - 1. Phase 1: The test method- SUBMITTED AND APPROVED
  - 2. Phase 2: The structural Works- COMPLETED AWAITING SUBMISSION
  - 3. Phase 3: The decorative finishing- TO BE COMPLETED
- iv. Building and method statements produced by a contractor - COMPLETED
- v. Health and safety audits and tidal analysis- COMPLETED
- vi. On site testing- COMPLETED FOR PHASE 1
- vii. Mobilisation - FEE PAID
- viii. Commence Phase 1 - ABORTED DUE TO COUNCIL HOTS
- ix. Obtain Council approval for Phase 1 works
- x. Commence Phase 2 works
- xi. Obtain Council approval for Phase 2 work
- xii. Commence Phase 3
- xiii. Obtain Council approval for Phase 3 works

20. I hope it is clear to the Court that we have taken robust steps to commence the works and have expended significant sums to reach this point. Many hundreds of thousands of pounds.

21. Notwithstanding para 11, we have taken reasonable and proportionate steps to undertake the repairs already.

22. Acting in good faith, based upon multiple request from the NS, we paused further works at 19b viii to pursue the route of the agreed sale, first confirmed on May 10th with "Leaders Approval", followed signed HOTS, press fanfare, much legal costs spent, unfortunately resulting in what would appear to be an unwelcomed U turn by the Council on Friday May 13th.

23. Its is our contention, it would appear, that the Council have been "running down the clock", and further evidence and witness statements will be provided to this effect.

24. Despite this we have informed the Council [WS 10] that we would be willing to proceed on the basis of the agreed HoTs and that we have provided detailed drafting on what we are prepared to sign. In relation to this the ball is firmly in NS court.

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25. As we missed the dates for submission of all the evidence we wish to submit, we respectfully ask the court to grant us until 10am May 26th to complete our submission of our evidence, and the until 10am June 6th for Council to complete their submission and response.

26. This we hope should have minimal effect the trial timetable listed commencing June 13th and allow us to have a fair hearing.

Dated this 16 day of May 2022

Statement of Truth

\*I believe that the facts stated in this witness statement are true.

\*I am duly authorised by the Birnbeck Holdings Limited to sign this statement.

Full name: Wahid Samady

Signed:



Position or office held: Director BHL

S



WS-1

**From:** Rachel Lewis <rachel.lewis@n-somerset.gov.uk>  
**Sent:** 10 May 2021 09:40  
**To:** Wahid Samady <wahid.samady@cnmestates.com>  
**Cc:** Mike Ratcliffe <mike.ratcliffe@wolsey.net>  
**Subject:** RE: plans

Dear Wahid,

Thank you. I confirm I have the Leaders approval to acquire the site at £480k as per the plans. This will require both parties to withdraw actions in respect of the CPO.

Can you please confirm who you are engaging to undertake the transfer process, so I can put them in touch with our solicitors?

regards

Rachel Lewis  
Development and Regeneration Programme Manager  
Placemaking and Growth  
North Somerset Council

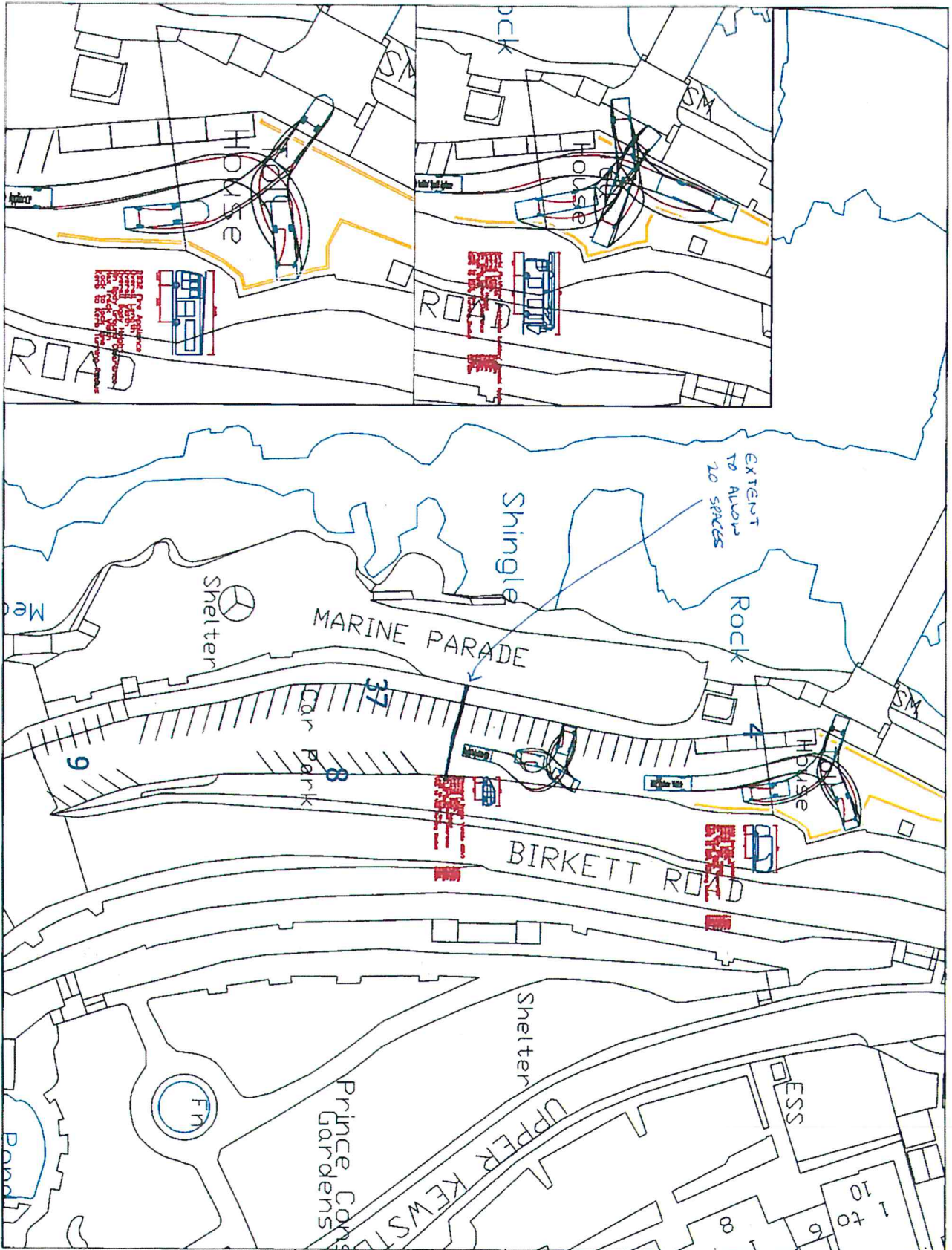
**Tel:** 01934 426465  
**E-Mail:** [rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)

**Post:** Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ  
**Web:** [www.n-somerset.gov.uk](http://www.n-somerset.gov.uk)

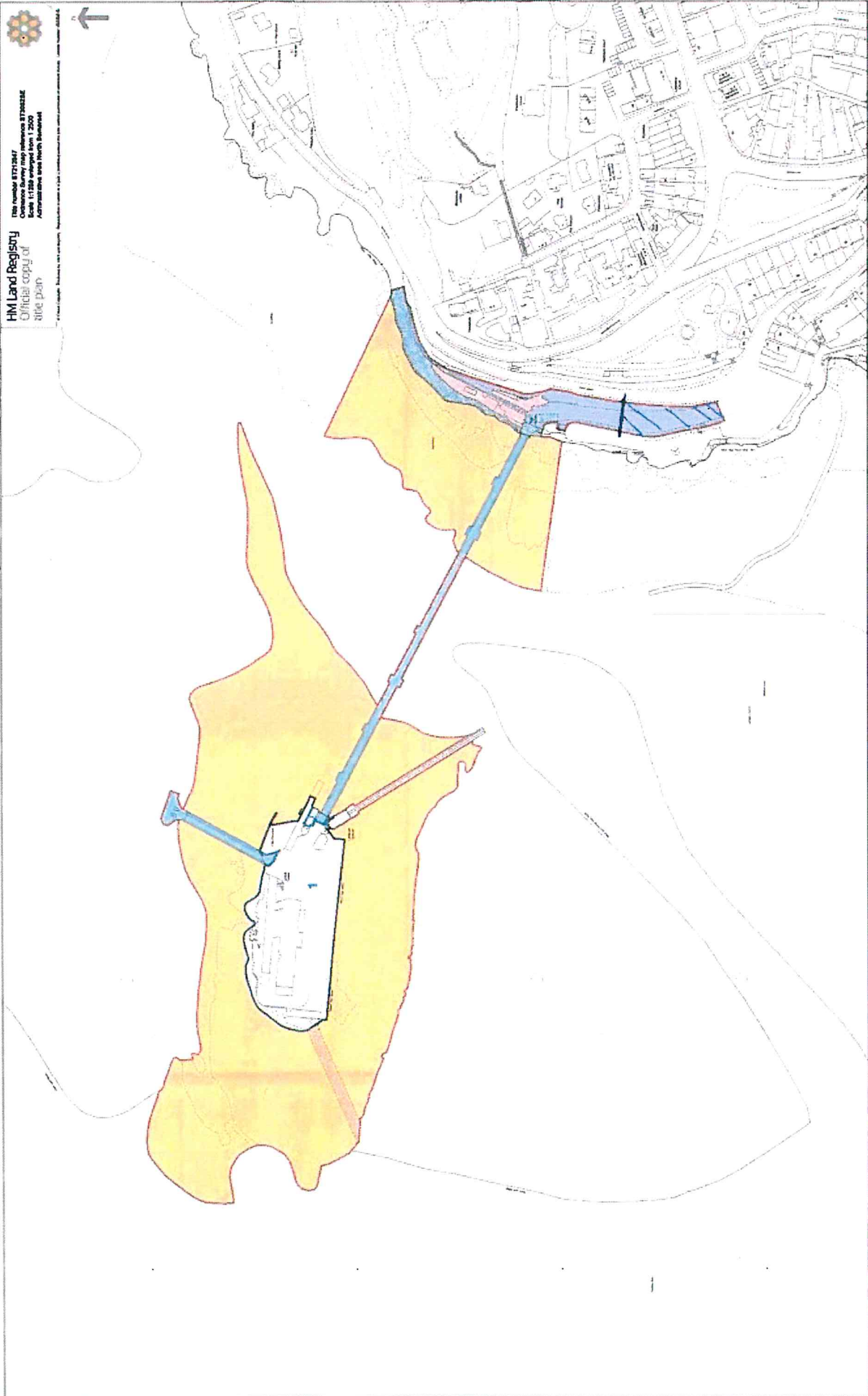


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WS-3



WS4

Proposed HEADS OF TERMS Without prejudice and subject to contract  
Birnbeck Pier, Island, and foreshore  
14/07/21

**Proposed HEADS OF TERMS**

**Without prejudice and subject to contract**


**Birnbeck Pier, Island, and foreshore**

**14/07/2021**

CONFIDENTIAL



Proposed HEADS OF TERMS Without prejudice and subject to contract  
 Birnbeck Pier, Island, and foreshore  
 14/07/21

Property	<p>Birnbeck Pier, Island and foreshore, Birkett Road, Weston-super-Mare</p> <p>All the Freehold Title held under Title ST212047 (see attached plan)</p>  <p>schedule 1 Land Registry Plan OS Ma</p>
Background	<p>The Property is subject to a Compulsory Purchase Order (CPO). The Purchaser is the acquiring authority under the CPO. The Vendor is contesting the CPO.</p> <p>The Vendor and the Purchaser intend to enter into a binding agreement for the purchase of the Property by the Purchaser from the Vendor.</p> <p>On exchange of contracts the Purchaser will confirm that the CPO will be withdrawn.</p>
Vendor	<p>Birnbeck Holdings Limited          Company Number: 13092515          St Georges Court          5 St. Georges Square          New Malden          England          KT3 4HG</p>
Vendor's Solicitor	<p>Michael Speranza [for property sale]          Gunner Cooke  <a href="mailto:Michael.Speranza@gunnercooke.com">Michael.Speranza@gunnercooke.com</a>          07717892879</p> <p><b>Jade Chalmers</b>   Director of Planning   Howard Kennedy LLP [for CPO matters]          t: +44 (0)20 3755 5887          m: +44 (0)7725 639 363  <a href="mailto:jade.chalmers@howardkennedy.com">jade.chalmers@howardkennedy.com</a></p>
Purchaser	<p>North Somerset Council          Town Hall          Walliscote Grove Road</p>

Proposed HEADS OF TERMS Without prejudice and subject to contract  
 Birnbeck Pier, Island, and foreshore  
 14/07/21

	<p>Weston-super-Mare          BS23 1UJ</p> <p>Attn: Rachel Lewis          Tel: 01934 426465  <a href="mailto:Rachel.lewis@n-somerset.gov.uk">Rachel.lewis@n-somerset.gov.uk</a></p>
Purchaser's Solicitors	TBC
Price	<p>£480,000          Four hundred and eighty thousand pounds  <i>(for avoidance of doubt - this is an above market value offer to conclude this matter in a timely manner)</i></p>
Deposit	<p>£10,000 payable at exchange of contracts with the balance payable on completion. The deposit is to be held by the Vendors solicitor as stakeholder and refundable to the Purchaser should the transfer fail to complete.</p>
Contract Structure	<ul style="list-style-type: none"> <li>The Vendor shall transfer the Freehold interest of the whole of the property, with vacant possession, to the purchaser.</li> <li><del>Subject to the Vendor, or an associated or group company of the Vendor obtaining planning permission for the development of the Royal Pier Hotel Site, 38 parking spaces will be made available, in perpetuity, for the use all residents, guests, visitors, staff or otherwise of the new development of the Royal Pier hotel site. Should the development not reach commencement to occupation [or 50% of build] within 10 years of completion of the transfer of the property, this right will lapse.</del></li> </ul> <p>[we suggest that such provisions are granted by way of a separate call option for the grant of the rights in favour of BHL, that is freely assignable so that the benefit can be transferred to the entity that is carrying out the development of the Royal Pier Hotel site.]</p> <ul style="list-style-type: none"> <li>The Purchaser, or its successors, covenants to keep these spaces in good maintenance at no charge</li> </ul>

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Proposed HEADS OF TERMS Without prejudice and subject to contract  
Birnbeck Pier, Island, and foreshore  
14/07/21

	<ul style="list-style-type: none"> <li>The vendor will be permitted to number and brand the spaces as it requires [see below re additional dedicated parking and use of Pier View]</li> </ul>
Costs	<p>The Purchaser will pay the Vendor's reasonable legal costs associated solely with the transfer of the Property.</p> <p>Each party will bear its own costs in relation to the CPO and Stay Application. <b>Costs of substitution argument to be determined by the Court.</b> (The purchaser makes no admission as to the vendor's entitlement to such costs; any such entitlement to be determined by the Magistrates' Court).</p>
Title	Full Title Guarantee with Vacant Possession
Approval, Exchange & Completion	<p>Exchange of contracts to take place as soon as reasonably possible <b>[10 working days, target date July 30<sup>th</sup> 2021]</b> after these HoT are signed by both parties,</p> <p>Completion will be 14 days thereafter subject to <b>within a reasonable time, allowing for the vendor to prove</b> vacant possession and good title, and both parties to instruct withdraw from CPO and all associated proceedings.</p> <p>If the CPO is not withdrawn by the date of completion, the Purchaser warrants that it will use all reasonable endeavours to get it withdrawn within 30 days of completion.</p>
Conditions to be satisfied before exchange / entry into Option Agreement	<ol style="list-style-type: none"> <li>The Vendor will deduce good and marketable title and obtain and evidence any necessary consents to the transaction including that of Wolsey Securities Limited.</li> <li>The Vendor will ensure the property can be transferred with vacant possession</li> <li>The parties will enter into binding undertakings that;</li> </ol>

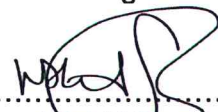
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	<ul style="list-style-type: none"> <li>• The Purchaser will withdraw the Compulsory Purchase Order (CPO);</li> <li>• The Vendor will withdraw their objections to the CPO and withdraw their Magistrates Court application for a stay to the CPO proceedings.</li> <li>• Each party will bear its own costs in relation to the CPO and Magistrates Court proceedings. (Subject to the costs of the substitution argument in the Magistrates' Court as provided for under "Costs" above).</li> </ul> <p>4. On exchange the parties will lodge with their solicitors, to be held in escrow pending completion the following documents:</p> <ul style="list-style-type: none"> <li>• The executed TP1 transfer deed;</li> <li>• Wolsey Securities' consent to the sale</li> <li>• Form DS1 duly executed by Wolsey Securities</li> </ul> <p>5. The Council will enter into a binding agreement to make available, in perpetuity, upon occupation of the Royal Pier Hotel site development 34 parking spaces at the Madeira car park or other suitable nearby alternative, at an annual charge of £95/each (to be increased in line with the councils Fees and Charges schedule).</p> <p>6. The transfer shall provide that the purchaser or their successors will make available an agreed area of the Property (Pier View or suitable <b>agreed</b> alternative) for up to 5 years, for a charge of £5k/year, inclusive of rates and any maintenance charges for use as a marketing suite for the new development on the former Royal Pier Hotel site.</p>
VAT	Vendor to confirm <b>that</b> if it has <b>not</b> elected to charge VAT on the Property
Confidentiality	These Heads of Terms and the Agreement shall remain confidential between the Vendor and the Purchaser, save as between the Purchaser and the RNLI.

	<p>The parties shall not make any public statements regarding the purchase prior to completion, other than confirming that:</p> <ol style="list-style-type: none"> <li>1. The Property is being sold to the Purchaser; and</li> <li>2. The CPO and associated applications have been settled and withdrawn.</li> </ol>
Other	<ol style="list-style-type: none"> <li>1. These heads of terms are not intended to create any legally binding obligations.</li> <li>2. They are subject to contract and approval of North Somerset Council.</li> <li>3. The Purchaser will use its best endeavours to withdraw the CPO by the Completion date. If this is not achieved the Purchaser will use all reasonable endeavours to procure the withdrawal of the CPO, as a condition subsequent to the Completion.</li> <li>4. The Vendor will use its best endeavours to withdraw their objections to the CPO and withdraw their Magistrates Court application for a stay to the CPO proceedings by the Completion Date. If this is not achieved the Vendor will use all reasonable endeavours to achieve this within 30 days of Completion</li> </ol>

Signed by:  
 Birnbeck Holding Limited



.....  
 Wahid Samady  
 Director  
 20 July 2021

Signed by:  
 North Somerset Council



.....  
 Lucy Shomali  
 30 July 2021

14



WS4a

**Wahid Samady**

---

**From:** Rachel Lewis <rachel.lewis@n-somerset.gov.uk>  
**Sent:** 04 August 2021 13:02  
**To:** Wahid Samady; Mike Ratcliffe  
**Subject:** RE: Birnbeck Holdings Limited v North Somerset Council - North Somerset Magistrates' Court proceedings Our Ref : 468177.1 [WBDUK-AC.FID124096865]  
**Attachments:** 210730 Birnbeck Heads of Terms .pdf

Wahid/Mike,

Please find attached the signed HoT.

Can you please email the judge or get one of Jades colleagues to do so, confirming that you are wishing to postpone the Magistrates Court hearing?

Womble Bond Dickenson are instructed to undertake the conveyance. As soon as I have a named individual I will forward their contact details to you.

regards

Rachel Lewis  
Development and Regeneration Programme Manager  
Placemaking and Growth  
North Somerset Council

**Tel:** 01934 426465

**E-Mail:** [rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)

**Post:** Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

**Web:** [www.n-somerset.gov.uk](http://www.n-somerset.gov.uk)



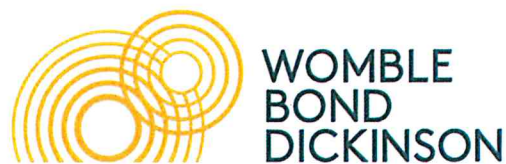
---

**From:** Wahid Samady <wahid.samady@cnmestates.com>  
**Sent:** Tuesday, August 3, 2021 3:45 PM  
**To:** Rachel Lewis <rachel.lewis@n-somerset.gov.uk>; Mike Ratcliffe <mike.ratcliffe@wolsey.net>  
**Subject:** RE: Birnbeck Holdings Limited v North Somerset Council - North Somerset Magistrates' Court proceedings Our Ref : 468177.1 [WBDUK-AC.FID124096865]



15

WSS



25 April 2022

Birnbeck Holdings Limited  
St. George's Court  
5 St George's Square  
New Malden  
KT3 4HG

By email only

Womble Bond Dickinson (UK) LLP

3 Temple Quay  
Temple Back East  
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BS1 6DZ

Tel: 0345 415 0000  
Fax: 0345 415 6900  
DX: 200561 Bristol Temple Meads

jon.cooper@wbd-uk.com  
Direct: +44 (0)117 989 6596

Our ref:  
RG1/JJC1/468177.1  
Your ref:  
Mr Wahid Samady

Dear Sirs

**Birnbeck Holdings Limited v North Somerset Council - North Somerset Magistrates' Court**

As you know, we act on behalf of North Somerset Council in these proceedings.

At the hearing on the 26 January 2022 District Judge Layton made a number of directions. Those Directions, which were made by consent, included the direction that Birnbeck Holdings Limited must serve all evidence upon which it intends to rely on or before the 18 April.

To date, a week after the time for service, we have received no evidence from you nor has any application been made to vary the direction made by the District Judge at the hearing on 26 January.

As the complainant it is incumbent upon BHL to prosecute the proceedings which it has instituted with all due diligence.

Under the Magistrates' Courts Rules 1981 (3A Case Management) parties must actively assist the Court in managing the case. That includes complying with all directions made.

BHL's failure to comply with the direction for service of its evidence has prejudiced the position of North Somerset Council. The Council itself is under an obligation to serve its own evidence (by the 16 May) but cannot do so without knowing the case it has to meet.

In the circumstances we will be making an application at the Case Management Conference listed for the 17 May for an Order to dismiss the complaint. We shall also be seeking an Order that the costs incurred by the Council in connection with these proceedings should be paid to it by BHL.

We have sent a copy of this letter to District Judge Layton.

27

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Yours faithfully

*Womble Bond Dickinson (UK) LLP*

Womble Bond Dickinson (UK) LLP

28

# Council agrees to purchase Birnbeck Pier from its private owner



Henry Woodsford

Published: 9:46 AM November 10, 2021

Updated: 10:21 AM November 10, 2021

Birnbeck Pier is listed as a local heritage site. - Credit: Archant

Final plans to save Birnbeck Pier have been announced after its owners agreed to sell the pier to North Somerset Council.

The council and the RNLI have formally agreed to work together to renovate Birnbeck Pier, bringing vital lifesaving work back onto the island and allowing public access to the Victorian pier once again. It will be purchased 'as soon as possible'.

A significant programme of works to renovate the pier and provide a new lifeboat station will be phased over several years. This will be funded through a variety of sources including the RNLI, Historic England and other grants.

The council and the RNLI will work closely with, and be guided by, Historic England in order to collaborate and secure specific grants and trusts reserved for restoration and community projects to fund the venture.



The council has been working for some time to secure a future for the pier and [announced in June 2020 that the RNLI were looking to move](#) its life-saving operations back to the island, significantly improving its access to the water.

The North Jetty at Birnbeck Pier. Picture: Henry Woodsford - Credit: Archant

Cllr Mark Canniford, the council's executive member for placemaking and economy, said: "Thanks to the huge amount of work behind the scenes, we have finally reached this significant milestone and taken a massive step towards restoring Birnbeck.

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"The pier's private owner, CNM Estates, has agreed to sell the pier to the council, and we are keen to acquire Birnbeck as soon as possible. I am delighted that we have been able to avoid the compulsory purchase order process, which would have been overly complex and time consuming.

"Together with the RNLI and Historic England, we have found a solution that will allow us to renovate this stunning piece of Victorian architecture, bring the RNLI back to their original home, and welcome the public onto the pier again.

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- 2 Plan for nine homes near tourist attraction refused
- 3 Unlicensed security guard fined over Oktoberfest work

"There's a great deal of work to do but this is the start of us finally able to begin plans to restore this treasured site."

**MORE: [RNLI believes return to Birnbeck Island 'the most credible option' for Weston.](#)**

17

The Birnbeck Regeneration Trust is 'overjoyed' by the announcement.

Its spokesman said: "This is the culmination of many years of hard work involving the trust both in public and behind the scenes. Since the resurrection of the trust in 2015 all trustees, volunteers, The Friends of the Old Pier Society and other supporters have been lobbying to secure the future of our amazing old lady.

"With ownership of Birnbeck Pier in public hands it will not only become a public asset, opening the way for grant providers to support restoring the site, but it will allow the RNLI to get back to their island home and do what they do best.

"The trust would like to thank North Somerset councillors and officers for sharing our vision of what an extraordinary asset, both commercially and artistically Birnbeck could be to the wider community.

"We would also like to thank Historic England for its ongoing and never-failing support and encouragement of the trust and for believing that this unique and iconic structure can be saved.

"Special thanks should be given to the numerous volunteers who have helped tirelessly to support the dream of restoring this beautiful old lady."

Birnbeck Pier is one of only six grade-II piers surviving in the country. There are four further grade-II structures and buildings located on the island and the landward end of the site.

Duncan Macpherson, the RNLI's principal estates manager, said: "The RNLI is extremely grateful for the support and commitment of North Somerset Council in its determination to secure a long-term base for the RNLI's lifesaving in Weston.

"This announcement comes after many months of collaborative work between the two organisations and while the funding and engineering involved in such a project is incredibly challenging, the Council taking ownership of Birnbeck is an essential to the RNLI's ambition to re-establish a lifesaving facility on the island."

The north jetty at Birnbeck Island. Picture: Henry Woodsford - Credit: Archant

Construction took place between 1862 and 1867, with the foundation stone being laid in 1864 and opening to the public from 1866.

The pier closed to the public for safety reasons in 1994.

Ross Simmonds, acting regional director at Historic England, added: "Birnbeck Pier is one of the longest standing and most important cases for Historic England here in the South West."

"We are delighted that the council have secured the ownership of the pier and with the RNLI, we will continue to work closely with all partners to help rescue this outstanding and much-loved structure."

The derelict main building at Birnbeck Island. Picture: Henry Woodsford - Credit: Archant



13 May 2022

Birnbeck Holdings Limited  
St Georges Court  
5 St. Georges Square  
New Malden  
KT3 4HG

For the Attention of Wahid Samady

**By post and email**

**Email: wahid.samady@cnmestates.com**

**Womble Bond Dickinson (UK) LLP**

3 Temple Quay  
Temple Back East  
Bristol  
BS1 6DZ

Tel: 0345 415 0000  
Fax: 0345 415 6900  
DX: 200561 Bristol Temple Meads

gareth.miles@wbd-uk.com  
Direct: +44 (0)117 989 6854

Our ref:  
RG1/GIM1/468177.1  
Your ref:

Dear Sirs and Madams

**Without prejudice save as to costs  
The North Somerset Council (Birnbeck Pier) Compulsory Purchase Order 2019**

This letter sets out a time limited offer by North Somerset Council (NSC) to settle the purchase of Birnbeck Pier from Birnbeck Holdings Limited (BHL).

**Timetable for Agreement**

This offer is expressly time limited. It will cease to apply after 14.00 hours on Monday 16 May 2022 if not accepted in principle by that time.

If the offer is accepted in principle by that date then the parties must use all reasonable endeavours to achieve a binding agreement for sale of Birnbeck Pier by Friday 27 May 2022.

Completion of the transfer of the freehold title in Birnbeck Pier must conclude by Friday 10 June 2022.

This offer will no longer apply if any of these milestones are not achieved by the stated date.

**Status of Offer**

This offer is made expressly on a without prejudice basis but the NSC reserves its right to refer to both the offer and disclose the content of this letter if the question of costs is raised in any proceedings between the parties, including any proceedings in the Lands Chamber of the Upper Tribunal.

**Terms of the Offer**

NSC's offer is as follows:

1. The freehold title of the whole of the Birnbeck Pier HM Land Registry title number ST212047 as at the date of this letter is transferred to NSC with full title guarantee and vacant possession upon payment by NSC to BHL of £480,000.00 (exclusive of properly payable VAT).
2. Following:

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- 2.1 it becoming the freehold owner of Birnbeck Pier;
- 2.2 the grant of planning permission for the development of the land at the site of the former Royal Pier Hotel, 55-57 Birnbeck Road, Weston-Super-Mare, B23 2EJ registered at the Land Registry under title number AV136251 (the **Hotel Land**) for residential, or residential led mixed use scheme (the **Development**);
- 2.3 satisfaction of pre-commencement planning conditions; and
- 2.4 evidence of appointment of a main contractor to complete the Development,

NSC will grant a licence for up to 38 parking spaces within the area shown edged red (but for the avoidance of doubt excluding the land shown coloured brown or such other access of not less than six (6) metres in width as the Council may require) on the attached plan for use by BHL as a site compound and construction parking during the Development.

3. An option will be granted to BHL for a period of 10 years which (provided the Development is completed within the 10 year option period) may be exercised following completion of the Development for NSC to grant to the freehold owner of the Hotel Land a lease for a term of up to 125 years from and including 31 May 2022 for use as up to 38 parking spaces on the land shown edged red (but for the avoidance of doubt excluding the land shown coloured brown or such other access of not less than six (6) metres in width as the Council may require) on the attached plan, with the right for these rights to be sublet to or shared with owners, occupiers and customers of the Development. If the Development doesn't take place within 10 years the option to call for the grant of a lease of the spaces will lapse.

#### **The North Somerset Council (Birnbeck Pier) Compulsory Purchase Order 2019 (CPO)**

BHL must forthwith withdraw its application to stay the CPO.

BHL will also be required in the agreement between the parties to:

1. Withdraw its objection to the CPO in writing to the Department for Culture, Media and Sport (**DCMS**) and providing a copy of its withdrawal to NSC; and
2. Inform DCMS that BHL does not object to the CPO being confirmed by DCMS and BHL will not object if DCMS release the order to NSC for it to be confirmed as an unopposed order should the latter be possible.
3. Not raise or procure any further challenge or objection to the CPO.

#### **Explanatory remarks**

This offer is made on the basis that it is at the limit of the authority provided by Council members to NSC officers in November 2021. The offer is based solely on a pragmatic balancing of the costs of pursuing a contested compulsory purchase order and contested compensation claim and the price offered in no way represents a market value for the Pier whether assessed on a compensation code or other basis. Accordingly no counter offers will be considered and it should be recognised that this offer is both time limited and final.

If the offer made by NSC in this letter is not accepted then NSC will continue to pursue its case for compulsory purchase and rely on its existing offer made in accordance with the statutory compensation code (or any revised offer based on the compensation code that it may choose to make). This letter may be produced by NSC at any time in the process by it waiving privilege and in any event may be referred to by NSC in proceedings to determine responsibility for costs incurred in relation to the CPO and any associated compensation claim.

Given the urgency of resolving this matter before the directions hearing on 17 May I hope to hear from you just as soon as possible.

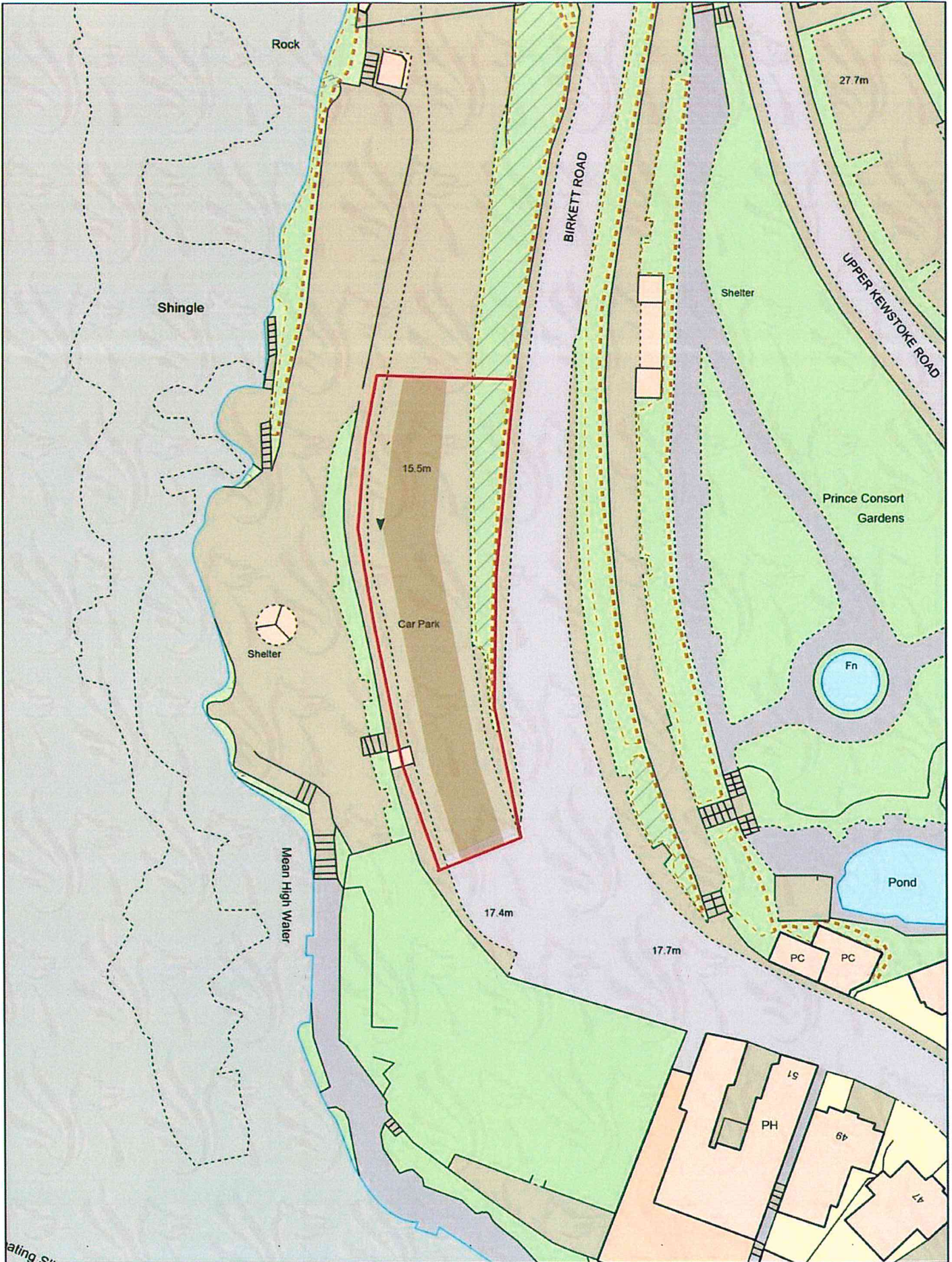
Yours faithfully

*Womble Bond Dickinson (UK) LLP*

**Womble Bond Dickinson (UK) LLP**

21





ating Str



22



WS8

**From:** Jon Cooper <jon.cooper@wbd-uk.com>

**Sent:** 26 January 2022 13:20

**To:** Wahid Samady <wahid.samady@cnmestates.com>

**Subject:** BHL v North Somerset Council - Magistrates Courts proceedings Our Ref : 468177.1  
[WBDDUK-AC.FID124096865]

Dear Mr Samady

I appeared on behalf of NSC before District Judge Layton at North Somerset Magistrates' Court this morning.

The District Judge made the directions as agreed. The primary direction is that the trial will take place on the 13, 14 and 15 June.

All of BHL's evidence, including expert evidence, must be served within eight weeks of that date, that is on or before the 18 April. That deadline **must** be met.

In addition to the agreed **directions District Judge Layton has listed the case for a Case Management hearing, with a time estimate of half a day, on Tuesday 17 May.**

**The formal order from the Court will be issued shortly.** As Howard Kennedy are still on the record it is possible that the order will be sent to them; otherwise it will be sent to the company's registered office.

The need for the hearing in June (and the Case Management conference in May) will fall away if the negotiations currently ongoing result in a transfer of the pier to the Council. However, the continuance of those negotiations does not remove BHL's obligations (and those of NSC) to comply with the orders made by the court today. Accordingly I look forward to receiving your evidence within the period ordered by the Judge.

Yours sincerely

**Jon Cooper**

Partner

Womble Bond Dickinson (UK) LLP

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m: +44 7836 504480

t: +44 345 415 0000

e: [jon.cooper@wbd-uk.com](mailto:jon.cooper@wbd-uk.com)

Segments  
highlighted  
in bold

23

25 April 2022

Birnbeck Holdings Limited  
 St. George's Court  
 5 St George's Square  
 New Malden  
 KT3 4HG

**By email only**

**Womble Bond Dickinson (UK) LLP**

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jon.cooper@wbd-uk.com  
 Direct: +44 (0)117 989 6596

Our ref:  
 RG1/JJC1/468177.1  
 Your ref:  
 Mr Wahid Samady

Dear Sirs

**Birnbeck Holdings Limited v North Somerset Council - North Somerset Magistrates' Court**

As you know, we act on behalf of North Somerset Council in these proceedings.

At the hearing on the 26 January 2022 District Judge Layton made a number of directions. Those Directions, which were made by consent, included the direction that Birnbeck Holdings Limited must serve all evidence upon which it intends to rely on or before the 18 April.

To date, a week after the time for service, we have received no evidence from you nor has any application been made to vary the direction made by the District Judge at the hearing on 26 January.

As the complainant it is incumbent upon BHL to prosecute the proceedings which it has instituted with all due diligence.

Under the Magistrates' Courts Rules 1981 (3A Case Management) parties must actively assist the Court in managing the case. That includes complying with all directions made.

BHL's failure to comply with the direction for service of its evidence has prejudiced the position of North Somerset Council. The Council itself is under an obligation to serve its own evidence (by the 16 May) but cannot do so without knowing the case it has to meet.

In the circumstances we will be making an application at the Case Management Conference listed for the 17 May for an Order to dismiss the complaint. We shall also be seeking an Order that the costs incurred by the Council in connection with these proceedings should be paid to it by BHL.

We have sent a copy of this letter to District Judge Layton.

24

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Yours faithfully

*Womble Bond Dickinson (UK) LLP*

Womble Bond Dickinson (UK) LLP

25

WS 10

**From:** Andrew Melvill <andrew.melvill@bakerskelly.com>

**Sent:** 16 May 2022 10:26

**To:** Gareth Miles <gareth.miles@wbd-uk.com>

**Cc:** Wahid Samady <wahid.samady@cnmestates.com>; Mike Ratcliffe <mike.ratcliffe@wolsey.net>

**Subject:** RE: The North Somerset Council (Birnbeck Pier) Compulsory Purchase Order 2019. Without prejudice save as to costs [WBDUK-AC.FID124096865]

Dear Gareth

Thank you for copying your below email to me.

I am instructed to forward updated drafts of the following documents to you:

- Agreement
- Transfer
- Deed of Easement
- Lease of Sales Office

I am also instructed to present a draft Car Parking Agreement to reflect the provisions of the Heads of Terms.

My client notes that various plans will need to be appended to the attached documents.

The documents, as drafted, are considered to be in a form which will obtain BHL board approval, but will need to be in agreed form prior to the holding of the necessary board meeting.

My client would welcome the opportunity to discuss the above/attached with you. Would you have availability for a call at 11.00am? If this is not convenient, please would you propose another suitable time today.

Kind regards

Andrew.

## Andrew Melvill

Partner

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m: +44 (0)7866 767 847

e: andrew.melvill@bakerskelly.com

w: bakerskelly.com | 

**BAKER | SKELLY** <sup>LLP</sup>

1 Quality Court, Chancery Lane  
London WC2A 1HR

26

**THE NORTH SOMERSET COUNCIL (BIRNBECK PIER)  
COMPULSORY PURCHASE ORDER 2020**

**The Planning (Listed Buildings and Conservation Areas) Act 1990  
and the Acquisition of Land Act 1981**

---

**WITNESS STATEMENT OF MIKE RATCLIFFE**

**Case Number 522100064771 May 17<sup>th</sup> 2022**

---

I, Michael Arthur Ratcliffe of 9 Leigh Court Close, Cobham, Surrey KT11 2HT say as follows:

1. I am a Chartered Surveyor and a Member of the Royal Institute.
2. Birnbeck Holdings Ltd ("BHL") of St Georges Court, 5 St. Georges Square, New Malden KT3 4HG (CRN 13092515) is the owner of Grade II listed Birnbeck Pier and the relevant land in Weston Super Mare.
3. On behalf of BHL I have been negotiating firstly with the Royal National Lifeboat Institution and secondly with North Somerset Council to sell Birnbeck Holdings Limited's interests in Birnbeck Pier and Island.
4. Heads of Terms were agreed with the Council on the 20 July 2021, fully signed on the 4 August 2021. Since then I have been trying to get the Council to abide by the agreed Terms and to date this has not been possible. There is much correspondence in relation to this.
5. On Friday 13 May 2022 the Council sent a 'take-it-or-leave-it' offer which is not in accordance with the Heads of Terms, in particular the element relating to the 34 parking spaces at the Madeira car park has been totally excluded. This simply is not workable as it will totally fetter the adjoining site of the Royal Pier Hotel.
6. It would now appear that North Somerset Council's intentions all along were not to bring this matter to a conclusion, a conclusion that was expected by us last year and certainly prior to the Hearing on the 17 May 2022.
7. It is within my knowledge that prior to the Heads of Terms being agreed Planning permission in respect of Stage 1 works to the pier was approved and this work was scheduled to be carried out. Much work was also undertaken in relation to the next phases, being a listed structure requiring the consent of the Council. However it is (and has been) North Somerset Council's objective to sell the pier and the



island to the RNLI and their proposals for the works were quite different to ours (and significantly more costly).

8. It was therefore suggested by the Council that we should not proceed with our works until negotiations were concluded or collapsed.
9. Unfortunately, neither has happened and it would now appear that North Somerset intend to renege on the Heads of Terms agreed, having "ran down the clock" to prevent repairs works to commence on site.

Dated this 17 day of May 2022

Statement of Truth

\*I believe that the facts stated in this witness statement are true.

\*I am duly authorised by Birnbeck Holdings Limited to sign this statement.

Full name: Michael Arthur Ratcliffe

Signed:



Position or office held: Chartered Surveyor

**SCHEDULE**

Evidence submitted by BHL at 5pm on Tuesday 31 May 2022.

	FILE NAME	DOCUMENT DESCRIPTION	DATE OF DOC.
1	Correspondence with NSC ref CPO pre HoTs.pdf	<p>Emails between Chris Elliott (RNLI) &amp; Mike Ratcliffe; and</p> <p>Emails between Rachel Lewis, Mike Ratcliffe &amp; Duncan Macpherson (RNLI).</p>	6 - 26 Apr 2021
2	Correspondence with NSC ref CPO post HoTs.pdf	Emails between Rachel Lewis, Wahid Samady, Mike Ratcliffe and Andrew Melvill (Bakers Kelly).	21 Jul 2021 – 1 Apr 2022
3	Ufm7.pdf	<p>Listed Building Consent for immediate works relating to the Repairs Notice, for example:</p> <ul style="list-style-type: none"> <li>• Undertake appropriate surveys &amp; inspections</li> <li>• Secure trestle legs with temporary bracing frames</li> <li>• Remove deck boards</li> <li>• Remove deck level spider bracing</li> <li>• Remove trestle perimeter</li> </ul> <p>Conditions include:</p> <ul style="list-style-type: none"> <li>• To begin within 3 years</li> <li>• Local Planning Authority must be given 7 days prior notice of all works</li> <li>• Temporary works designs and drawings to be submitted in advance and approved in writing by the Local Planning Authority</li> <li>• Proposed bracings designs and drawings to be submitted in advance and approved in writing by the Local Planning Authority</li> </ul> <p>Proposed trusses drawings to be submitted in advance and approved in writing by the Local Planning Authority</p>	18 Feb 2021
4	Ufm4.pdf	<p>Listed Building Consent for partial demolition of the North Jetty to remove walkway and trestle piers.</p> <p>Conditions include:</p> <ul style="list-style-type: none"> <li>• To begin within 3 years</li> <li>• Details to be submitted in advance and approved in writing by the Local Planning Authority</li> </ul>	8 Apr 2021

		<ul style="list-style-type: none"> <li>• Method statement to be submitted in advance and approved in writing by the Local Planning Authority</li> <li>• No demolition work to be carried out October to March due to overwintering birds</li> <li>• Complete in advance a Sabellaria alveolata reef walkover survey</li> </ul>	
	Folder: Drone Images		
5	20200918_114041.jpg	Photo	18 Sept 2020, 11.40
6	20200918_122702.jpg	Photo	18 Sept 2020, 12.27
7	20200918_131250.jpg	Photo	18 Sept 2020, 13.12
8	20200918_131257.jpg	Photo	18 Sept 2020, 13.12
9	20200918_133821.jpg	Photo	18 Sept 2020, 13.38
10	20200918_135827.jpg	Photo	18 Sept 2020, 13.58
11	20200918_154129.jpg	Photo	18 Sept 2020, 15.41
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13	APC_0734.jpg	Photo	18 Sept 2020, 10.40
14	APC_0738.jpg	Photo	18 Sept 2020, 11.40
15	APC_0741.jpg	Photo	18 Sept 2020, 11.42
16	APC_0744.jpg	Photo	18 Sept 2020, 12.58

17	APC_0745.jpg	Photo	18 Sept 2020, 13.47
18	APC_0748.jpg	Photo	18 Sept 2020, 16.30
19	BirnbeckDrone_simplified_3d_mesh.pdf	Aerial view	22 Sept 2020
20	Drone Deck level.png	Image presumably resaved/redated on day evidence filed	31 May 2022, 15.27
21	Drone overview.png	Image presumably resaved/redated on day evidence filed	31 May 2022, 15.27
22	Scan bracket.png	Image presumably resaved/redated on day evidence filed	31 May 2022, 15.27
23	Scan2.png	Image presumably resaved/redated on day evidence filed	31 May 2022, 15.27
24	Scan3.png	Image presumably resaved/redated on day evidence filed	31 May 2022, 15.27
25	Scan4.png	Image presumably resaved/redated on day evidence filed	31 May 2022, 15.27
26	Scan5.png	Image presumably resaved/redated on day evidence filed	31 May 2022, 15.27
27	Untitled.png	Image presumably resaved/redated on day evidence filed	31 May 2022, 15.27
	Folder: Structural surveys		
28	Birnbeck Pier – annotated photos.docx	Created by Michael Wood	Document undated (metadata says 28 Jun 2016)
29	Birnbeck Pier Demolition North Jetty – Marine vs land Rev D – Copy.pdf	Assessment of options, by Roger Speakman, FPE Global, commissioned by CNM	Document undated (metadata says 27 Feb 2017)



30	Birnbeck Pier MS.pdf	Demolition and General Site Maintenance Method Statement, commissioned by CNM	Document undated (metadata says 03 Jun 2016)
31	Condition 4 – Birnbeck Pier_North Jetty bearings.pdf	Listed Building Consent, application for discharge of condition 4	23 Nov 2016
32	EDR1036_1-Trial Testing.pdf	Dynamic investigation of trestle leg supporting pier, by Brian Jarvis for Mann Williams	15 Jul 2016
33	Hyder Consulting Birnbeck Pier Structural Survey Report May 1998.pdf	Structural survey	May 1998
34	Mann Williams – Birnbeck Pier Analysis Summary.pdf	Structural analysis	23 Dec 2015
35	Mann Williams – Birnbeck Pier Structural Report Dec 2015.pdf	Structural report by Jon Avent	10 Dec 2015
36	North Jetty Inspection – Arcadis Rev 0.pdf	Structural inspection	March 2016
37	North Jetty Inspection – Arcadis Rev 1.pdf	Structural inspection	March 2016
38	URS Inspection Report	Site inspection	December 2014
	Folder: Phase 1 Planning part 1.zip		
39	14_10_20_HISTORIC_ENGLAND-2974351.doc	Historic England advice to NSC on planning application	14 Oct 2020
40	28_08_20_HISTORIC_ENGLAND-2960446.pdf	Historic England advice to NSC on planning application	28 Aug 2020
41	2020_12_16_PILE_TESTING_REPORT_REV_1-3002993.pdf	Report from HOP Consulting stating that pile testing should be carried out after the pier is secured.	16 Dec 2020
42	20201215_HERITAGE_STATEMENT_REVISD_-3003034.pdf	Prepared by JLL in support of Listed Building Consent application.	Dec 2020
43	BIRNBECK_PIER_-_RSMS_-_OCT_2020-2976324.pdf	Honeycomb Worm Rapid Assessment and working method statement, by Clarkson & Woods ecological consultants. In support of Listed Building Consent application.	Oct 2020
44	COMMENTS_TRACKER-2968461.pdf	Tracker prepared by JLL detailing comments by Historic England and NSC, with responses given.	23 Sep 2020

45	COVER_LETTER-2968438.pdf	JLL letter to NSC enclosing additional documents requested to support Listed Building Consent application.	23 Sep 2020
46	DECISION_LBC_APPROVE-3016203.pdf	Listed Building Consent for immediate works. This appears to be the same as document Ufm7.pdf.	18 Feb 2021
47	EXISTING_ARRANGEMENT_BALCONY_PLAN_SECTION-3003017.pdf	HOP Consulting structural drawing	16 Dec 2020
48	EXISTING_ARRANGEMENT_PLAN_ELEVATION_SECTIONS-3003000.pdf	HOP Consulting structural drawing	16 Dec 2020
49	EXISTING_BRACING_PLAN_WITH_SCHEMATIC_ELEVATIONS-3003030.pdf	HOP Consulting structural drawing	16 Dec 2020
50	EXISTING_DETAILS-3003004.pdf	HOP Consulting structural drawing	16 Dec 2020
51	LETTER_BIRNBECK_PIER-3003037.pdf	JLL letter to NSC, submitting further documents, following feedback, to support Listed Building Consent application.	17 Dec 2020
52	METHOD_STATEMENT_V1.0-3003039.pdf	Method statement by UK Industrial Services/JLL for removal of loose debris and installation of bracings, to support Listed Building Consent application.	16 Dec 2020
53	NORTH_SOMERSET_OFFICER_REPORT-3016206.pdf	Summary of issues and recommendation by case officer with regards Listed Building Consent application.	24 Sep 2020
54	PROPOSED_ABUTMENT_DETAILS-3003029.pdf	HOP Consulting structural drawing	16 Dec 2020
55	PROPOSED_APPROACH_TO_MAKING_SAFE_WORKS-3003032.pdf	HOP Consulting structural drawing	16 Dec 2020
56	PROPOSED_DETAILS_SHEET_1_OF_2-3003028.pdf	HOP Consulting structural drawing	16 Dec 2020
57	PROPOSED_SEQUENCING-3003031.pdf	HOP Consulting structural drawing	17 Dec 2020
58	REVISED_METHOD_STATEMENT-2968460.pdf	Method statement by UK Industrial Services for removal of loose debris and installation of bracings, to support Listed Building Consent application	22 Sep 2020
59	SITE_PLAN_AND_SITE_LOCATION_PLAN-2950021.pdf	HOP Consulting aerial plan	24 Jul 2020

60	SITE_PLAN-3002996.pdf	HOP Consulting aerial plan	16 Dec 2020
61	SUPPLEMENTARY_HERITAGE_REPORT-2968458.pdf	HOP Consulting report	21 Sept 2020
62	UPDATED_HERITAGE_REPORT-2968458.pdf	Clarkson & Woods ecological consultants report	27 Jul 2020
63	UPDATED_HRA-2968459.pdf	Habitats Regulations Assessment by Clarkson & Woods ecological consultants	27 Jul 2020
64	WESTON_SOMERSET_MERCURY-2952388.docx	Advertisement of application in Weston & Somerset Mercury	13 Aug 2020
	Folder: Phase 1 Planning part 2.zip		
65	APPLICATION_FORM_1-2950037.pdf	Application form for Listed Building Consent	29 Jul 2020
66	DESIGN_ACCESS_STATEMENT-2950041.pdf	HOP Consulting design access statement	23 Jul 2020
67	EXISTING_ARRANGEMENT_BALCONY_PLAN_AND_SECTION-2950024.pdf	HOP Consulting structural drawing	24 Jul 2020
68	EXISTING_ARRANGEMENTS_ELEVATIONS_AND_SECTIONS-2950022.pdf	HOP Consulting structural drawing	24 Jul 2020
69	EXISTING_DETAILS-2950023.pdf	HOP Consulting structural drawing	24 Jul 2020
70	HABITATS_REGULATIONS_ASSESSMENT_HRA_-2950029.pdf	Habitats Regulations Assessment by Clarkson & Woods ecological consultants	27 Jul 2020
71	HERITAGE_STATEMENT-2950040.pdf	JLL heritage statement	July 2020
72	LETTER_FROM_AGENT-2950043.pdf	JLL letter to NSC submitting Listed Building Consent application	29 Jul 2020
73	METHOD_STATEMENT-2950030.pdf	Method statement by UK Industrial Services for removal of loose debris and installation of bracings	28 Jul 2020
74	PROPOSED_APPROACH_TO_MAKING_SAFE_WORKS.-2950029.pdf	HOP Consulting structural drawing	24 Jul 2020
75	PROPOSED_DETAILS_1_OF_2-2950026.pdf	HOP Consulting structural drawing	29 Jul 2020
76	PROPOSED_DETAILS_2_OF_2-2950027.pdf	HOP Consulting structural drawing	29 Jul 2020

77	PROPOSED_SEQUENCING-2950028.pdf	HOP Consulting structural drawing	24 Jul 2020
	Folder: Phase 2 drawings.zip		
78	13651-HOP-05-XX-DR-S-0001.pdf	HOP Consulting aerial plan	23 Nov 2020
79	13651-HOP-05-XX-DR-S-0002.pdf	HOP Consulting structural drawing	23 Nov 2020
80	13651-HOP-05-XX-DR-S-0003.pdf	HOP Consulting structural drawing	23 Nov 2020
81	13651-HOP-05-XX-DR-S-0004.pdf	HOP Consulting structural drawing	23 Nov 2020
82	13651-HOP-05-XX-DR-S-0006.pdf	HOP Consulting structural drawing	23 Nov 2020
83	13651-HOP-05-XX-DR-S-0007.pdf	HOP Consulting structural drawing	23 Nov 2020
84	13651-HOP-05-XX-DR-S-0040.pdf	HOP Consulting structural drawing	23 Nov 2020
85	13651-HOP-05-XX-DR-S-0041.pdf	HOP Consulting structural drawing	23 Nov 2020
86	13651-HOP-05-XX-DR-S-0045.pdf	HOP Consulting structural drawing	23 Nov 2020
87	13651-HOP-05-XX-DR-S-0060.pdf	HOP Consulting structural drawing	23 Nov 2020
88	13651-HOP-05-XX-DR-S-0061.pdf	HOP Consulting structural drawing	23 Nov 2020
89	13651-HOP-05-XX-DR-S-0065.pdf	HOP Consulting structural drawing	23 Nov 2020
90	13651-HOP-05-XX-DR-S-0080.pdf	HOP Consulting structural drawing	23 Nov 2020
91	13651-HOP-05-XX-DR-S-0081.pdf	HOP Consulting structural drawing	23 Nov 2020
92	13651-HOP-05-XX-DR-S-0085.pdf	HOP Consulting structural drawing	23 Nov 2020
93	13651-HOP-05-XX-DR-S-S001.pdf	HOP Consulting structural drawing	23 Nov 2020
94	13651-HOP-05-XX-DR-S-S002.pdf	HOP Consulting structural drawing	23 Nov 2020



**Subject:** [EXT] RE: Birnbeck  
**Date:** Monday, 26 April 2021 at 21:05:48 British Summer Time  
**From:** Duncan Macpherson  
**To:** Mike Ratcliffe  
**Attachments:** image001.jpg, image002.png

Hi Mike,

Good to speak to you earlier. Sorry not to come back to you before now. The demands of the day got away with me.

I had a think through our discussion. I understand the concern around uncertainty and the preference that the site is acquired outright now. We were obviously in a position whereby we were about to do that, however, the latest costing position puts us squarely in the position of needing to undertake the next stage of design work and submitting funding requests before we take outright ownership. It is unlikely that we would be able to simply walk away from the site once we owned it so taking the property on has long term financial and reputational risks.

The option agreement is the way we propose to manage that risk and still achieve, in so far as we can, the different parties' objectives. Including removal of the CPO etc.

As I understood it, your concern around uncertainty relates to:

1. Any further deterioration in the option period;
2. The future of the CPO.

I can offer the following thoughts/mitigations:

1. The pier may see some deterioration but ultimately it has had the same risk for many years and the primary trestles are sound;
2. The National Lottery outcome would be in late December so we could minimise the option period so it expires two weeks into Jan;
3. Subject to any restrictions imposed on us by grant funders we would let you have copies to you of any survey/design work undertaken in the option period in the unlikely event we do not exercise the option (we won't be able to formally assign it);
4. As I understand it, it is highly unlikely that the CPO would be re-instated once withdrawn on exchange. I spoke to Rachel after our call and, if it helped, I understand that there could be formal agreement not to serve a new repairs notice and/or CPO process for a longer period of time after the option expires (say five years). We can always ask the Council whether there could be further agreement to limit any future CPO (after the five years) to whatever land area we agree under the option agreement and not the whole parking area.

I don't know whether any of that provides assistance and sorry that I cannot offer more.

If the option is something that we can proceed with and, we can agree the parking provision in the meantime, then it would be ideal to try to get to that point by close of play on Wednesday. If our executive team feel the agreement needs referring on but there is to the trustees then there is a trustee meeting on 7<sup>th</sup> May. Papers have to be reviewed and submitted on Friday of this week. If this is not possible then it may take a bit longer to get internal agreement.

I look forward to hearing from you.

Kind regards,

Duncan

Duncan Macpherson  
Principal Estates Manager  
Royal National Lifeboat Institution  
West Quay Road, Poole, Dorset BH15 1HZ

Mobile: 07769 592958  
Email: [duncan\\_macpherson@rnli.org.uk](mailto:duncan_macpherson@rnli.org.uk)

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---

**From:** Duncan Macpherson  
**Sent:** 26 April 2021 08:42  
**To:** Mike Ratcliffe <[mike.ratcliffe@wolsey.net](mailto:mike.ratcliffe@wolsey.net)>  
**Subject:** RE: Birnbeck

Hi Mike,

Yes very good thank you. I hope you did too.

I am free 10 to 10:30 so that works well.

I am sure you have my mobile noted but the number is below.

Kind regards,  
Duncan

Duncan Macpherson  
Principal Estates Manager  
Royal National Lifeboat Institution  
West Quay Road, Poole, Dorset BH15 1HZ

Mobile: 07769 592958  
Email: [duncan\\_macpherson@rnli.org.uk](mailto:duncan_macpherson@rnli.org.uk)

The RNLI is the charity that saves lives at sea

---

**From:** Tania Draper <[tania.draper@wolsey.net](mailto:tania.draper@wolsey.net)> **On Behalf Of** Mike Ratcliffe  
**Sent:** 26 April 2021 08:38  
**To:** Duncan Macpherson <[Duncan\\_Macpherson@rnli.org.uk](mailto:Duncan_Macpherson@rnli.org.uk)>  
**Subject:** Birnbeck

Duncan

Hope you had a good weekend.

Would you be available to take a call at c.10.00am this morning?

Look forward to hearing from you.

Kind regards

Mike



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**Subject:** RE: [EXT] Birnbeck  
**Date:** Thursday, 22 April 2021 at 15:11:01 British Summer Time  
**From:** Rachel Lewis  
**To:** Mike Ratcliffe, Duncan Macpherson  
**Attachments:** image007.png, image008.jpg, image009.jpg, image010.jpg, image001.jpg, image003.jpg, ST3062\_Tracking\_BirnbeckPier\_v1.pdf

Mike,

Here is a first suggestion re a parking layout from my highways colleague. It takes account of the turning area for both large vehicles and cars manoeuvring out of parking spaces.

While I agree that the footway could be narrowed a bit, this doesn't appear to provide enough space to enable more parking spaces.

My colleague doesn't have time to do anymore on this until early next week but I have asked him to show 10 spaces at the wider disabled space width and also look to see if by turning the spaces closest to the Pier head through 90 degrees any extra can be accommodated.

I noticed that your plan also suggested that parking could be provided on the north side of the Pier Masters Cottage. We haven't included this as since this would be subject to planning permission I don't think we could guarantee its availability.

I thought it might also be useful to confirm the Councils position re the CPO should BHL and RNLI agree to the land transfer via an option. The Council is willing to agree to withdraw the CPO at the point of signing the Option agreement. This would clearly require BHL/CNM to lift its objections through the Magistrates Court too. We would also be happy to provide formal assurance that we would not consider applying for a new CPO, in the unlikely event that the Option wasn't taken through to purchase, for a minimum period post the end of the option as a means of additional reassurance.

I am aware that there is pressure to start work on the first phase of repairs. However as we could be close to an agreement, it does not seem sensible to commit to works at the present time. As a means of assisting negotiations, the Council is prepared to provide formal assurance that any delay to repairs at this point would not be held against BHL/CNM should negotiations fail and we find ourselves in the Magistrates Court.

I hope this is of some assistance but if you have any further thoughts on the parking or any other issues that we might be able to help with, do of course let me know.

Kind regards

Rachel Lewis  
Development and Regeneration Programme Manager  
Placemaking and Growth  
North Somerset Council

**Tel:** 01934 426465  
**E-Mail:** [rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)

**Post:** Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ  
**Web:** [www.n-somerset.gov.uk](http://www.n-somerset.gov.uk)



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**From:** Tania Draper <tania.draper@wolsey.net> **On Behalf Of** Mike Ratcliffe  
**Sent:** Thursday, April 22, 2021 11:28 AM  
**To:** Rachel Lewis <rachel.lewis@n-somerset.gov.uk>; Duncan Macpherson <duncan\_macpherson@rnli.org.uk>  
**Subject:** Re: [EXT] Birnbeck

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Rachel and Duncan

Firstly, may I thank you for attending/hosting our meeting yesterday.

We are discussing this our end on Friday afternoon and will, I am sure, be in touch early next week.

Meanwhile I attach a copy of our parking plan, albeit I believe this has been overtaken by your proposal to integrate land at the end of the pier in the council's ownership. In addition, reducing the footpath width down to 1.8 would help.

We will look at the bank on the righthand side of the accessway down to the pier to see if there are any logical areas that could be incorporated in the carpark without major engineering works.

Rachel, you did say you would try and enlist the assistance of your highways/architect departments in coming up with a plan. This would be extremely helpful but failing that it seems both the RNLI and us have the capability, albeit not in house. Perhaps you could let us know?

Many thanks again.

Kind regards

Mike



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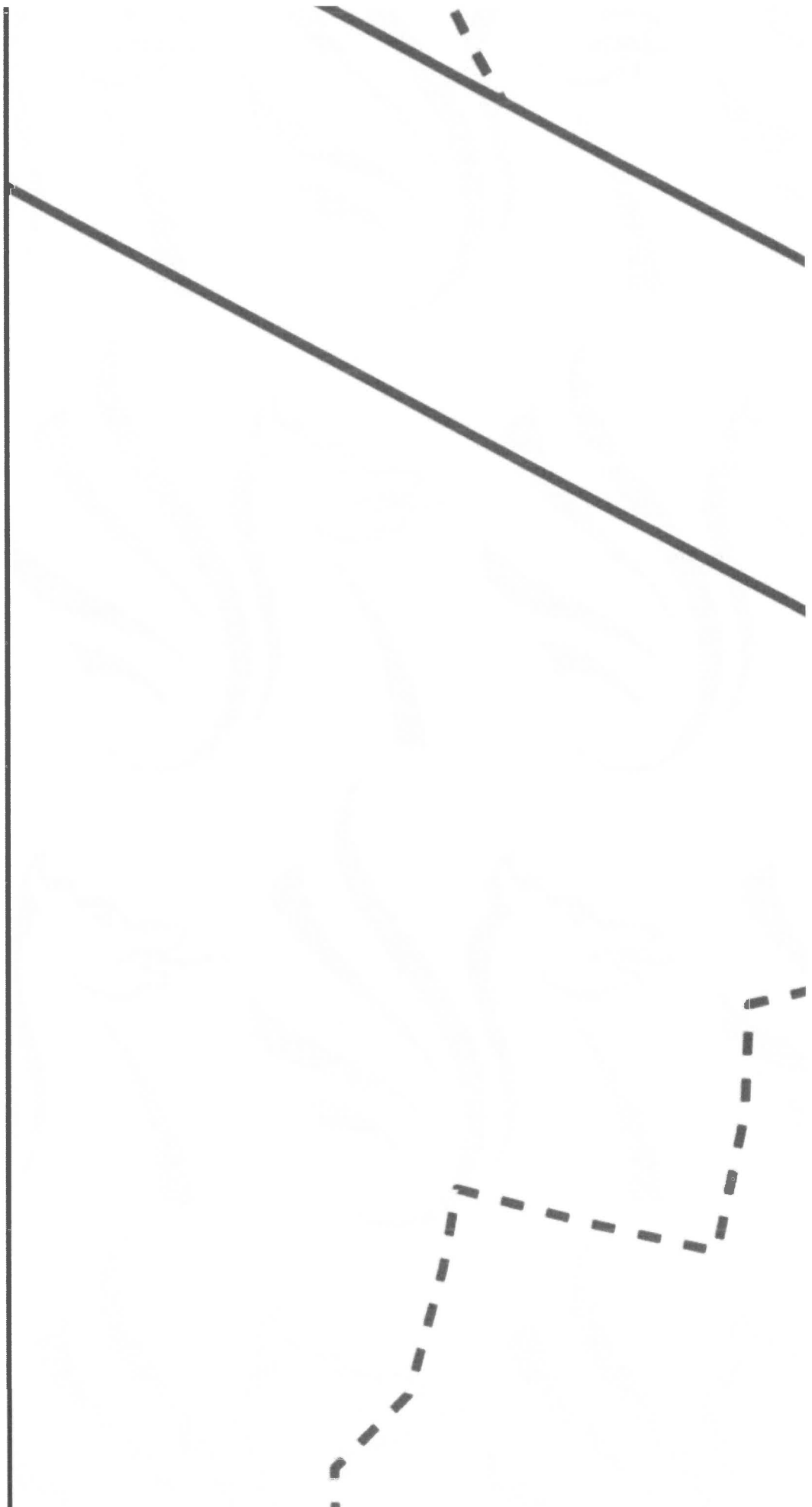
**From:** Rachel Lewis <[rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)>  
**Date:** Wednesday, 21 April 2021 at 17:11  
**To:** Mike Ratcliffe <[mike.ratcliffe@wolsey.net](mailto:mike.ratcliffe@wolsey.net)>, Duncan Macpherson <[Duncan\\_Macpherson@rnli.org.uk](mailto:Duncan_Macpherson@rnli.org.uk)>  
**Cc:** Tania Draper <[tania.draper@wolsey.net](mailto:tania.draper@wolsey.net)>  
**Subject:** [EXT] Birnbeck

Dear Mike and Duncan,

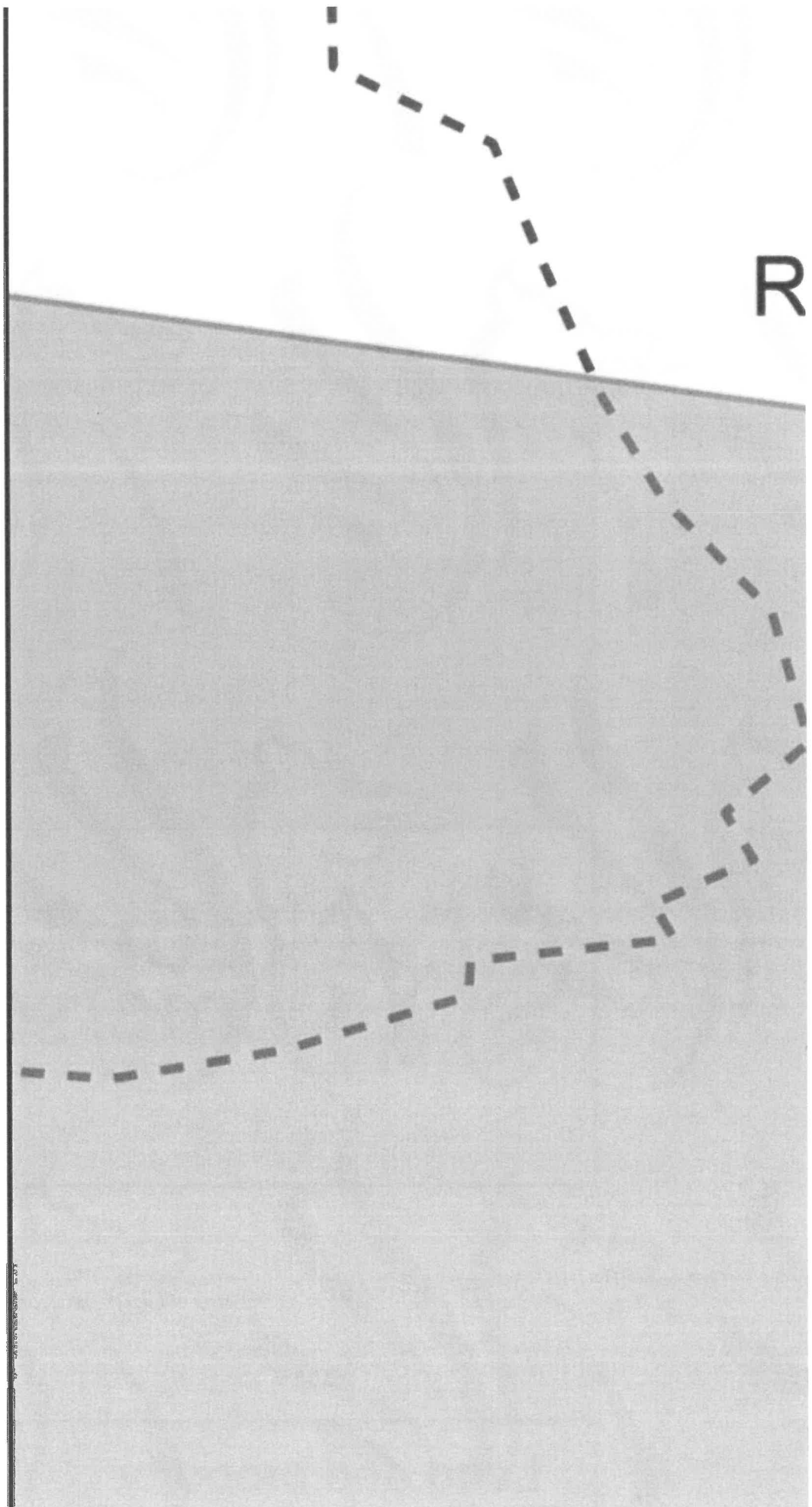
Thank you both for a productive meeting this morning, it was especially good to see you both in person.

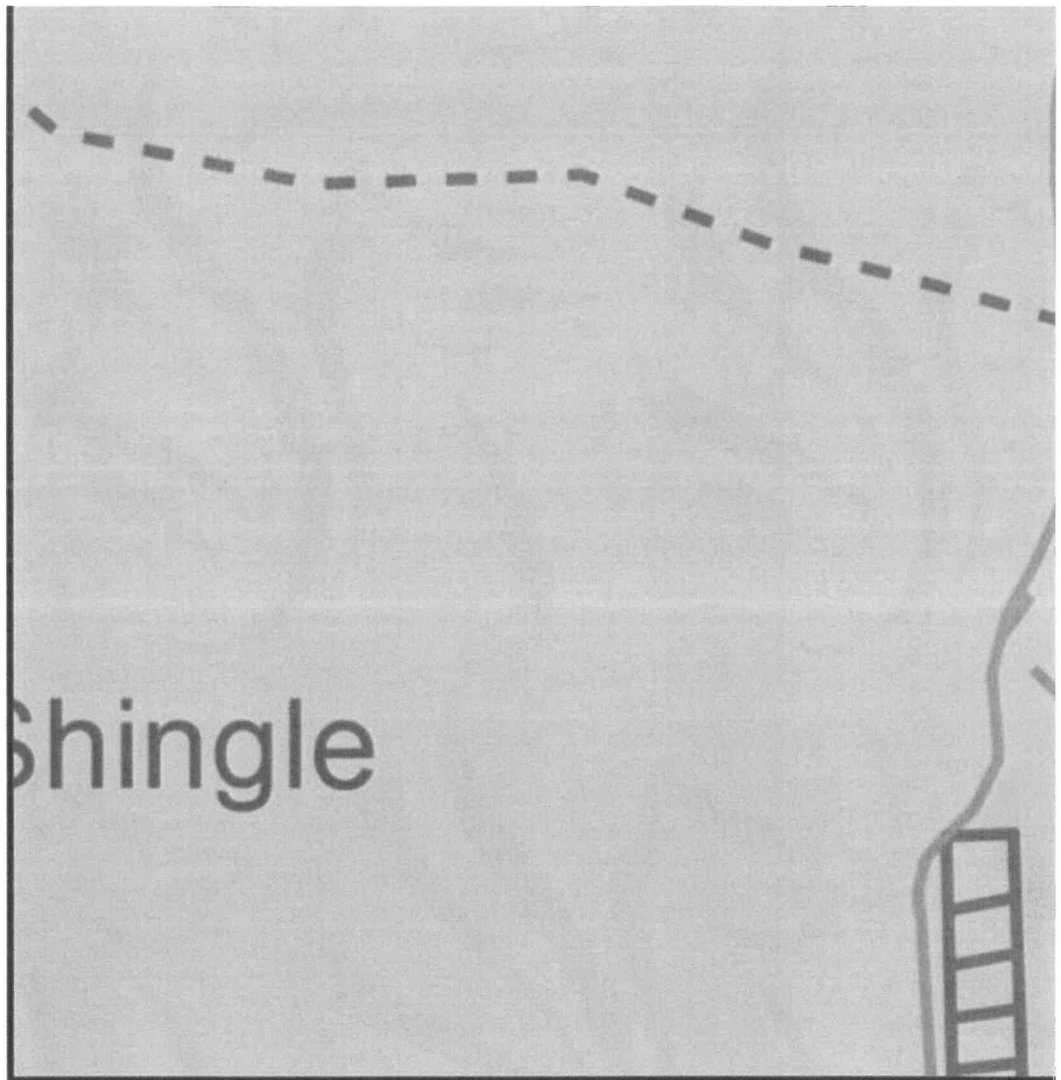
As promised here is a plan of the Councils ownership and I confirm that the Council will be willing to transfer ownership of the small building and the associated land just behind Pier View, for a nominal sum, as part of the proposed agreement discussed this morning.

Land and property  
Infrastructure  
Terrier  
Highways adoption









**North  
Somerset**  
COUNCIL

**Birni**

NSC o


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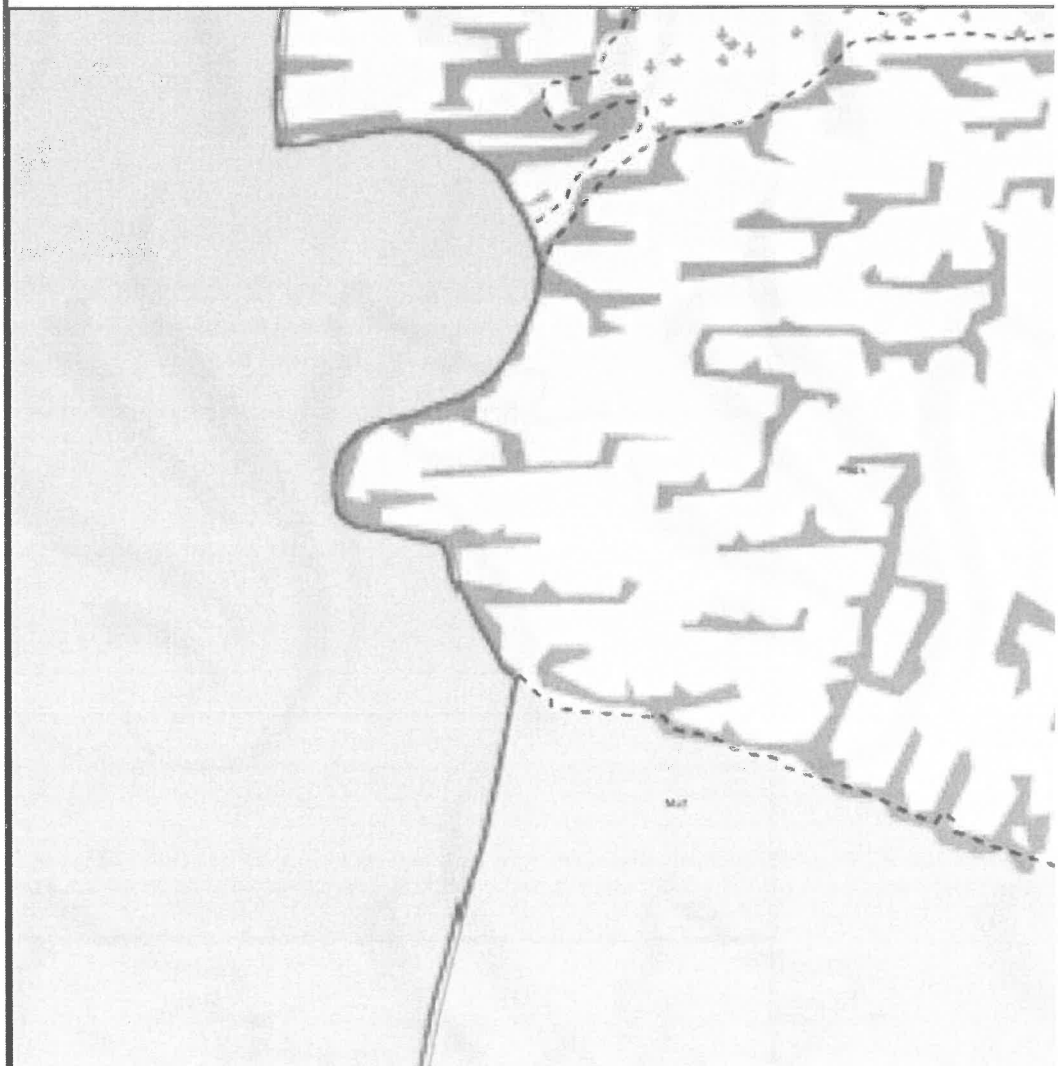
Land and property

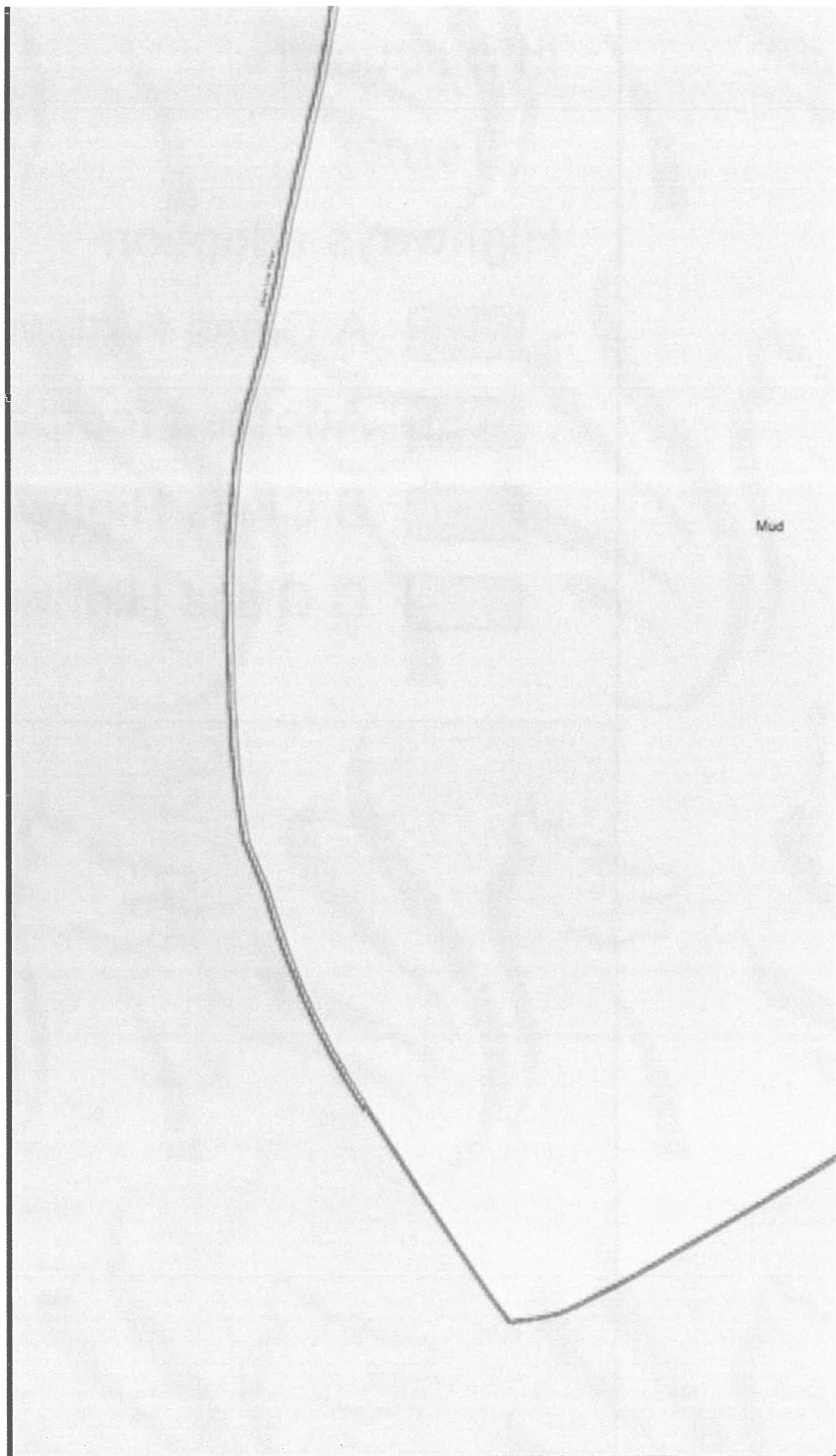
# Infrastructure

## Terrier

### Highways adoption

-  A Class Highway
-  Adopted footpath/cyclep
-  B Class Highway
-  C Class Highway





North

**Birni**



I will provide a plan of the access and parking layout to accommodate a minimum of 20 parking spaces but using the available space as efficiently as possible. Hopefully this will be available in the next few days. I have checked the decision date for the 'Levelling Up' fund which is apparently 'September' but no actual date is provided!

If there is anything else I can do to assist do of course let me know.

Kind regards

Rachel Lewis  
Development and Regeneration Programme Manager  
Placemaking and Growth  
North Somerset Council

**Tel:** 01934 426465

**E-Mail:** [rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)

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**Subject:** [EXT] Birnbeck Pier and Island  
**Date:** Wednesday, 7 April 2021 at 11:36:10 British Summer Time  
**From:** Tania Draper on behalf of Mike Ratcliffe  
**To:** Christopher Elliott  
**Attachments:** image585000.jpg, image824001.png

Dear Chris

Thank you for your email of last night.

From the way it is drafted I am not quite clear what it is trying to achieve. You seem to want to paint CNM and me in a manner that is less than constructive and in line with your email of the 31 March.

The RNLI's conduct leaves a lot to be desired and is surprising given its charitable status. The conspiracy that you conducted with a CNM creditor was an outrageous step for a charity to have taken. I had thought, however, that we had got over that and, in our conversation last Thursday, you had led me to believe that you were prepared to recommend our offer on the understanding that it included full access rights, as drafted in your heads of terms, and the parking that you required and which had been discussed between Rachel Lewis and Wahid.

You will be aware and we have discussed that the financial element of the offer, which I have confirmed to you was accepted, was far and away short of Wahid's expectation and in his terms a considerable compromise.

We have only seen one valuation which is the Savills one and a matter of public record. To say it is a work of fiction would be a compliment, it would claim to fulfil the requirement and is dangerous to quote from.

You say your costs have gone up by 60%. You admitted to me on the telephone that what you were planning to do was way beyond what is required in terms of repair works to the pier and is at least twice the estimates CNM have produced. We have offered to put our professionals together with yours, but you have deemed this unnecessary. I can only presume that you believe our estimate is irrelevant because you are planning to do significantly different works which you have not disclosed to us. So, when you say there is a 60% increase, that is on a figure that starts off being twice our estimate for the repair works and reinstatement. To now try and use this against us to ensure that further legal expense will be incurred is pointless if your intention were ever to end up owning all of the island and pier.

We are aware that the pier has deteriorated further in the last few months and in the survey work that we carried out last week more work has been identified as being required in the first stages and this is currently being assessed. It should be understood, however, that this is not extra work, it is the same work being done in a different order.

If you would like these negotiations to finish up in a happy position then please reinstate and get approval for the offer that we discussed last week, ie., full access rights and parking for the sum of £480k.

I look forward to hearing from you as a matter of urgency.

Kind regards

Mike



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**From:** Christopher Elliott <Christopher\_Elliott@rnli.org.uk>  
**Date:** Tuesday, 6 April 2021 at 19:16  
**To:** Mike Ratcliffe <mike.ratcliffe@wolsey.net>  
**Subject:** [EXT] Birnbeck Pier and Island

Dear Mike,

Apologies for missing your calls this afternoon, I write further to our previous correspondence.

We put forward a formal offer to you of £380,000 on 12 March 2020, which was rejected. Following the rejection of the offer we have tried to document what your counter-proposals are for discussion, including producing heads of terms and a plan of the de minimis area necessary to service proposed development on the site. These were produced in order that we would have something certain to put to our Executive Team and Trustees for them to consider.

We are still not clear whether the detailed terms set out in the heads of terms document are approved, or the exact area(s) you are proposing in respect of the parking. The flexibility you wish to make inherent in this aspect of the deal increases the risk of planning permission for our proposed scheme not being obtained. We have noted that there has been an urgency to get approval from us to a purchase price, but no proper articulation of the detail of what you are proposing.

Birnbeck Pier, Island and the associated parking area are one contiguous piece of land. If anyone is going to make the very substantial investment in the site needed to put it the pier and island back into full repair and give it a sustainable future, then there will need to have clear access rights and land for the servicing of the site and space for sufficient parking facilities. Our offer, as with previous offers made to CNM Estates (Birnbeck) and their lender, were designed to provide some positive financial outcome for the owners/lenders and to facilitate the development of the Royal Pier Hotel and, in doing so, make the cost and delay of the CPO process unnecessary.

However, rather than acknowledging and accounting for these significant and difficult compromises that would need to be made for a deal to be successful, we don't believe there has been a willingness from your side to find a solution that facilitates anything other than: (a) the land being carved up in a way that removes what you consider to be the land capable of development and leaving behind the liabilities; and (b) a purchase price being achieved that is not based on a realistic and documented understanding of the land value and liabilities. This is not markedly different from the approach taken by CNM over previous years.

On Thursday of last week and over the long weekend we have undertaken a detailed examination of new reports produced by our quantity surveyors and construction consultants. The costs associated with the full repair of the pier are over 60% higher than the figures you will have seen in the valuation produced by Savills. These updated figures reflect what has been noted by a number of professional valuations;

that there is no monetary land value in the pier, island and associated lands.

With the above in mind, I now confirm with regret that our offer of March 12 2021 is withdrawn. We will consult further with our Executive Team and Trustees on the revised construction figures, but please assume that nothing other than a nominal offer to take on the liabilities and the entire landholding will be considered by us going forward.

Thank you for your involvement in this matter, and your efforts to bring this to a conclusion.

Kind regards

Chris

**Chris Elliott | Senior Property Counsel**  
RNLI West Quay Road Poole BH15 1HZ  
Web [www.rnli.org.uk](http://www.rnli.org.uk)

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**Sent:** Friday, April 1, 2022 11:03 AM  
**To:** Rachel Lewis <[rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)>  
**Cc:** Andrew Melvill <[andrew.melvill@bakerskelly.com](mailto:andrew.melvill@bakerskelly.com)>  
**Subject:** Re: [EXT] Birnbeck Pier - transfer

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Rachel

Sorry I was not available yesterday when you called but given your note, I thought a written response may be more appropriate.

I think firstly we should backtrack as it was always our intention that the parking available at Birnbeck should be for the benefit of the hotel site less, of course, what is required by the RNLI. In our discussions with them this number varied between 8 and 12. In addition to this, the 34 parking bays at the Madeira that you kindly offered us as part of our Heads of Terms will not be recognised by the Planning Department as they are too far away from the hotel site.

As you know, we have lost 34 spaces. I believe it is possible to gain some back at our own expense by reshaping the embankment on the righthand side of the car park. We are still trying to establish precisely how many we need, but I think this may be between 50 and 60 and I hope to have a plan showing these early next week.

The plan that you have sent is particularly unhelpful in that it more or less removes the possibility of us gaining spaces. Neither does it recognise the requirements of the North Somerset Parking SPD, in particular the length of the days which must be 4.8m and, of course, no disabled bays have been allowed. Extract from the parking SPD below:

Type of parking space	Minimum effi
Parking bay	2.5m x 4.8m
Parallel parking space	6.0m x 2.0m
Garage	Internal minir Floor area 20 Width 3.0m Length 6.0m
Double garage (without dividing wall)	Internal minir

	Floor area 38
	Width 5.5m
	Length 6.0m
Disabled bay	2.5 x 4.8m p on each side shared with c
Parallel disabled space	6.6m x 2.7m of the carriag
	Where 5 or r of spaces shc accommodate the rear.
Electric vehicle bay	2.8m x 5.0m
Disabled electric vehicle bay	2.8m x 5.0m on each side shared with c

If we can live with 50 spaces then I think we can do that in the plan that accompanies the planning application, but we may need another 5 bays on both sides of the road. This would still leave 30-40 parking spaces on the mainland land for the RNL and I attach a plan for discussion, not a proposal.

I agree we should be able to get the wording agreed, but the Council's attitude on the parking bays must be established as a matter of urgency.

The best date for us to meet would be Wednesday, 13 April around 2pm and I hope by then I will be able to make the journey as I am still suffering from Covid-related lethargy.

I am around most of today and happy to chat.

Kind regards

Mike



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North Somerset Council

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**Post:** Post point 15, Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

**Web:** [www.n-somerset.gov.uk](http://www.n-somerset.gov.uk)

**From:** Rachel Lewis  
**Sent:** Wednesday, March 9, 2022 5:08 PM  
**To:** Mike Ratcliffe <[mike.ratcliffe@wolsey.net](mailto:mike.ratcliffe@wolsey.net)>  
**Subject:** RE: [EXT] RE: Birnbeck

Hi Mike,

I think we have moved forward.

Re what constitutes a start on site, we just need a definition that excludes any minor works and is related to the start of the build. I had anticipated that you would engage a main contractor who would then have specialist subcontractors for the various elements as necessary. If you are planning to have different contractors for the different build aspects that's going to make dealing with liabilities and defects much harder.

I don't agree that having a suspension clause would make it un-bankable. A suspension is not the same as a withdrawal. The reality is that, as you know, there is huge scepticism that Wahid could actually deliver any kind of scheme. While we are currently prepared to make a lease available, this cannot be unconditional. It cannot be until the space is actually needed and the area can't be sterilised should the development start, then halt for some reason. The alternative to this is that the car parking is removed from the land transfer and the site value is adjusted accordingly. You/Wahid would then take on all the capital and maintenance costs for the parking area.

This is becoming frustrating, and as I said if we can't get to an agreement very soon we will have to consider withdrawing our offer. To reiterate, the offer was made on the pragmatic basis that a negotiated settlement would

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**Web:** [www.n-somerset.gov.uk](http://www.n-somerset.gov.uk)

**From:** Rachel Lewis  
**Sent:** Wednesday, March 9, 2022 5:08 PM  
**To:** Mike Ratcliffe <[mike.ratcliffe@wolsey.net](mailto:mike.ratcliffe@wolsey.net)>  
**Subject:** RE: [EXT] RE: Birnbeck

Hi Mike,

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Re what constitutes a start on site, we just need a definition that excludes any minor works and is related to the start of the build. I had anticipated that you would engage a main contractor who would then have specialist subcontractors for the various elements as necessary. If you are planning to have different contractors for the different build aspects that's going to make dealing with liabilities and defects much harder.

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This is becoming frustrating, and as I said if we can't get to an agreement very soon we will have to consider withdrawing our offer. To reiterate, the offer was made on the pragmatic basis that a negotiated settlement would

avoid both parties in the considerable legal costs of the Magistrates Court and the CPO. It would also provide certainty to both parties and we can all move on to something more constructive. We therefore only have a few weeks to conclude this matter.

regards

Rachel Lewis  
Heritage and Design Manager  
Place Directorate  
North Somerset Council

**Tel:** 01934 426465  
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**From:** Tania Draper <[tania.draper@wolsey.net](mailto:tania.draper@wolsey.net)> **On Behalf Of** Mike Ratcliffe  
**Sent:** Wednesday, March 9, 2022 9:23 AM  
**To:** Rachel Lewis <[rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)>  
**Cc:** Mike Ratcliffe <[mike.ratcliffe@wolsey.net](mailto:mike.ratcliffe@wolsey.net)>  
**Subject:** Re: [EXT] RE: Birnbeck

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Rachel

Thanks for your note. I would have hoped we had moved forward.

If this site is built as designed, i.e., reinforced concrete frame building, then



**Subject:** [EXT] Re: Sale of Pier  
**Date:** Wednesday, 23 February 2022 at 12:55:26 Greenwich Mean Time  
**From:** Wahid Samady  
**To:** Rachel Lewis  
**CC:** Mike Ratcliffe  
**Attachments:** image001.jpg

Rachel I am afraid I cannot agree with your email. It simply is version which is not correct in my view.

You know full well that you have dragged your heels as RNLI were not ready

This can move ahead if:

1. Madeira conforms to residential parking requirements
2. Overall parking strategy agreed
3. Convoluted triggers removed as this will stop funding- please understand this

You asked for the stay and we stood down the team to implement phase 1 and planning, and we stopped the submission of the phase 2 planning which was virtually ready. You asked for the stay.

If you wish works to start please confirm this by return, any further costs incurred will be added to the agreed price, subject to 1 & 2.

I can confirm that VP would be available at completion but as I don't have confidence that 1-3 will be agreed, I am reluctant to move them, for now.

Please be fair.

Also I thought the input of design review was overall supportive of the RPH scheme with some good suggestions.

Regards

Wahid Samady  
Director, CNM Estates  
T: +44(0) 208 3909265  
M: +44(0) 7710 392393

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New Malden, Surrey, KT3 4HG  
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**From:** Rachel Lewis <rachel.lewis@n-somerset.gov.uk>  
**Date:** Tuesday, 22 February 2022 at 18:35  
**To:** Wahid Samady <wahid.samady@cnmestates.com>  
**Cc:** Mike Ratcliffe <mike.ratcliffe@wolsey.net>  
**Subject:** RE: Sale of Pier

Wahid,

Your email (below) came as a bit of a surprise, as I have been endeavouring to conclude

the transfer of ownership, however recently you have been saying you won't sell until the planning application on the site of the former Royal Pier Hotel is determined.

At no time have I told you to 'hold off' implementing the repair works, though clearly if the pier had been transferred to the Council the obligation on you would fall away. The responsibilities of ownership have not in any way been relieved or suspended by the ongoing negotiations with NSC.

We did propose, in the spirit of good will and in good faith, that we would be happy to seek a deferment at the Magistrates Court to allow time for the transfer to be concluded. At that time we were confident that the transfer could be concluded quickly and that preparations for the Court hearing would be an unnecessary burden on all parties. Sadly this has not proven to be the case.

As BHL continues to be the owner of the pier it has a continuing duty to preserve it. It is that failure over a period of time on the part of CNM and now BHL which has led to NSC seeking a CPO. The Council issued the Repairs Notice in September 2019. Planning consent for a limited number of the works required by the Repairs Notice was granted in February 2020 and you provided a letter saying that work would start in April 2020 yet this has not occurred and as a result the CPO was issued in September 2020.

We agreed the principle of a transfer of land ownership last summer and the Heads of Terms was signed in July 2021. As you are aware this clearly states that the CPO process will only be withdrawn at the point that the transfer is secured. Since when we have been having discussions to finalise the details of the conveyancing documents. This process has been frustratingly slow.

At the present time there are several outstanding items before we can conclude the transfer of ownership;

BHL – to provide proof of vacant possession. You have verbally said that you have a termination agreement with SIP Carparks but we have not seen this, so do not know if this is satisfactory. Plus you also have travellers occupying the site at present which would also need to be removed.

BHL – following a meeting between Mike Ratcliff, myself and both parties solicitors on 11 February, your solicitor was to draft wording re the trigger for the lease of the 38 parking spaces, (material start of construction of consented residential led development) as had been agreed in the meeting. This has not been forthcoming.

NSC – to provide formal plans of the 38 parking spaces and the access route.

With these items resolved we will be in a position to conclude the transfer.

regards

Rachel Lewis  
Heritage and Design Manager  
Place Directorate  
North Somerset Council

**Tel:** 01934 426465

Monday, April 25, 2022 at 15:13:50 British Summer Time

---

**Subject:** [EXT] Sale of Pier

**Date:** Thursday, 17 February 2022 at 14:12:44 Greenwich Mean Time

**From:** Wahid Samady

**To:** Rachel Lewis

**CC:** Mike Ratcliffe

Rachel, it extremely disappointing that despite written assurance that this deal will close in June 2021, nothing is happening, and we are going backwards.

As result of two request from you to hold off the process we are now in position to restart works on the implementation of works for which planning was obtained. We have upon your request withheld these works on the basis that terms were agreed based on the HOTs- clearly there remains significant distance between us on what the HOTs mean and additional triggers you have been trying to negotiate , and of course the use of the Madeira for the RPH...

With the storms coming, it is regrettable that this pause situation has been instigated, whilst I appreciate it has given you time to get your ducks in row, this now needs to be closed or we will commence works on the Pier to implement those works for which we have planning.

Regards

Wahid Samady

Director, CNM Estates

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New Malden, Surrey, KT3 4HG

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**From:** Rachel Lewis <[rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)>  
**Date:** Friday, 12 November 2021 at 13:39  
**To:** Mike Ratcliffe <[mike.ratcliffe@wolsey.net](mailto:mike.ratcliffe@wolsey.net)>  
**Subject:** [EXT] parking at Birnbeck

Hi Mike,

Many thanks for a constructive conversation!

I will now clarify to our solicitor that;

Parking permits for 34 spaces at the Madeira car park will be made available in perpetuity, by the Council to the occupiers of the hotel site development. This will start on first occupation and will be available on the standard terms and conditions (currently £95/yr)

The lease document will provide for the 38 parking spaces for residents to be available, in perpetuity, from first occupation of the development. (this right will cease should this not occur within 10 years)

There will be a further commitment to a licence for use of the 38 spaces during construction on the hotel site, triggered by a planning consent and appointment of the contractor.

I will emphasise that this needs to be drafted to provide confidence to potential investors and contractors.

Let me know if I have missed anything.

Kind regards

Rachel Lewis  
Development and Regeneration Programme Manager  
Placemaking and Growth  
North Somerset Council

**Tel:** 01934 426465

**E-Mail:** [rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)

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**Web:** [www.n-somerset.gov.uk](http://www.n-somerset.gov.uk)

<image007.jpg>



**From:** Wahid Samady <wahid.samady@cnmestates.com>  
**Sent:** Wednesday, November 10, 2021 10:37 AM  
**To:** Rachel Lewis <rachel.lewis@n-somerset.gov.uk>  
**Cc:** Mike Ratcliffe <mike.ratcliffe@wolsey.net>  
**Subject:** Re: Birnbeck

Rachel the agreement is per the HOTs and there will be use during construction agree right now AND Royal pier hotel MUST be validated today and as an absolute MINIMUM a PPA entered to take to February committee. Otherwise there will be no deal between us.  
 Regards

Sent from my iPhone

On 10 Nov 2021, at 14:28, Rachel Lewis <[rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)> wrote:

Wahid/Mike,

Apologies for not being able to take your recent calls. It has been really busy and I have had a few odd days off too, which just makes the workload problem worse!

I spoke to our solicitor last week. He agrees that the wording of the clause in the HOT re parking is muddled and confusing. Clearly parking for the occupiers would need to be available at first occupation of the new development (not at 50% as stated). Any use of the parking area during construction would need to be via a licence between the contractor and the Council (not a lease) so needs to be dealt with separately. He sent some revisions to clarify these points to your solicitor last Thursday.

I am advised that the remainder of the documents are just about there,



and that we should be able to exchange and complete in a week or so, provided we have the assurance that SIP (the parking company) have had all ties with the site terminated.

The Council has now formally approved the funding for the project delivery and our future working relationship with the RNLI and Historic England.

Regarding the hotel site I understand from colleagues that there were a few outstanding items but that apart from the ecological survey these have been resolved. So hopefully the application can be registered as soon as that is received.

Apologies again for the lack of contact and I trust we can bring the transfer of the Pier site to a conclusion in the next week or so.

Kind regards

Rachel Lewis  
Development and Regeneration Programme Manager  
Placemaking and Growth  
North Somerset Council

**Tel:** 01934 426465

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Whilst this non sense is on-going we have mercifully got on with other successful projects.

I need committee date- it that simple.

Regards

Wahid Samady  
Director, CNM Estates  
T: +44(0) 208 3909265  
M: +44(0) 7710 392393

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New Malden, Surrey, KT3 4HG  
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---

**From:** Rachel Lewis <[rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)>  
**Date:** Tuesday, 12 October 2021 at 19:18  
**To:** Wahid Samady <[wahid.samady@cnmestates.com](mailto:wahid.samady@cnmestates.com)>  
**Subject:** RE: Royal Pier Hotel

Hello Wahid,

I've just checked with the registration team, as I mentioned previously they do have a couple of weeks backlog in getting applications registered due to the very high levels of applications. Your application has been looked at and there is a query as some of the ecology surveys are yet to be provided.

Hopefully this will be acceptable and your application can be registered in the next few days.

Our solicitor has sent draft conveyancing documents for the Pier site to your solicitor but hasn't heard back yet. It does seem to be very slow but hopefully we are getting there.

Regards

Rachel Lewis  
Development and Regeneration Programme Manager  
Placemaking and Growth  
North Somerset Council

**Tel:** 01934 426465  
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**From:** Wahid Samady <[wahid.samady@cnmestates.com](mailto:wahid.samady@cnmestates.com)>  
**Sent:** Thursday, September 9, 2021 6:57 AM  
**To:** Rachel Lewis <[rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)>  
**Cc:** Mike Ratcliffe <[mike.ratcliffe@wolsey.net](mailto:mike.ratcliffe@wolsey.net)>  
**Subject:** Re: Birnbeck Pier - without prejudice and subject to contract

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Rachel there is no movement unless we get undertaking and paperwork by Friday deal is off. You are just stringing this along.  
Regards

Sent from my iPhone

On 31 Aug 2021, at 08:55, Rachel Lewis <[rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)> wrote:

Morning Wahid,

I have authorised the monies for the undertaking, so it should be there – I'll chase him.

regards

Rachel Lewis  
Development and Regeneration  
Programme Manager  
Placemaking and Growth  
North Somerset Council

**Tel:** 01934 426465  
**E-Mail:** [rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)

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**Web:** [www.n-somerset.gov.uk](http://www.n-somerset.gov.uk)

Regards

Wahid Samady  
Director, CNM Estates  
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**From:** Andrew Melvill <[andrew.melvill@bakerskelly.com](mailto:andrew.melvill@bakerskelly.com)>  
**Sent:** 06 September 2021 14:47  
**To:** Gareth Miles <[gareth.miles@wbd-uk.com](mailto:gareth.miles@wbd-uk.com)>  
**Subject:** RE: Birnbeck Pier - without prejudice and subject to contract [WBDUK-AC.FID124641029]

Dear Gareth

Thank you for the update. My client was expecting to reach exchange of contracts rather sooner than this (ideally by the end of this week) - could I ask you please to do what you can to expedite matters?

Kind regards

Andrew.

## Andrew Melvill

Partner

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m: +44 (0)7866 767 847

e: [andrew.melvill@bakerskelly.com](mailto:andrew.melvill@bakerskelly.com)

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**BAKER | SKELLY** LLP

1 Quality Court, Chancery Lane  
London WC2A 1HR

We are continuing to provide full support to our clients throughout the COVID-19 outbreak. Our lawyers are working flexibly and are contactable by email and telephone.

**From:** Gareth Miles <[gareth.miles@wbd-uk.com](mailto:gareth.miles@wbd-uk.com)>  
**Sent:** 06 September 2021 13:58  
**To:** Andrew Melvill <[andrew.melvill@bakerskelly.com](mailto:andrew.melvill@bakerskelly.com)>  
**Subject:** RE: Birnbeck Pier - without prejudice and subject to contract [WBDUK-AC.FID124641029]

Hi Andrew

Tuesday, April 26, 2022 at 11:18:03 British Summer Time

**Subject:** [EXT] Heads of Terms  
**Date:** Friday, 30 July 2021 at 09:22:54 British Summer Time  
**From:** Rachel Lewis  
**To:** Wahid Samady (wahid.samady@cnmestates.com), Mike Ratcliffe  
**Attachments:** Picture (Device Independent Bitmap) 1.jpg

Wahid/Mike,

My sincere apologies for the delay. There has been a lot of discussion internally amongst my senior colleagues but I am now able to confirm that I have approval to the Heads of Terms.

However there is one proviso – that you approach the Magistrates Court and request that the hearing is delayed (or withdrawn). This would assist both of us in taking off the pressure to prepare our cases, while the conveyancing takes place.

Many thanks

Rachel Lewis  
Development and Regeneration Programme Manager  
Placemaking and Growth  
North Somerset Council

**Tel:** 01934 426465

**E-Mail:** [rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)

**Post:** Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

**Web:** [www.n-somerset.gov.uk](http://www.n-somerset.gov.uk)



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**Keeping in touch**

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Tuesday, April 26, 2022 at 11:16:55 British Summer Time

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**Subject:** Birnbeck Pier  
**Date:** Thursday, 29 July 2021 at 14:13:44 British Summer Time  
**From:** Tania Draper on behalf of Mike Ratcliffe  
**To:** Rachel Lewis (rachel.lewis@n-somerset.gov.uk)  
**CC:** Wahid Samady (Wahid.Samady@cnmestates.com)  
**BCC:** Mike Ratcliffe

Rachel

As I am sure you are aware, I called you yesterday and again this morning with no response so far.

In our conversation on Tuesday you were looking to progress the process for the authority to sign the heads of terms. When we concluded the negotiation this was a few days; my feeling is it has now been a few weeks.

Can you please give us an honest assessment as to how long you would expect us to wait and the process you are required to complete before signing. As you know, we expected this to be completed by tomorrow.

I am told the application is ready to submit, but Wahid is reluctant to do so until heads of terms are signed giving reliance on the parking provisions provided in the heads of terms.

I look forward to hearing from you.

Kind regards

Mike

**Post:** Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

**Web:** [www.n-somerset.gov.uk](http://www.n-somerset.gov.uk)



**From:** Wahid Samady <[wahid.samady@cnmestates.com](mailto:wahid.samady@cnmestates.com)>

**Sent:** Tuesday, July 27, 2021 5:53 AM

**To:** Rachel Lewis <[rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)>

**Cc:** Rugile Alisaukaite <[rugile.alisaukaite@cnmestates.com](mailto:rugile.alisaukaite@cnmestates.com)>; Mike Ratcliffe <[mike.ratcliffe@wolsey.net](mailto:mike.ratcliffe@wolsey.net)>

**Subject:** Re: Heads of Terms

**Caution:** This email originated from outside North Somerset Council.

**Only click on links or open attachments if you recognise the sender and if you are certain that the content is safe.**

Rachel good morning,

Your inaction does not instill confidence when you are not able to follow through on next steps agreed. Can you please update as you have already significantly run down the clock for repairs to occur. Please advise today.

Regards

Sent from my iPhone

On 21 Jul 2021, at 15:03, Rachel Lewis <[rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)> wrote:

Many thanks – I'll let you know when I have approval at this end.

regards

Rachel Lewis

Development and Regeneration Programme Manager

Placemaking and Growth

North Somerset Council

**Tel:** 01934 426465

**E-Mail:** [rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)

**Post:** Town Hall, Walliscote Grove Road, Weston-super-Mare,

## NOTICE OF DECISION

Planning (Listed Building and Conservation Areas Act) 1990



Jones Lang LaSalle Limited  
30 Warwick Street  
London  
W1B 5NH

Application Number: 20/P/1784/LBC

Category: Listed Building Consent

**Application No:** 20/P/1784/LBC  
**Applicant:** CNM Estates (Birnbeck) Limited  
**Site:** Birnbeck Pier, Birnbeck Island, Birnbeck Road, Weston-super-Mare  
**Description:** Listed Building Consent application for immediate works relating to Repairs Notice consisting of: Section 4 (part)- Ensure appropriate surveys and inspections are undertaken; Section 7 - Arrange for temporary bracing frames to be secured to trestle legs to provide additional stability to trestle legs during repairs. This may include scaffolding construction for temporary bracing frames, subject to contractor design, or fabrication of bespoke temporary bracing frames that can be more readily moved between frames as repairs progress; Section 8- Remove deck boards. Cast iron seat components, lamp posts and all associated materials. Arrange for these to be transported to an offsite facility for logging, assessment and repair, or reconstruction depending upon condition; Section 11 (part) - Remove the principal deck level spider bracing; Section 13 - Remove the trestle perimeter and internal bracing member. All trestle bracing should be removed and transported to an offsite facility for repair or reconstruction

North Somerset District Council in pursuance of powers under the above mentioned Act hereby **GRANTS CONSENT** for the above development in accordance with the plans and particulars received and subject to the following conditions:

- 1 The making safe works and recovering of elements as specified in the approved documents as set out in condition 2 hereby permitted shall be begun before the expiry of three years from the date of this permission.

Reason: In accordance with the provisions of Section 18 of the Town and Country (Listed Building and Conservation Areas) Act 1990.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans/documents:

Design and Access Statement dated 23/07/2020  
Heritage Statement (Revised) dated December 2020  
Update Habitats Regulations Assessment dated 09/2020

Revised Method Statement 002 dated 16/12/2020  
Site plan and site location plan: 13651-HOP-05-XX-DR-S-001.S2.P4  
Existing arrangements elevations and sections: 13651-HOP-05-XX-DR-S-002.S2.p4  
Existing details: 13651-HOP-05-XX-DR-S-003.S2.P3  
Existing bracing plan with schematic elevations: 13651-HOP-05-XX-DR-S-0007-S2-P1  
Existing arrangement balcony plan and section: 13651-HOP-05-XX-DR-S-004.S2.P2  
Proposed detail 1 of 2: 13651-HOP-05-XX-DR-S-005.S2.P2  
Proposed detail 2 of 2: 13651-HOP-05-XX-DR-S-S006.S2.P1  
Proposed abutment details: 13651-HOP-05-XX-DR-S-0006-S2-P2  
Proposed sequencing: 13651-HOP-05-XX-DR-S-S001.S2.P6  
Proposed approach to making safe works: 13651-HOP-05-XX-DR-S-S002.S2.P4  
Honeycomb Worm Rapid Assessment and working Method Statement, dated October 2020

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 The development shall take place in accordance with the submitted Honeycomb Worm Rapid Assessment and working Method Statement.

Reason: To ensure compliance with the Conservation of Habitats and Species Regulations 2017/the Wildlife and Countryside Act 1981 (as amended)/The Natural Environment and Rural Communities (NERC) Act 2006, policy CS4 of the North Somerset Core Strategy and policy DM8 of the North Somerset Sites and Policies Plan (Part 1)

- 4 No works shall commence until the Local Planning Authority has been given a minimum of seven days prior notice of the intention to start work.

Reason: The Local Planning Authority wishes to programme its staff resources to enable monitoring and recording of the building works and in accordance with part I of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), paragraph 199 of the National Planning Policy Framework, policy CS5 of the North Somerset Core Strategy and policy DM4 of the North Somerset Sites and Policies Plan (Part 1). Notice is required before works commence so that the Local Planning Authority may carry out any recording and monitoring from the outset.

- 5 The applicant shall give access to any Council Officer together with any consultants (which have been appointed by the Council or Historic England) or officer of Historic England which the Council considers should be given access for the purpose of recording the works or finds and advising the Council on any technical matters that relate to the historic and architectural value of the Pier and the impact of the works. If any Council Officer, consultant or Officer of Historic England requires access in accordance with this, a minimum of 24 hours notice including the nature and purpose of the visit / inspection shall be given by the Council.

Reason: The Local Planning Authority wishes to have access to the property throughout the period of building works to monitor, advise and record and in accordance with part I of the Planning (Listed Buildings and Conservation Areas) Act

1990 (as amended), paragraph 199 of the National Planning Policy Framework, policy CS5 of the North Somerset Core Strategy and policy DM4 of the North Somerset Sites and Policies Plan (Part 1). The notice period ensures those accessing the site can be adequately inducted on the site Health & Safety procedures.

- 6 All material removed from the pier shall be recorded and stored in accordance with the approved recording policy (set out in the Method Statement) and that record shall be submitted to and approved in writing by the Local Planning Authority. The protective measures shall be implemented and kept in place in accordance with the approved details for the duration of the development works.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1). The details must be agreed prior to commencement in order to safeguard the architectural and historic interest of the Listed Building.

- 7 No material shall be removed or disposed of from the site or the agreed secure offsite storage facility before first being inspected and agreed in writing by the Local Planning Authority.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1).

- 8 No temporary stabilisation measures shall be installed until temporary works designs and drawings at a suitable scale with details not less than 1:20 indicating the proposed stabilisation works have been submitted to and approved, in writing, by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

Should emergency measures be required (associated with management of the dangerous structure) remedial proposals shall be developed by a suitably qualified Chartered Engineer and the Local Planning Authority shall be kept informed of proposals and notified within 48 hours.

Reason: To maintain the architectural integrity of the building and the appearance of its surroundings and in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1). The details must be agreed prior to installation in order to safeguard the architectural and historic interest of the Listed Building.

- 9 No bracing shall be installed until detailed working drawings at a scale of not less than 1:20 showing the proposed bracing have been submitted to and approved, in writing, by the Local Planning Authority. Thereafter, the development shall be carried out in

accordance with the approved details.

Reason: To maintain the architectural integrity of the building and the appearance of its surroundings and in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1). The details must be agreed prior to installation in order to safeguard the architectural and historic interest of the Listed Building.

- 10 No trusses shall be installed until detailed working drawings at a suitable scale with details of not less than 1:20 showing the proposed trusses have been submitted to and approved, in writing, by the Local Planning Authority. Thereafter, the development shall not be carried out except in accordance with the approved details.

Reason: To maintain the architectural integrity of the building and the appearance of its surroundings and in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1). The details must be agreed prior to installation in order to safeguard the architectural and historic interest of the Listed Building.

- 11 Prior to the commencement of the relevant part of development, the following details, as shown on Drawing Reference: 13651-HOP-05-XX-DR-S-0005-S2-P2, shall be submitted to, and approved in writing, by the Local Planning Authority. Thereafter, the development shall be carried in accordance with the approved details.

- i). The proposed works to the spreader beam as shown in Detail G;
- ii). The works relating to Detail A;
- iii). The works relating to Detail B.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1). The details must be agreed prior to refurbishment in order to safeguard the architectural and historic interest of the Listed Building.

- 12 No stone cleaning shall take place before details of method submitted to and approved, in writing, by the Local Planning Authority.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1). The details must be agreed prior to commencement in order to safeguard the architectural and historic interest of the Listed Building.

- 13 If works are required to be carried out under stage 2a (as identified by drawing



reference 13651-HOP-05-XX-DR-S-S001-S2-P6), prior to commencement of those works, a report shall be submitted to, and approved, in writing by the Local Planning Authority documenting the site assessment of iron deck beams and trusses detailing the necessity for the removal on these together with a plan and timetable to ensure their replacement. The approved works must thereafter be carried out in full within the approved timeframe unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1).

- 14 Following completion of each bay (defined as each phase of works, as shown on Drawing No. 13651-HOP-05-XX-DR-S-S002-S2-P4 (Proposed Approach to Making Safe Works)), no further works are to take place until the Local Planning Authority and Historic England have inspected the completed works and the Local Planning Authority has provided written confirmation that works can continue.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1). The details must be agreed prior to commencement in order to safeguard the architectural and historic interest of the Listed Building.

#### **Advice Notes:**

- 1 Natural England Mitigation Licence: Please note that a relevant Natural England licence must be approved before works which are likely to lead to an offence under the Conservation of Habitats and Species Regulations 2017. To proceed without a licence in this case would be likely to result in a criminal offence.

**For advice about how to comply with the conditions above visit [www.n-somerset.gov.uk/planningconditions](http://www.n-somerset.gov.uk/planningconditions)**

Date: 18 February 2021  
Signed: Richard Kent  
Head of Development Management

Please use our [online contact form](http://www.n-somerset.gov.uk/contactplanning) on our website at [www.n-somerset.gov.uk/contactplanning](http://www.n-somerset.gov.uk/contactplanning) if you require further information on this decision.

**IT IS IMPORTANT THAT YOU SHOULD READ THE NOTES ACCOMPANYING THIS NOTICE**

## NOTES RELATING TO A DECISION TO GRANT CONSENT

These notes are intended as helpful advice. PLEASE READ THEM CAREFULLY. Make sure everyone has a copy that needs it, including your builder or contractor.

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### Scope of this decision notice

This decision notice grants Listed Building Consent only. It should not be taken to imply that the scheme meets the requirements of any other agency that may be involved. Please make sure that you have obtained all the approvals you need before starting work. If you are in any doubt you should obtain professional advice.

### Building Regulations

Before you start construction work you need to obtain separate approval under Building Regulations. You can contact the team on 01275 884550 or submit your application on our [website](#).

### Conditions

This approval is subject to conditions. They are an integral part of the decision and are important because they describe how the council requires you to carry out the approved work or operate the premises. It is your responsibility to comply fully with them.

Please pay particular attention to those conditions that have to be met before work commences. There is a fee for requests for written confirmation that conditions have been complied with. Details of these fees can be found on our website at [www.n-somerset.gov.uk/planningconditions](http://www.n-somerset.gov.uk/planningconditions). When sending us information please include the decision reference number and relevant condition number. Depending on the complexity of the issues involved it can take up to 12 weeks for conditions to be discharged. It is therefore important that you submit any required details to us early.

Applications to discharge planning conditions received from 1st January 2021 will be made available on our website for public inspection. This includes the name, address and contact details of the applicant and their agent. When applying to discharge a planning condition, you should consider very carefully what information about yourself and others you send us. If you do not want information or documents in your application to be shown on our website, please contact us directly when you make your submission so that we can consider your request. The default position is however to make the information public and an exception to this will not normally be agreed.

### Appeals

If you are aggrieved by our decision to impose any of the conditions, then you can appeal to the Secretary of State for the Environment in accordance with the provisions of Town and Country Planning Act 1990. If you want to appeal against our decision then you must do so within 6 months [12 weeks if this is a decision to refuse planning permission for a shopfront proposal or a minor commercial application] of the date of this notice .

Appeals must be made using a form, which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. Alternatively, your appeal can be submitted electronically using the Planning Portal at [www.gov.uk/appeal-planning-inspectorate](http://www.gov.uk/appeal-planning-inspectorate).

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances that excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions imposed, having regard to the statutory requirements, to the provisions of a Development Order or to directions given under it. In

practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

### **Protected species**

The Wildlife and Countryside Act 1981 (as amended) makes it an offence to intentionally or recklessly disturb a protected species while it is occupying a place which it uses for shelter or protection. This includes, for example, bats or birds in roof spaces or cavities. Obtaining planning permission does not grant permission to disturb protected species. Licences can, however, be issued to allow construction works that would otherwise be prohibited. Applications for licences should be made to Natural England before any construction works commence on site.

### **Prepare for floods**

If the scheme to which this approval relates is at risk of flooding you should prepare a flood plan to help keep people safe and protect your property. You can find out if your property is at risk of flooding and how to prepare a flood plan on the [Government's website](#). You should also sign up for [flood warnings](#).

### **Works which affect a Public Highway**

Any works/events carried out by or for a developer which affects the public highway in any way must be co-ordinated in accordance with the New Roads and Street Works Act 1991 and the Traffic management Act 2004 to minimize disruption to users. Developers are required to inform undertakers of their proposed works, to jointly identify any affected apparatus, and to agree diversion or protection measures and corresponding payment.

Developers are also required to liaise/seek permission of North Somerset Council's Street Works Section (01934 888802 or [streetworks@n-somerset.gov.uk](mailto:streetworks@n-somerset.gov.uk)) at least one month in advance of the works and this must be in line with the requirements of the NRSWA 1991 and TMA 2004. The developer must endeavor to ensure that undertaker connections/supplies are coordinated to take place whenever possible at the same times using the same traffic management. It should be noted that where road closures or formal restrictions are required to undertake works, a minimum of three months' notice will be required.

### **Public Rights of Way**

The grant of planning permission does not entitle developers to interfere or obstruct any public right of way (PROW). The obstruction of a PROW is an offence. If required an application can be made to North Somerset Council to divert the PROW and should be made well ahead of any development.

It is also an offence to drive a mechanically propelled vehicle without lawful authority on any PROW. The grant of planning permission should not be treated as a grant of lawful authority. Please contact the PROW Team for further advice on 01934 888802.

### **Changes to Plans**

Should you wish to change your plans for any reason, including the need to meet the requirements of other legislation (for example Building Regulations) it is important that you notify us (i.e. 'the planners') before carrying on with work. Amendments to your approved plans may require a fresh application and could even prove to be unacceptable. Details of how to seek formal approval of amendments to a planning approval can be found on our [website](#) or by visiting the planning portal.

### **Enforcement**

The council has powers to enforce compliance with planning permission and there are penalties for failure to comply. In cases where terms and conditions of planning permission are not adhered to and the Council finds it necessary to take enforcement action, it almost invariably results in delay

and additional expense to the applicant. In extreme cases, it can mean that newly erected buildings have to be demolished.

If the applicant was the Local Authority and the application was made under regulation 3 of the Town and Country Planning General Regulations 1992 (as amended) then this permission enures only for the benefit of the Local Authority and such other person as was specified in the application.

### **Street Naming**

When you receive consent for the building of new a development(s)/property or creating additional flats/units within an existing dwelling, for reasons of public safety and for the allocation of an official postal address, please contact the Street Naming and Property Numbering Section, Town Hall, Weston-super-Mare, BS23 1UJ; Tel: 01275 888761; email: [strnames@n-somerset.gov.uk](mailto:strnames@n-somerset.gov.uk). Learn more on our [website](#).

### **Access to further information**

Further guidance on Planning and Building regulation information and services can be accessed on our website and on the Planning Portal at [www.planningportal.co.uk](http://www.planningportal.co.uk).

## NOTICE OF DECISION

Planning (Listed Building and Conservation Areas Act) 1990



Mr K Hunt  
JLL  
JLL  
31 Great George Street  
Bristol  
BS1 5QD

Application Number: 20/P/2546/LBC

Category: Listed Building Consent

**Application No:** 20/P/2546/LBC  
**Applicant:** CNM Estates (Birnebeck) Limited  
**Site:** North Jetty, Birnebeck Pier, Birnebeck Island, Birnebeck Road  
**Description:** Partial demolition of the North Jetty to remove walkway and 5no. trestle piers

North Somerset District Council in pursuance of powers under the above mentioned Act hereby **GRANTS CONSENT** for the above development in accordance with the plans and particulars received and subject to the following conditions:

- 1 The demolition hereby permitted shall be begun before the expiry of three years from the date of this permission.

Reason: In accordance with the provisions of Section 18 of the Town and Country (Listed Building and Conservation Areas) Act 1990.

- 2 The demolition hereby permitted shall be carried out in accordance with the approved plans and documents.  
Birnebeck Pier- Site location Plan received 19/10/20  
Heritage, Design and access statement received 19/10/20  
HRA Screening Matrices v2.0 received 03/03/20  
Demolition Method Statement 001 rev G received 02/03/20  
Structural Inspection - Part 1 received 19/10/20  
Structural Inspection - Part 2 received 19/10/20  
Structural Inspection - Part 3 received 19/10/20  
North Jetty Structural Inspection -Addendum Dec 2020 received 11/12/20

Reason: For the avoidance of doubt and in the interest of proper planning

- 3 Prior to and during demolition, a photographic, written, and drawn record of the structure shall be carried in accordance with Historic England's Building Recording level 4 and submitted to the Local Planning Authority within 2 months of the commencement of demolition works.



Reasons: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1). The details must be agreed prior to commencement in order to safeguard the architectural and historic interest of the Listed Building.

- 4 Prior to the commencement of demolition details of how the pockets are to be retained following the removal of the jetty deck from the island shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reasons: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1). The details must be agreed prior to commencement in order to safeguard the architectural and historic interest of the Listed Building.

- 5 Prior to the commencement of demolition, a method statement providing details of the proposed procedure and manner of removal of the bolts connecting the deck to the island and landing stage shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved method statement.

Reasons: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1). The details must be agreed prior to commencement in order to safeguard the architectural and historic interest of the Listed Building.

- 6 Prior to the commencement of demolition, a method statement providing details of how the remaining post of the original wooden jetty and the remains of the original splash pool are to be protected shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved method statement.

Reasons: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1). The details must be agreed prior to commencement in order to safeguard the architectural and historic interest of the Listed Building

- 7 No demolition work hereby approved is to be undertaken between 01 October and 31

March.

Reason: To reduce disturbance to the overwintering birds, features of the SPA, which use the adjacent mudflats/sandflats for important feeding and roosting grounds and ensure compliance with the Conservation of Habitats and Species Regulations 2017/the Wildlife and Countryside Act 1981 (as amended)/The Natural Environment and Rural Communities (NERC) Act 2006, policy CS4 of the North Somerset Core Strategy and policy DM8 of the North Somerset Sites and Policies Plan (Part 1)

- 8 Prior to the commencement of works hereby permitted a Sabellaria alveolata reef walkover survey is to be completed in order to establish reef locations around the northern jetty, and thereafter used to inform appropriate avoidance mitigation measures as stated in the proposal.

Reason: To avoid any damage to Sabellaria alveolata reefs, a protected SAC feature, during the completion of the works and ensure compliance with the Conservation of Habitats and Species Regulations 2017/the Wildlife and Countryside Act 1981 (as amended)/The Natural Environment and Rural Communities (NERC) Act 2006, policy CS4 of the North Somerset Core Strategy and policy DM8 of the North Somerset Sites and Policies Plan (Part 1)

- 9 The use of sled ramps shall be used for the removal of machinery from the multicat vessel onto the island.

Reason: To avoid damage to the intertidal habitats within the SAC and ensure compliance with the Conservation of Habitats and Species Regulations 2017/the Wildlife and Countryside Act 1981 (as amended)/The Natural Environment and Rural Communities (NERC) Act 2006, policy CS4 of the North Somerset Core Strategy and policy DM8 of the North Somerset Sites and Policies Plan (Part 1)

**Advice Notes:**

- 1 Positive and proactive statement: In dealing with the application we have worked with the applicant in a positive and proactive manner and have implemented the requirement in section 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, by publishing local planning guidance on the council's website, offering pre-application written advice and publishing statutory consultee and neighbour comments on the council's website.

**For advice about how to comply with the conditions above visit [www.n-somerset.gov.uk/planningconditions](http://www.n-somerset.gov.uk/planningconditions)**

Date: 8 April 2021  
Signed: Richard Kent  
Head of Development Management

Please use our [online contact form](#) on our website at [www.n-somerset.gov.uk/contactplanning](http://www.n-somerset.gov.uk/contactplanning) if you require further information on this decision.

**IT IS IMPORTANT THAT YOU SHOULD READ THE NOTES ACCOMPANYING THIS NOTICE**

## NOTES RELATING TO A DECISION TO GRANT CONSENT

These notes are intended as helpful advice. PLEASE READ THEM CAREFULLY. Make sure everyone has a copy that needs it, including your builder or contractor.

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### Scope of this decision notice

This decision notice grants Listed Building Consent only. It should not be taken to imply that the scheme meets the requirements of any other agency that may be involved. Please make sure that you have obtained all the approvals you need before starting work. If you are in any doubt you should obtain professional advice.

### Building Regulations

Before you start construction work you need to obtain separate approval under Building Regulations. You can contact the team on 01275 884550 or submit your application on our [website](#).

### Conditions

This approval is subject to conditions. They are an integral part of the decision and are important because they describe how the council requires you to carry out the approved work or operate the premises. It is your responsibility to comply fully with them.

Please pay particular attention to those conditions that have to be met before work commences. There is a fee for requests for written confirmation that conditions have been complied with. Details of these fees can be found on our website at [www.n-somerset.gov.uk/planningconditions](http://www.n-somerset.gov.uk/planningconditions). When sending us information please include the decision reference number and relevant condition number. Depending on the complexity of the issues involved it can take up to 12 weeks for conditions to be discharged. It is therefore important that you submit any required details to us early.

Applications to discharge planning conditions received from 1st January 2021 will be made available on our website for public inspection. This includes the name, address and contact details of the applicant and their agent. When applying to discharge a planning condition, you should consider very carefully what information about yourself and others you send us. If you do not want information or documents in your application to be shown on our website, please contact us directly when you make your submission so that we can consider your request. The default position is however to make the information public and an exception to this will not normally be agreed.

### Appeals

If you are aggrieved by our decision to impose any of the conditions, then you can appeal to the Secretary of State for the Environment in accordance with the provisions of Town and Country Planning Act 1990. If you want to appeal against our decision then you must do so within 6 months [12 weeks if this is a decision to refuse planning permission for a shopfront proposal or a minor commercial application] of the date of this notice .

Appeals must be made using a form, which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. Alternatively, your appeal can be submitted electronically using the Planning Portal at [www.gov.uk/appeal-planning-inspectorate](http://www.gov.uk/appeal-planning-inspectorate).

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances that excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions imposed, having regard to the statutory requirements, to the provisions of a Development Order or to directions given under it. In

practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

### **Protected species**

The Wildlife and Countryside Act 1981 (as amended) makes it an offence to intentionally or recklessly disturb a protected species while it is occupying a place which it uses for shelter or protection. This includes, for example, bats or birds in roof spaces or cavities. Obtaining planning permission does not grant permission to disturb protected species. Licences can, however, be issued to allow construction works that would otherwise be prohibited. Applications for licences should be made to Natural England before any construction works commence on site.

### **Prepare for floods**

If the scheme to which this approval relates is at risk of flooding you should prepare a flood plan to help keep people safe and protect your property. You can find out if your property is at risk of flooding and how to prepare a flood plan on the [Government's website](#). You should also sign up for [flood warnings](#).

### **Works which affect a Public Highway**

Any works/events carried out by or for a developer which affects the public highway in any way must be co-ordinated in accordance with the New Roads and Street Works Act 1991 and the Traffic management Act 2004 to minimize disruption to users. Developers are required to inform undertakers of their proposed works, to jointly identify any affected apparatus, and to agree diversion or protection measures and corresponding payment.

Developers are also required to liaise/seek permission of North Somerset Council's Street Works Section (01934 888802 or [streetworks@n-somerset.gov.uk](mailto:streetworks@n-somerset.gov.uk)) at least one month in advance of the works and this must be in line with the requirements of the NRSWA 1991 and TMA 2004. The developer must endeavor to ensure that undertaker connections/supplies are coordinated to take place whenever possible at the same times using the same traffic management. It should be noted that where road closures or formal restrictions are required to undertake works, a minimum of three months' notice will be required.

### **Public Rights of Way**

The grant of planning permission does not entitle developers to interfere or obstruct any public right of way (PROW). The obstruction of a PROW is an offence. If required an application can be made to North Somerset Council to divert the PROW and should be made well ahead of any development.

It is also an offence to drive a mechanically propelled vehicle without lawful authority on any PROW. The grant of planning permission should not be treated as a grant of lawful authority. Please contact the PROW Team for further advice on 01934 888802.

### **Changes to Plans**

Should you wish to change your plans for any reason, including the need to meet the requirements of other legislation (for example Building Regulations) it is important that you notify us (i.e. 'the planners') before carrying on with work. Amendments to your approved plans may require a fresh application and could even prove to be unacceptable. Details of how to seek formal approval of amendments to a planning approval can be found on our [website](#) or by visiting the planning portal.

### **Enforcement**

The council has powers to enforce compliance with planning permission and there are penalties for failure to comply. In cases where terms and conditions of planning permission are not adhered to and the Council finds it necessary to take enforcement action, it almost invariably results in delay

and additional expense to the applicant. In extreme cases, it can mean that newly erected buildings have to be demolished.

If the applicant was the Local Authority and the application was made under regulation 3 of the Town and Country Planning General Regulations 1992 (as amended) then this permission enures only for the benefit of the Local Authority and such other person as was specified in the application.

### **Street Naming**

When you receive consent for the building of new a development(s)/property or creating additional flats/units within an existing dwelling, for reasons of public safety and for the allocation of an official postal address, please contact the Street Naming and Property Numbering Section, Town Hall, Weston-super-Mare, BS23 1UJ; Tel: 01275 888761; email: [strnames@n-somerset.gov.uk](mailto:strnames@n-somerset.gov.uk). Learn more on our [website](#).

### **Access to further information**

Further guidance on Planning and Building regulation information and services can be accessed on our website and on the Planning Portal at [www.planningportal.co.uk](http://www.planningportal.co.uk).



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**RESPONDENT'S EVIDENCE**

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**In the North Somerset Magistrates' Court**

**Between**

**Birnbeck Holdings Limited (Substituted for CNM Estates (Birnbeck) Limited)**

**Complainant**

**and**

**North Somerset Council**

**Defendant**

**Statement on behalf of the Defendant, North Somerset Council, made by Rachel Lewis**

1. My name is Rachel Lewis. I am employed by North Somerset Council (referred to in this statement as the "Council") in the role of heritage and design manager.
2. I am authorised by the Council to make this statement on its behalf.
3. This statement is made in connection with proceedings brought before North Somerset Magistrates' Court by Birnbeck Holdings Limited (substituted for CNM Estates (Birnbeck) Limited) (referred to in this statement as the "Company"), under s. 47(4) and s. 47(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
4. The proceedings are effectively an application to stay compulsory purchase proceedings relating to Birnbeck Pier (the "Pier") brought by the Council.
5. The Council initiated the compulsory purchase proceedings due to the very advanced state of deterioration of the Pier, which is a Grade 2 listed structure in need of urgent and extensive repairs.
6. The repairs are required to reduce the current risk of significant safety issues and to prevent the destruction of the Pier itself, which is considered by Historic England to be a heritage asset of unique and national importance.
7. These proceedings were previously adjourned by consent. This was due to commercial negotiations between the parties regarding the proposed transfer of the Pier which, if successful, would have seen the need for a compulsory purchase fall away. These negotiations do not in any way obviate the obligations of the Company, arising from its ownership, in relation to the Pier including the obligation to take steps to preserve the structure.
8. I believe and the Council is advised that the only issue for the court to determine in these proceedings is whether reasonable steps have been taken by the Company to properly preserve the Pier.
9. I attach as Exhibit RL1 a timeline and accompanying documents.

10. As demonstrated by Exhibit RL1, the Council has to date seen no evidence submitted by the Company that such reasonable steps have been taken.

Signed. DocuSigned by:  
*Rachel Lewis*  
.....  
D8F5A81A452042E...

Dated.....

**In the North Somerset Magistrates' Court**

**Between**

**Birnbeck Holdings Limited (Substituted for CNM Estates (Birnbeck) Limited)**

**Complainant**

**and**

**North Somerset Council**

**Defendant**

**EXHIBIT RL1:**

**EXHIBIT TO STATEMENT OF RACHEL LEWIS DATED 9 MAY 2022**

## TIMELINE OF EVENTS

1	10 October 2014	Completion of purchase of Birnbeck Pier by CNM Estates (Birnbeck) Ltd (CNM) from Urban Splash (South West) Birnbeck Ltd (see Document 1). Exchange had taken place in 2011, with payments made in instalments until completion.
2	Early 2015	By the start of 2015, the RNLI had completely withdrawn all of its operations from the station on Birnbeck Island, following a staged withdrawal that began in November 2013 due to safety concerns (see Document 2). The RNLI had operated from Birnbeck since 1882.
3	June 2019	Report by structural engineers Mann Williams, commissioned by NSC, details the pier's advanced state of deterioration and makes recommendations, including a list of 23 repairs that are urgently needed (see Document 3).
4	6 August 2019	Rachel Lewis (RL) of NSC writes to Wahid Samady (WS) of CNM warning that NSC will issue a repairs notice and may start CPO proceedings due to the rapid deterioration of the pier and the significant detrimental effect on the surrounding conservation area (see Document 4). The pier's inclusion on Historic England's 'Risk Register' is referred to, stating the pier's condition is "very bad", with its priority ranking being A, meaning "immediate risk of further rapid deterioration or loss of fabric" (see Document 5).
5	21 August 2019	Follow-up letter (see Document 6) to WS that repeats the concerns of the 6 August letter. This contains a draft schedule that includes 23 repair works that NSC will look to include in the repairs notice (Document 7). RL asks for written confirmation by 2 September 2019 that reasonable steps are being taken with regards building preservation.
6	21 August 2019	WS responds to RL by email, simply stating that Rory Brogan at CNM will revert because he is the "DM" for Birnbeck (see Document 8). Mr Brogan never reverted.
7	9 September 2019	NSC issues a repairs notice (the "Repairs Notice") under s. 48 Planning (Listed Building and Conservation Areas) Act 1990 to CNM, Mr Brian Sullivan (as charge holder) and the RNLI (as neighbouring landowner). Schedule 2 of the Repairs Notice sets out a "specification of works to be carried out", comprising 23 separate works. (See Document 9)
8	11 November 2019	After receiving no response from CNM in the 2 months following the issuing of the Repairs Notice, RL writes to WH. The letter reminds CNM of the Repairs Notice and of CNM's obligations, while stating that NSC will proceed with legal action if no response

		is received. (See Document 10)
9	April 2020	CNM appoints consultants JLL to oversee the restoration project.
10	30 April 2020	JLL contacts NSC to discuss the works required to prevent a CPO from being made.
11	1 May 2020	NSC and JLL verbally concur that to postpone the CPO process, CNM would need to: a) Have a programme of works in place to address the Repairs Notice; b) Demonstrate a credibility in delivery of the works and the future of the site; c) Demonstrate that the correct permissions are being obtained for the works (licensing including ecological); and d) Submit planning permission and/or listed building consent (LBC) for any required works.
12	18 May 2020	Call between JLL and Historic England (HE). HE echoes NSC's advice that the CPO process would only be halted if meaningful progress was made. HE would be happy to be involved in discussions but the local planning authority should be CNM's first point of contact.
13	1 June 2020	Consultants contact NSC regarding intent to seek LBC for 4 of the 23 works listed in the Repairs Notice.
14	3 June 2020	NSC advises JLL that LBC would be required for the repair works to the pier and that works proposed to start the following week could not be undertaken until LBC was granted, accompanied with method statements and/or a schedule of works. These proposed works related to removing parts of the structure.
15	5 June 2020	JLL writes to NSC providing a programme of works to address priority items in the Repairs Notice (see Document 11). It explains CNM's intention to apply for LBC for priority items on the schedule.
16	12 June 2020	JLL writes to NSC with an immediate programme of works, progress to date and a method statement with details on how JLL intends to salvage material from the foreshore. This includes storage and documentation arrangements. (see Documents 12-15)
17	19 June 2020	NSC provides feedback on JLL's method statement. NSC also advises that all 23 works on the Repairs Notice list are considered essential and expresses concern that the salvaging works and the 4 items addressed by JLL (numbers 7, 8, 11 and 13) could amount to a partial demolition and limited stabilisation, rather than repair. NSC suggests JLL apply for pre-application advice prior to submitting the LBC application.



		JLL responds that they are currently in the process of submitting a full programme of works and that the above points would be addressed. (see Document 16)
18	22 June 2020	JLL letter to NSC to clarify that items 7, 8, 11 and 13 of the Repairs Notice are being prioritised ahead of the winter storms and that this will not stop the future consideration of the remaining items on the Repairs Notice. JLL requests a virtual meeting with NSC to discuss the programme and review the works. Enclosed are an updated method statement and refurbishment strategy. (see Documents 17-19)
19	26 June 2020	JLL and NSC discuss JLL's method statement for CNM's proposed foreshore clean. NSC advises that the recovery of items from the foreshore plus the development of proposals for the four priority items from the Repairs Notice would not be considered adequate to address the Repairs Notice. NSC wants to see a full programme addressing all of the items in the Repairs Notice.
20	30 June 2020	<p>An unauthorised start is made by contractors UK Industrial Services on recovering fallen items from the pier. This involves crossing public areas of promenade. There is no consent, risk assessments with regards protecting the general public, or any agreed recording methodology for the items recovered. (see Document 20)</p> <p>After some exchanges, NSC agrees to grant an access licence to UK Industrial Services in mid-July.</p>
21	2 July 2020	JLL sends NSC an updated method statement taking account of NSC's earlier comments.
22	14 July 2020	<p>NSC virtual council meeting at which proposal to make a s. 47 CPO to acquire Birnbeck Pier is approved with unanimous cross party backing. The vote followed the presentation of a report on the matter by Councillor Davies (see Document 21). The report stated:</p> <p>"Until recently it was felt that little could be done to prevent this [further deterioration of the pier] happening due to the absence of a credible plan for the site's future. Such a plan is now in place, which is based on a partnership with the RNLI, a highly reputable organisation of long standing, together with the support of Historic England."</p> <p>"Officers and Members have engaged in talks with the current owner over several years and will continue to do so. Service of the Repairs Notice has not resulted in any substantive repair work being carried out. Continuing this approach is therefore unlikely to achieve progress within a reasonable timescale, if at all."</p> <p>At the meeting, Councillor Davies also proposed that:</p>

		<p>"The CPO not be served until CNM is given a further opportunity to sell the site voluntarily to the council or a party that the council is satisfied will take the necessary timely steps to repair the Pier. Therefore officers be instructed to contact CNM, as owners of Birnbeck Pier, to make a time limited offer to acquire the whole Pier holding for market value plus reasonable transactional costs. Should CNM not be willing to sell, the CPO process should proceed." (see Document 22)</p>
23	30 July 2020	<p>LBC application (20/P/1784/LBC) is submitted for demolition and bracing works. This is for 4 of 23 the items listed on the Repairs Notice schedule. (see Document 23)</p>
24	17 August 2020	<p>JLL requests copy of agenda for meeting with HE on 20 August 2020. NSC requests an overview of comments from the Conservation Officer dealing with the LBC application and a talk through the thinking behind CNM's refurbishment proposals.</p>
25	20 August 2020	<p>Virtual meeting between NSC, CNM, JLL and HE to discuss the LBC application for "immediate works". NSC states that more information is required, noting that all the repairs must be completed and that questions remain as to the timing of phase 2. HE stresses that a partial approach is a risk.</p> <p>WS asserts that NSC and the RNLi should be contributing to maintenance costs. RL reminds WS that maintenance is the owner's (CNM's) responsibility. (see Document 24)</p>
26	20 August 2020	<p>The access licence allowing UK Industrial Services to recover fallen items from the pier is executed (see Document 25). The work is carried out the same day.</p>
27	28 August 2020	<p>HE writes to NSC to express concerns over CNM's proposals:</p> <p>"There is a real danger that if these plans were to receive approval, it would allow for substantial demolition of the pier but without any means of ensuring its subsequent rebuild. We acknowledge that much of the dismantling work is necessary, but it is vital that a binding legal mechanism is appropriated to guard against this scenario. We would welcome further discussion with your authority to discuss this further."</p>
28	14 September 2020	<p>CNM informs NSC of proposal to submit a second LBC application for the medium priority works in the Repairs Notice. CNM asks if NSC would provide pre-application advice first. NSC confirms it is NSC policy to encourage requests for pre-application advice, especially where applications might be complex. WS advises that CNM would do this once the current LBC application has been dealt</p>

		with. (see Document 26)
29	18 September 2020	NSC makes the North Somerset Council (Birnbeck Pier) Compulsory Purchase Order 2020 (“the CPO”) under powers in s. 47 of the Listed Building Act. The CPO seeks authorisation from the Secretary of State for the acquisition of the Pier and Relevant Land.
30	24 September 2020	WBD sends revised notice of making of CPO – address for objections changed.
31	25 September 2020	CNM receives a revised letter of service providing notice of the making of the CPO.
32	28 September 2020	JLL submits revised documents, including revised methods statement, updated HRA, supplementary heritage report and comments tracker responding to NSC's comments on the proposals.
33	14 October 2020	HE writes to NSC reiterating concerns about the LBC application and recommending that NSC puts safeguards in place before the consent is issued to ensure that any fabric removed from the pier is reinstated at a later date. HE is concerned that if the proposed demolition work applied for in the application is consented, the pier deck and supporting beams could be removed without any guarantee that they would be reinstated in the future, which would place the pier structure at a much greater risk of collapse. HE recommends that before issuing LBC, NSC enters into a legal agreement with CNM to ensure that the appropriate safeguards are in place to conserve the pier before any demolition works are commenced. (see Document 27)
34	15 October 2020	NSC's conservation officer emails JLL to request a meeting to discuss HE's comments and the possibility of entering into a legal agreement to secure the costs of the reinstatement works. JLL did not respond.
35	19 October 2020	CNM submits application to renew LBC for partial demolition of North Jetty (originally granted to CNM 30 October 2016 but expired). (see Document 28)
36	23 October 2020	After chasing, JLL reports on the recovery of items removed from the pier by UK Industrial Services on 20 August 2020 (see Document 29).
37	23 October 2020	CNM submits application, under s. 47(4) of the Listed Buildings Act, for an order staying all further proceedings for the compulsory acquisition of the Pier and Relevant Land on the grounds that reasonable steps have been (and are being) taken to properly preserve the Pier and Relevant Land. The application summarised the alleged "substantive progress" being made with reference to the works required pursuant to the Repairs Notice. (see Documents 30-

		31)
38	29 October 2020	CNM objects to the general principle of the CPO, as well as the extent of land which NSC seeks to compulsorily acquire.
39	13 November 2020	Meeting between NSC and CNM to agree an extension of time for determining the LBC application.
40	11 December 2020	NSC approves, with conditions, renewed LBC for partial demolition of North Jetty. (see Document 32)
41	December 2020	RNLI approaches the chargee stating that they would be willing to offer any receiver appointed by the chargee the sum of £350,000 for the purchase of the Pier and relevant land up to 13 March 2021.
42	December 2020	CNM repairs the hoardings providing site security after several requests from NSC to address site safety.
43	17 December 2020	JLL submits further revised document, including a revised heritage statement, proposed sequencing, further detailed plans and a pile testing report.
44	January 2021	The payment to the chargee takes place, in full satisfaction of the charge held over the Pier and Relevant Land.
45	22 January 2021	CNM transfers pier to Birnbeck Holdings Limited (BHL) following a High Court hearing brought by a creditor of CNM. WS is the director of both companies.
46	January 2021	<p>A ‘local project manager’, Nick Siangolis, is briefly appointed by CNM to look after site issues such as security. It is not clear how long he works for CNM or precisely what he does but it does not appear to be for long.</p> <p>He emails RL to introduce himself on 22 January 2021 (see Document 33). RL suggests he contact conservation officer Dr Kate Hudson-McAulay regarding LBCs and repairs. There is no further contact with Mr Siangolis after 15 March 2021 and there is no evidence that he contacted Dr Hudson-McAulay. (see Document 34)</p>
47	18 February 2021	<p>NSC grants Phase 1 LBC (application made 30 July 2020) with conditions. The conditions include the requirement for prior submission and approval of planned works. (see Document 35)</p> <p>No such submissions have been received by NSC since the LBC was granted.</p>
48	May 2021	NSC agrees to a ‘pause’ to the Magistrates proceedings to allow Heads of Terms to be agreed and a negotiated transfer of the pier to

		NSC to take place promptly.
49	30 July 2021	Heads of Terms are signed for the transfer of Pier land holding to NSC. The deal has since stalled and not completed due to BHL linking the terms of the transfer to the planning application for the neighbouring hotel site.
50	To date	<p>Apart from the retrieval of a small amount of fallen pier components and the repair of the security hoardings in late 2020, no physical works have been undertaken.</p> <p>In recent months the site has suffered vandalism and damage to buildings and the security hoardings (see Document 36). BHL has not taken any action on these.</p>

The electronic official copy of the register follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.





# Official copy of register of title

Title number ST212047

Edition date 26.02.2015

- This official copy shows the entries on the register of title on 07 AUG 2019 at 15:18:07.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 07 Aug 2019.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry, Plymouth Office.

## A: Property Register

This register describes the land and estate comprised in the title.

NORTH SOMERSET

- 1 The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Birnbeck Island, land and foreshore, Weston-super-Mare.

NOTE: The extent of such part of the foreshore that is included in this title is subject to the effect of accretion and diluvion.

- 2 The land tinted pink on the title plan has the benefit of the following rights granted a Transfer thereof dated 30 September 2002 made between (1) Weston-Super-Mare Pier Company and (2) Sidney Richard Lay and Spence Lloyd Lay:-

"12.1 The Property is transferred together with the benefit of a right of way to and from the property at all times and for all purposes with or without vehicles over such part of the property retained by the Transferor shown edged green on the attached plan numbered 2 as shall be necessary for the purposes of access to the property"

NOTE:- Copy plan 2 filed.

- 3 The land edged and numbered 1 in blue, hatched blue, tinted mauve, tinted yellow and cross hatched blue on the title plan has the benefit of the rights granted by but is subject to the rights reserved by the Conveyance dated 28 October 1864 referred to in the Charges Register.
- 4 The land edged and numbered 1 in blue, tinted yellow and hatched blue on the title plan has the benefit of the following right (except as mentioned in the Note below) granted by the Transfer dated 27 June 2003 referred to in the Charges Register:-

"12.1 The Property is transferred together with a right of way at all times and for all purposes with and without vehicles at the risk of the Transferee over the Pier and such other part of the Transferors' Retained Land as the Transferor shall reasonably specify from time to time as shall be required to provide a right of way to and from the Property to the public highway subject to the Transferee paying a fair share of the cost of maintaining the same according to user but not of the cost of putting the same in repair"

NOTE 1: The right of way over 'such part of the Transferors Retained Land as the Transferor shall reasonably specify from time to time'

## A: Property Register continued

referred to above is included in this registration only in so far as it falls within the Transferors Retained Land referred to

NOTE 2: No definition of the Transferors Retained Land was given in the Transfer.

## B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

### Title absolute

- 1 (19.12.2014) PROPRIETOR: CNM ESTATES (BIRNBECK) LIMITED (Co. Regn. No. 07584898) of 2 Kings Road, London Colney, Hertfordshire AL2 1EN.
- 2 (19.12.2014) The price stated to have been paid on 10 October 2014 was £500,000.
- 3 (19.12.2014) A Transfer of the land in this title dated 10 October 2014 made between (1) Urban Splash (South West) Birnbeck Limited and (2) CNM Estates (Birnbeck) Limited contains purchaser's personal covenants.  
  
*NOTE: Copy filed.*
- 4 (26.02.2015) RESTRICTION: No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction is to be registered without a written consent signed by the proprietor for the time being of the Charge dated 10 October 2014 in favour of Brian Sullivan referred to in the Charges Register or their conveyancer.

## C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 The land edged and numbered 1 in blue, hatched blue, tinted mauve, tinted yellow and cross hatched blue on the title is subject to a yearly rentcharge of £50 created by a Conveyance thereof and other land dated 28 October 1864 made between (1) John Hugh Wadham Pigott Smyth Pigott (2) The Reverend Charles Ranken Hall and (3) The Weston-Super-Mare Pier Company.  
  
The said Deed also contains covenants.  
  
*NOTE: Copy filed under ST219927*  
  
By a Transfer of the land edged and numbered 1 in blue on the title plan dated 25 June 2003 made between (1) The Weston-Super-Mare Pier Company and (2) Lay Construction Limited the said land was informally exonerated from this rentcharge.  
  
By a Transfer of the land hatched blue on the title plan dated 25 June 2003 made between (1) The Weston-Super-Mare Pier Company and (2) Sidney Richard Lay and Spencer Lloyd Lay the said land was informally exonerated from this rentcharge.  
  
By a Transfer of the land tinted mauve on the title plan dated 27 June 2003 made between (1) The Westin-Super-Mare Pier Company and (2) Sidney Richard Lay and Spencer Lloyd Lay the said land was informally exonerated from this rentcharge.  
  
By a Transfer of the land tinted yellow on the title plan dated 25 June 2003 made between (1) The Weston-Super-Mare Pier Company and (2) Lay Construction Limited the said land was informally exonerated from this rentcharge.
- 2 The land cross hatched mauve on the title plan is subject to a yearly rentcharge of One Shilling created by a Conveyance thereof and other

## C: Charges Register continued

land dated 11 June 1897 made between (1) The Queen's Most Excellent Majesty (2) The Board of Trade and (3) The Weston-Super-Mare Pier Company.

The said Deed also contains covenants and reserves rights.

*NOTE: Copy filed under ST219935.*

- 3 A Conveyance of the land under the pier supports falling within the land tinted blue on the title plan dated 17 July 1908 made between (1) The King's Most Excellent Majesty (2) The Board of Trade and (3) The Weston-super-Mare Pier Company contains restrictive covenants.

*NOTE: Copy filed under ST246437.*

- 4 The land tinted blue on the title plan is subject to the rights reserved by the Conveyance dated 17 July 1908 referred to above.

- 5 Right of pre-emption contained in the Conveyance dated 17 July 1908 referred to above on the terms therein mentioned.

- 6 The land tinted yellow on the title plan is subject to a yearly rentcharge of One Pound created by a Conveyance thereof and other land dated 23 June 1938 made between (1) The King's Most Excellent Majesty (2) The Board of Trade and (3) The Weston-Super-Mare Pier Company.

The said Deed also contains covenants and reserves rights.

*NOTE: Copy filed under ST219935.*

- 7 The land tinted blue on the title plan excluding the sites of the pillars supporting the pier and other land is subject to a yearly rentcharge of £1 created by a Conveyance thereof dated 23 June 1938 made between (1) The King's Most Excellent Majesty (2) The Board of Trade and (3) The Weston-super-Mare Pier Company .

The said Deed also contains covenants.

*NOTE: Copy filed under ST246437.*

- 8 The land tinted blue on the title plan is subject to the rights reserved by the Conveyance dated 23 June 1938 secondly referred to above.

- 9 An option to purchase contained in the Conveyance dated 23 June 1938 secondly referred to above on the terms therein mentioned.

- 10 The land in this title is subject to the rights granted by a Transfer of the Lifeboat Station shown hatched blue on the title plan dated 14 August 1998 made between (1) Weston-Super-Mare Pier Company and (2) Royal National Lifeboat Institution.

*NOTE: Copy filed under ST219926.*

- 11 (19.12.2014) REGISTERED CHARGE dated 10 October 2014.

NOTE: This charge is subject to the provisions of section 859A of the Companies Act 2006.

- 12 (19.12.2014) Proprietor: BRIAN SULLIVAN of 1345 Webster Street, Palo Alto, California 94301, United States of America.

End of register

## Andrew Westbrook

---

**From:** Duncan Macpherson <Duncan\_Macpherson@rnli.org.uk>  
**Sent:** 28 April 2022 16:51  
**To:** Rachel Lewis  
**Subject:** RNLI Withdrawal from Birnbeck



Dear Rachel,

As requested I write to confirm the timeline of the RNLI's withdrawal from Birnbeck Island.

The RNLI made the decision to withdraw from Birnbeck Island in November 2013 after 131 years due to the deterioration of Birnbeck Pier, which was becoming too dangerous to cross or operate near after many years of neglect. The RNLI had previously taken measures to prolong access over the pier including installing a timber access walkway over the length of the pier, at its own cost. This provided a further number of years' service but eventual severe deterioration of the substructure meant that use of the walkway also became unsafe.

The RNLI withdrew on the grounds of safety and on the basis that there was no plan for the pier to be repaired. In the hands of a private owner the pier was also not eligible for external grant funding.

Following the decision in 2013 there was staged withdrawal with a temporary station being set up by the Marine lake in Weston in early 2014, followed by the migration of the service over to that temporary station in the following months. By the beginning of 2015 the RNLI had completely withdraw all its operations from the station on Birnbeck Island.

With kind regards,  
Duncan

Duncan Macpherson  
Principal Estates Manager  
Royal National Lifeboat Institution  
West Quay Road, Poole, Dorset BH15 1HZ

Mobile: 07769 592958  
Email: [duncan\\_macpherson@rnli.org.uk](mailto:duncan_macpherson@rnli.org.uk)

The RNLI is the charity that saves lives at sea



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# Birnbeck Pier Weston-super-mare Somerset

## Schedule of Repairs

Prepared by:-

**Jon Avent**

BSc(Hons) CEng MIStructE, IHBC,  
CARE Accredited Conservation Engineer

Project Number: 9809

Date: June 2019



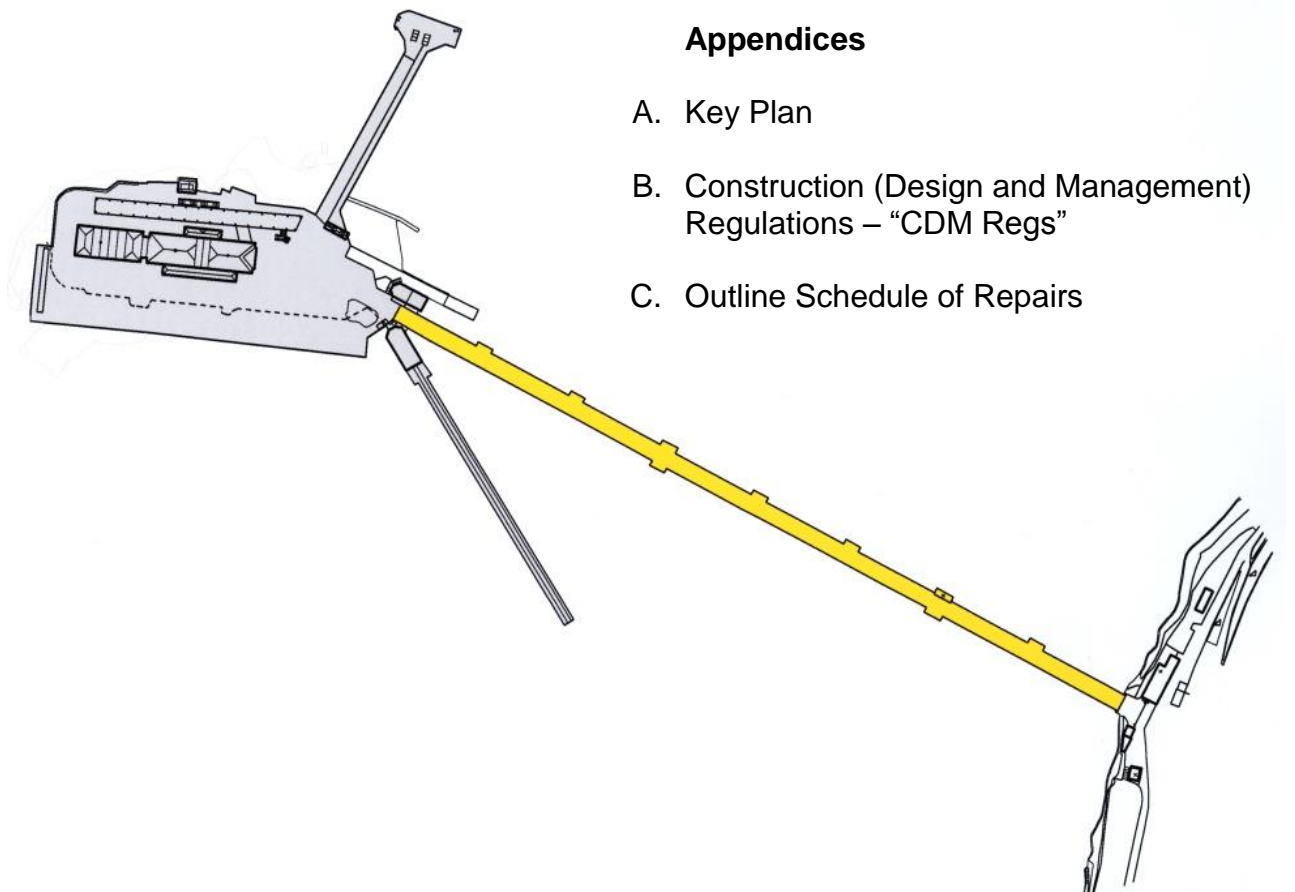
# Content/Quality Assurance

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- 1.0 Introduction
- 2.0 Pier Overview
- 3.0 Inspection
- 4.0 Approach to Repair Works

## Appendices

- A. Key Plan
- B. Construction (Design and Management) Regulations – “CDM Regs”
- C. Outline Schedule of Repairs



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### Document issue details:

Doc ref : 9809Rja.01

Version Number	Issue Date	Issue Status	Distribution
01	21 <sup>st</sup> May 2019	Draft	North Somerset Council
01a	17 <sup>th</sup> June 2019	Draft 02	North Somerset Council
01b	19 <sup>th</sup> June 2019	Final	NSC/HE

Prepared	Checked	Approved	Date
JNA	IB	JNA	21 <sup>st</sup> May 2019



## 1.0 Introduction

---

- 1.01 Mann Williams were instructed by North Somerset Council, to carry out a visual inspection of the pier structure and to advise on repair requirements in support of the intended serving of a formal repairs notice on the current owners.



- 1.02 The configuration and general description of the pier is set out in section 2.0 of this report.

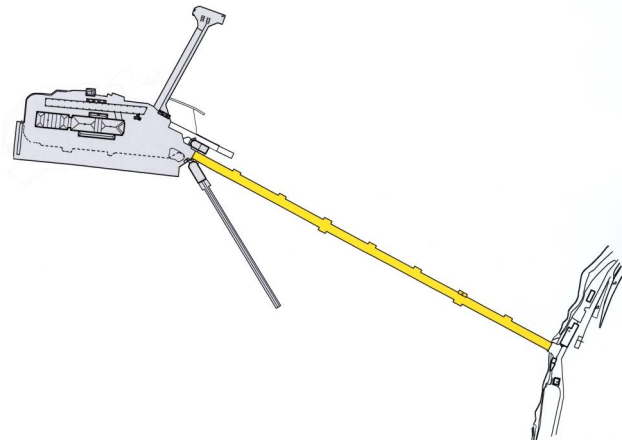
- 1.03



It is noted that the pier is in an advanced state of deterioration and is on the Historic England Buildings at Risk register. The structure is also located in an aggressive marine environment and is subject to severe weather and climatic conditions. The structure is closed to public access with an exclusion zone in force and this situation should remain pending completion of urgent repairs.

- 1.04 In view of the significant safety issues this report has consisted of a visual inspection from shore level at low tide and from safe vantage points on the shoreline. In view of the dangerous state of the deck no access was possible, and no close up access to probe individual components has occurred.
- 1.05 The objective of this document is to identify the requirements for ensuring that the pier structure is returned to a structurally safe and secure state and in an appropriate condition. It is the intention of the Local Authority to serve a repairs notice on the current owners using powers under sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 1.06 A key site plan is provided in appendix A to assist referencing of areas of the pier within this document.

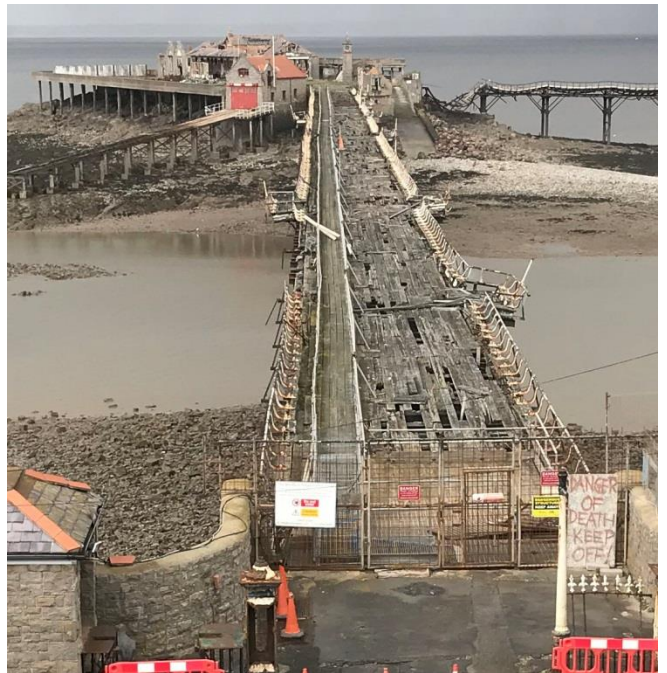
## 2.0 Pier Overview



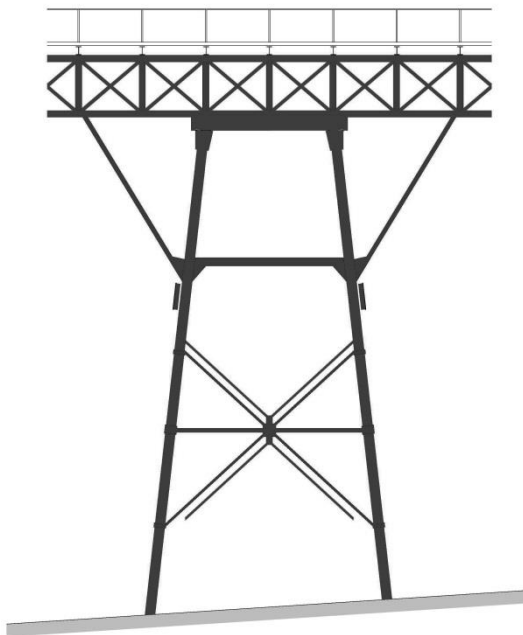
- 2.01 The Main Pier connects the Island to the mainland, and is approximately 317m long. It is supported by a series of 15 'trestles', at approximately 20m centres, each consisting of 4 individual raking 300mm diameter 25mm thick cast iron columns connected by mild steel and wrought iron bracing members.
- 2.02 The main deck is of 75mm thick timber, spanning between transverse steel joists at approximately 1500mm centres. In turn, the ends of these joists are supported by two 1200mm deep continuous wrought iron longitudinal lattice girders, which are in turn supported by the trestles. The maximum clear span of the girder between trestle supports is approximately 17m.
- 2.03 Historical sources suggest that the bases of the cast iron columns are socketed into the underlying rock at a shallow depth.
- 2.04 Historical information suggests that the continuous longitudinal girders were restrained at the mainland end, and any thermal expansion or contraction allowed for at the Island end. The girder was allowed to slide over the top of the trestles. As a result, longitudinal stability of the pier is achieved by the restraint at the mainland end. Transverse stability is achieved by a combination of frame action and diagonal bracing within the individual trestles.
- 2.05 Further historical data indicates that the transverse lateral stiffness of the Pier as originally constructed was inadequate and that the entire structure would move alarmingly in heavy seas. As a result additional mild steel bracing was added in about 1911. In addition, diagonal stays were incorporated in the plane of the longitudinal girder at each trestle location. These 'knee' braces have been lost at all locations other than at gridline A, closest to the mainland end.
- 2.06 Further bracing to the underside of the pier deck, between the longitudinal girders stabilises the bottom chord of the truss and transfers lateral forces from the deck to the trestles.
- 2.07 Additional support frames have been inserted close to either end of the pier, at the centre point of each end span. These could be to help resist upward forces or as a strengthening measure to resist the greater sagging forces typically experienced in end spans of continuous girders.
- 2.08 Projecting balconies with small shelters were originally provided to each side of the pier at alternate trestle locations. The balconies remain, although all of the shelters have been lost or removed. Historical illustrations and photographs suggest that the majority were lost in the latter half of the 20<sup>th</sup> Century. The original semi-circular balconies were replaced with square plan balconies sometime between 1909 and 1923, probably during the 1911 repair works.

## 3.0 Inspection

- 3.01 The image opposite is taken from the landward end of the pier looking down along its length towards Birnbeck Island. The deck is unsafe and many loose boards are a danger to anyone approaching the pier from below. The remains of a narrow walkway used by the RNLI to access the lifeboat station in the past is visible to the left of the main deck, but is not in use due to the precarious nature of the principal supporting structure.



- 3.02



Each trestle was briefly inspected. All the principal cast iron column sections are present and appear to continue to provide reasonable service. However it was noted that extensive failure of bracing members has occurred with the presence of debris from the structure present on the foreshore. The longitudinal girders and the associated bracing members to these and the main trestles have all experienced extensive corrosion. This decay process is ongoing and the stability of the pier as a complete structure is a serious concern.

- 3.03 As noted above the deck of the pier has deteriorated significantly and a very large proportion of the decking would appear to be at significant risk of being dislodged and lost. A very significant proportion of deck boards would be required as part of the repair schedule.

- 3.04



The main bearings to the mainland end of the pier are in very poor condition. The bearings themselves have extensively deteriorated, with substantial areas of loose stonework below and around both support points as typically illustrated in the image opposite.



- 3.05 The main lattice girders to the pier are extensively corroded and failing in a number of locations as illustrated in the image opposite. It is noted that should failure occur to any part of the lattice girder system then there is a very significant risk that disproportionate collapse will occur (the domino effect).



- 3.06



A typical main trestle is shown in the image opposite. The wrought iron elevation and plan spider bracing is in an advanced state of deterioration and has been lost in a significant number of locations. Extensive repairs and reconstruction of severely damaged elements will be required.

- 3.07 The cast iron head structure / frames to the trestles are illustrated in the image opposite, and generally appear in serviceable condition and capable of being retained.



## 4.0 Conclusion and Recommendations

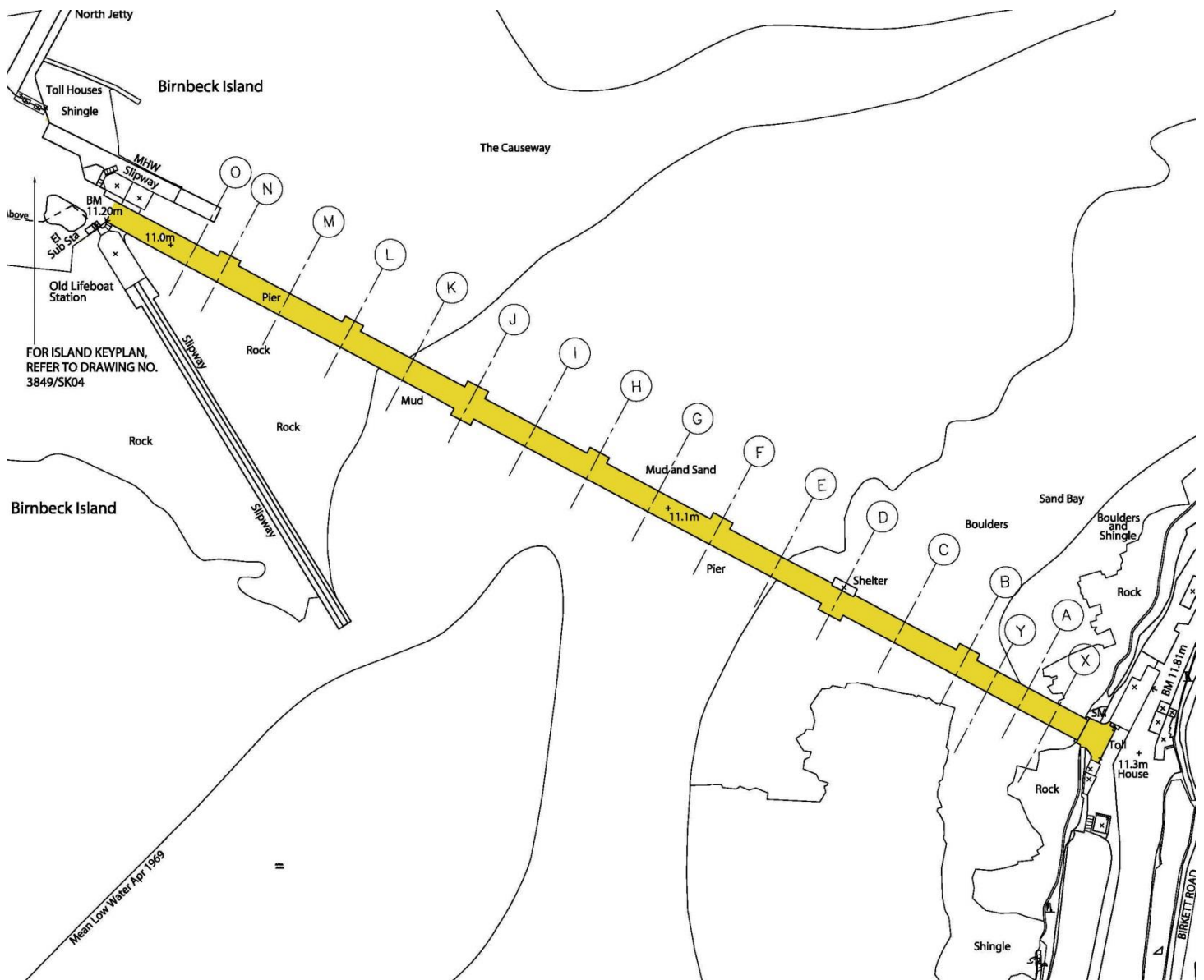
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- 4.01 Grade 2\* listed Birnbeck Pier is in a very advanced state of deterioration and in urgent need of extensive repair.
- 4.02 The Main Pier legs and cast iron head member/sub-frames appear generally in serviceable condition and are providing reasonable service, as would be expected for cast iron construction. However, there are several areas of cracking to the legs that may require splints or local replacement. Whilst the legs appear to be performing satisfactorily they have not been inspected in close detail, and this will need to be assessed during repair works.
- 4.03 The corrosion and failure of bracing members to the majority of the trestles is inevitably compromising stability and increasing the risk of collapse. Extensive repair and replacement will be required.
- 4.04 The main deck girders and the bracing members at various levels are extensively damaged through corrosion and loss of section, and complete failure of some elements is evident. In practical terms the repair of members will involve extensive dismantling of the deck structure to enable repairs and replacement of defective/failed members to occur offsite.
- 4.05 The entire high-level lattice bracing, perimeter bracing and spider bracing members to the trestles have previously been identified as requiring complete replacement, or extensive repair and reworking, and this remains a requirement for the medium and long term protection of the pier.
- 4.06 The longitudinal girder at deck level is at an advanced stage of corrosion and decay and options to repair in situ are limited, and potentially impractical. A process of recording, dismantling removal to an off-site workshop and repair/reconstruction is anticipated.
- 4.07 To enable deck level repairs to progress it would be anticipated that all deck level ironwork, benches etc. would be removed and repaired/repainted prior to reinstatement.
- 4.08 It is noted that the owner of the pier will be required to comply with the Construction (Design and Management) Regulations – “CDM Regs” and appoint a Principal Designer as part of the essential repair works. Details of the clients responsibilities are provided in appendix B.
- 4.09 It will be required that the pier owner progresses a schedule of repairs that will include consideration of an appropriate methodology to deliver the works. An outline/initial schedule of principal elements of work is provided in appendix C. It will be required that the owner develops this schedule or defines an acceptable alternative schedule that can achieve listed building consent.

# Appendix A

## Key Plan

The following plan identifies the principal trestle locations on the pier and should be used for reference where specific locations on the pier are identified in the report.



## Appendix B

### Construction (Design and Management) Regulations – “CDM Regs”

#### Clients Role

The Client has a number of legal duties under the CDM Regs. For any project likely to involve more than one contractor the Client needs to appoint a “Principal Designer” and a “Principal Contractor”.

To comply with the Regulations these appointments must be made in writing.

In relation to any appointments the Client is required under the Regulations to be satisfied that those appointed have the necessary “skills, knowledge and experience” to undertake their role and carry out their duties in compliance with the CDM Regulations.

The Client has an obligation under the Regulations to provide “pre-construction information”. The appointed Principal Designer for the repair works to Birnbeck Pier should assist the Client with this task. Pre-construction will include details such as existing services, site investigations, surveys, access constraints, restrictions on working hours etc. that may have a health and safety impact on the proposed construction works.

Prior to commencement of construction the contractor is required to prepare a Construction Phase Plan setting out the details of how health and safety will be managed during the course of the project. The Client has a duty under the Regulations to ensure that this Construction Phase Plan has been prepared. Construction work should not commence until the Construction Phase Plan has been prepared and in place. The Client must also ensure that the contractor provides suitable welfare facilities for the construction period. The Client must also ensure that a Health and Safety File is produced at completion of the construction works. The Health and Safety File will include details such as As-Built record drawings, datasheets for materials with significant health and safety issues, design assumptions, any provisions for future works etc. The objective of the Health and Safety File is to provide information which may have implications for satisfactory management of health and safety when any further works are undertaken at the location.

It should also be noted that is a requirement under the Regulations that the Client allows “adequate” time for any appointed duty holders to fulfil their obligations under the Regulations.

In addition to the specific requirements noted above, there is an overall responsibility on the part of the Client to ‘take reasonable steps’ to ensure that the Principal Designer and the Principal Contractor comply with their duties under the CDM Regulations. There is no specific guidance currently available on what would be regarded as adequate compliance with this requirement.

However, it would be our suggestion that the Client request details from the Principal Designer and also the Principal Contractor on their specific arrangements to achieve compliance with their obligations under the CDM Regs and for the Client to then periodically review the respective actions at Progress Meetings and/or Site Meetings.

#### Principal Designer

The role of Principal Designer for the pre-construction phase would generally include the following activities:

- Providing the Client with advice on achieving compliance with CDM Regulations
  - Determination of project scale re notification thresholds and submission of F10 notification form, if required, to HSE on Clients behalf
  - Liaison with Design Team to ensure compliance with duties under the Regulations specifically with regard to Design Risk Management and application of General Principles of Prevention
  - Identification of residual risks from pre-construction phase to Principal Contractor
  - Collation and issue of Pre-Construction Information in liaison with the Client
  - Advising Client on adequacy of Contractors Construction Phase Plan and proposed Site Welfare facilities
- Preparation and issue of Health and Safety File Template Document and review of completed Health and Safety File prior to issuing to the Client



## Appendix C

### Outline Scope of Repairs

The pier is in an advanced state of deterioration through many years of neglect, and is in urgent need of repair to ensure that the risk of disproportionate collapse and extensive loss of historic fabric is reduced to an acceptable level. The following list of tasks identifies a suggested sequence of works.

Item	Area of Works	Description	Materials Details
1	Site set up and protection works	Ensure secure perimeter to site and all necessary welfare units	
2	Allowance for offsite warehouse for storage and repairs to historic fabric	To include welfare facilities and office for management of works	
3	Surveys and inspections	Develop scope of work and methodology to achieve safe progression of urgent repair works. Allow for laser scan of pier to assist with recording and development of repairs details	
4	Marine vehicle and access provision	All terrain access platforms, jack-up barges and associated plant and equipment	
5	Allowance for temporary bracing frames to be secured to trestle legs	temporary frames to provide additional stability to trestle legs during repairs	Option to use scaffolding construction for temporary bracing frames, subject to contractor design, or to fabricate bespoke temporary bracing frames that can be more readily moved between frames as repairs progress.
6	Deck finishes and ironwork removal	Boards, Cast Iron seat components, lamp posts etc, and all associated materials to be transported to offsite repairs facility for logging, assessment and repair or reconstruction depending on condition.	
7	Deck Transverse structure and high level spider bracing removal	Timber and steelwork remains to be recorded and removed for repair and reconstruction	
8	Principal deck level knee bracing to head of each trestle removal	Angle bracing with associated fixing plates and collars to link trestle to longitudinal girder	
9	Principal deck level spider bracing removal	Bracing at head of each trestle and at intermediate positions along length of deck to include fixings to repaired/reinstated longitudinal girders	
10	Principal longitudinal girder removal	Pairs of Lattice girders to be removed in sections for repair / reconstruction	

11	Trestle perimeter and internal bracing member removal	All trestle bracing to be removed for repair / reconstruction off site	
12	Inspect trestle legs and allow for splint repairs to legs	new steel plated bolted collars similar to existing splint clamp repairs	
13	Repairs to intermediate deck support frames	review extent of corrosion and allow for plate repairs or replacement of steel sections where corrosion decay is compromising integrity.	Allow for 20mm Grade S355-J2 structural steelwork insitu plated repairs and for site prep and painting to main paint specification below.
14	Replacement legs	Allowable to use tubular steel section to match existing	Allow for 273x20 CHS Grade S355-J2 structural steelwork
15	Leg splint repairs	Allow for manufacture of steel collars of detail similar to existing cast iron splint collars	To suit 300mm diameter existing Cast Iron legs
16	Repair/reconstruct trestle bracing and reinstate	Allows for reconstruction of new bracing to replace areas lost or failed beyond repair	Allow for 100x100x15 'L' members to perimeter lattice bracing with 50x16mm internal diagonal bracing. Spider bracing allow 100x100x15 'L' minimum section to match existing. 25mm diameter elevation bracing rods to match existing. All end plates to be adapted to enable retro fitting
17	Repair and reinstate pair of principal longitudinal deck girders	Allows for reconstruction of new lattice girder to replace areas lost or failed beyond repair	Reform lattice girder with composite top and bottom members with back to back 200x100x15 angles and 15mm cap and base plates 100x15 diagonal bracing and pairs of back to back 100x100x15 'L' vertical members to longitudinal girders. All Section sizes to match existing where possible or allowance within +10% where standard section sizes available. Unless noted otherwise material to be grade S355-J2 steelwork. Optional splice joints to be added to aid reassembly subject to approval by Historic England.
18	Repair and reinstate principal deck members	Allows for fabrication of new members to replace units lost or failed beyond repair	Allow for 203x203x46 kg/m transverse structural steelwork at approx 1.5m centres with new 225x75mm thick unwrot treated sw bearing plates secured to top face of UC using pairs M16 s/s bolts at 900mm centres to facilitate fixing of repaired/replacement deck boards. Unless noted otherwise material to be grade S355-J2 steelwork with marine spec mastic used to seal all metal-metal contact joints to aid corrosion prevention.
19	Repair and reinstate deck	Assumes new timber deck	225x75 Iroko timber decking boards in approx 3.5m length to match existing, secured with M10 stainless steel coach screw fixings and pegged/sanded to flush finish. Allow for decking board lengths as required to extend into total 8 number projecting balconies. Perimeter timber beam 115x325 wrot treated and painted douglas fir with one rounded edge, all to match existing.

20	Repair and reinstatement of deck benches and handrail		To include repair of existing cast iron seat brackets/frames at approx 1.5m centres, and provide new timber slats to match existing where missing or damaged. Seat timbers to be 175x75 wrot treated painted douglas fir with one rounded edge and 225x75 wrot treated and painted Douglas fir to seat and 225x30 wrot t&g painted treated sw and 150x30 wrot t&g painted treated sw to seat backing all fixed to cast iron seat frames with s/s fixings. 60mm diameter steel tube handrail to be salvaged and reinstated with allowance for 50% replacement of defective.
21	Cast iron lamp posts and sundry deck level ironwork	Repair or recast	Total 12 number cast iron columns centred on balcony and 2 number free standing lamp posts. Allow for blast cleaning and inspection of all and repair/recasting as necessary with provisional estimate of 80% requiring repair/replacement. Allow for repainting of all prior to reinstatement.
22	Allowance for painting all steel work using suitable marine grade paint system		Flash blast with a non-metallic abrasive ( surface profile within the range of 20 - 30 microns ) Apply Leighs Paint system to all steelwork, Metagard L574 Blast primer @ 25 microns dft 2 coats Epigrip L524 Modified Epoxy Coating @ 175 microns dft / per coat
23	Stonework abutment repairs	Stonework consolidation and pinning to ensure stable landward and island bearing masonry.	Allow for resetting 16 square metres of stonework, with allowance for 2 square metres of replacement of damaged or missing stonework. All set in NHL5 lime mortar. Allow for NHL5 lime grout core void consolidation to aid bonding of adjacent stonework. Total 1 cubic metre of grout, gravity fed in approx 100-150 litre batches. Allow for total 20 number M10 x 450 long stainless steel dowels set in Hilti HY70 resin to ensure effective tie between existing and reset/replacement stone.

Date: 6 August 2019  
My ref:  
Your ref:  
Contact: Rachel Lewis  
Telephone: 01934 426465  
Email: rachel.lewis@n-somerset.gov.uk



Mr Wahid Samady  
Director  
CNM Estates (Birnbeck) Ltd.  
Aissela  
46 High Street  
Esher  
Surrey. KT10 9QY

Placemaking and Growth  
Development and Environment  
North Somerset Council  
Town Hall  
Walliscote Grove Road  
Weston-super-Mare  
BS23 1UJ

DX 744990 Clevedon

Dear Mr Samady

**Planning (Listed Buildings and Conservation Areas) Act 1990, Sections 47- 48**

**Birnbeck Pier, Birnbeck Road, Weston-super-Mare, BS23 2BT**

I understand that you are the owner of the above property. This structure appears to be in a state of disrepair: Birnbeck Pier, Weston-super-Mare, Somerset, is included in the Statutory List of buildings of special architectural or historic interest, Grade II\* and is situated in the Great Weston Conservation Area. It is also included in Historic England's Heritage At Risk Register with the designation of –

Condition: **Very bad**

Priority: **A** (*Immediate risk of further rapid deterioration or loss of fabric; no solution agreed*)

The condition of Birnbeck Pier is a matter of considerable concern to North Somerset Council as the local planning authority. Under Section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990, a local authority may serve a Repairs Notice on the owner of a listed building, specifying the works that the local authority consider reasonably necessary for its proper preservation.

I am therefore writing to inform you that North Somerset Council will issue a Repairs Notice which will be served to the above address. I understand that this is the registered address of CNM Estates (Birnbeck) Ltd.

If, after a two-month period has elapsed from the service of the Repairs Notice, it appears that reasonable steps are not being taken to properly preserve the pier, North Somerset

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Town Hall, Weston-super-Mare BS23 1UJ



Council may decide to begin Compulsory Purchase proceedings under Section 47 of the same act.

In view of the rapidly deteriorating condition of this Grade II\* listed building, and the significant detrimental effect that this is having upon the character and appearance of the surrounding conservation area, I must advise you that we are actively considering the use of those powers described above in order to safeguard its future.

Please contact Rachel Lewis (see top of letter) no later than 7 working days from the date you receive this letter to let us know if this is not the registered address of CNM Estates (Birbeck) Ltd. or if you have new plans for undertaking the works necessary for the proper preservation of Birbeck Pier.

Yours sincerely,



Lucy Shomali  
Director of Development & Environment

This letter can be made available in large print, audio, easy read and other formats.

Documents on our website can also be emailed to you as plain text files.

Help is also available for people who require council information in languages other than English. For more information contact the sender of this letter.

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You should be aware that all communications received and sent by this council are subject to the

Freedom of Information Act 2000

# Birnbeck Pier, Weston-Super-Mare - North Somerset (UA)

Birnbeck Pier is a unique and nationally important structure connecting the mainland below the Prince Consort Gardens to Birnbeck Island. Enforcement action in the form of a Repairs Notice was served on the owners in September 2019 but has not been complied with. The Council is now working towards the potential Compulsory Purchase Order of the pier with guidance and funding from Historic England.



© Historic England

## Site Details

Designated Site Name:  
BIRNBECK PIER

Heritage Category:  
Listed Building grade II\*

List Entry Number:  
1129718

Local Planning Authority:  
North Somerset (UA)

Site Type:  
Transport > Water transport site

## Location

Building Name:  
Birnbeck Pier



Unitary Authority:  
North Somerset (UA)

Parish:  
Weston-Super-Mare

Parliamentary Constituency:  
Weston-Super-Mare

Region:  
South West

## Assessment Information

Assessment Type:  
Building or structure

Condition:  
Very bad

Occupancy / Use:  
Vacant/not in use

Priority:  
A - Immediate risk of further rapid deterioration or loss of fabric; no solution agreed

Previous Priority:  
A

Ownership:  
Commercial company

Designation:  
Listed Building grade II\*, CA



## Contact Details

John Ette 0117 975 0687

**Date:** 21 August 2019  
**My ref:**  
**Your ref:**  
**Contact:** Rachel Lewis  
**Telephone:** 01934 426465  
**Email:** rachel.lewis@n-somerset.gov.uk



Mr Wahid Samady  
Director  
CNM Estates (London)  
1st Floor, St Georges Court  
4 St Georges Square  
High Street  
New Malden  
KT3 4HG

Placemaking & Growth  
Development and Environment  
North Somerset Council  
Town Hall  
Walliscote Grove Road  
Weston-super-Mare  
BS23 4EJ

DX 744990 Clevedon

Dear Mr Samady

**Planning (Listed Buildings and Conservation Areas) Act 1990, Sections 47- 48**

**Birnbeck Pier, Birnbeck Road, Weston-super-Mare, BS23 2BT**

Further to my letter of 6 August 2019 (sent to the registered address of CNM Estates (Birnbeck) Ltd - copy enclosed), I attach for your immediate consideration a draft schedule of repairs which North Somerset Council as the local planning authority considers to be reasonably necessary for the proper preservation of Birnbeck Pier.

In my previous letter, I drew your attention to the provisions of sections 47-48 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which empower this council to serve upon the owner of a listed building a Repairs Notice specifying those works which appear to be reasonably necessary for its proper preservation. If, after a two-month period has elapsed from the service of the Repairs Notice it appears that reasonable steps are not being taken to properly preserve the building, North Somerset Council may begin compulsory purchase proceedings.

The works in the attached schedule are those which we would be seeking to secure under the provisions of a Repairs Notice.

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Town Hall, Weston-super-Mare BS23 1UJ



I hope that this matter can be settled without recourse to statutory proceedings, but I must advise you that, unless we receive your written confirmation by **2 September 2019**, that you will be taking reasonable steps for the proper preservation of this listed building, in accordance with the attached schedule, together with a timescale for their implementation, we will be serving notice forthwith under section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Yours sincerely,



Lucy Shomali  
Director of Development & Environment

#### **Attachments**

1. Draft Schedule of Repairs
2. Copy of 6 August 2019 letter sent to CNM Estates (Birbeck) Ltd

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**Date:** 21 August 2019  
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Mr Wahid Samady  
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- ☐ This letter and enclosures has also been sent to the address of CNM Estates (London) -  
1st Floor, St Georges Court  
4 St Georges Square  
High Street  
New Malden  
KT3 4HG

Yours sincerely,



Lucy Shomali  
Director of Development & Environment

#### **Attachments**

1. Draft Schedule of Repairs
2. Copy of 6 August 2019 letter sent to CNM Estates (Birnbeck) Ltd

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Town Hall, Weston-super-Mare BS23 1UJ

**SCHEDULE OF REPAIRS**

1. Ensure that all works are undertaken in accordance with specialist advice.
2. Ensure site is safely set up for the works to be undertaken in accordance with Health and Safety requirements, including securing perimeter to site.
3. Arrange offsite facility for storage and repairs to historic fabric. Ensure that items removed from the site are recorded and stored safely.
4. Ensure appropriate surveys and inspections are undertaken, including laser scanning of the pier to assist with recording and development of repairs details.
5. Allow for marine vehicle and access provision, including all terrain access platforms, jack-up barges and associated plant and equipment.
6. Ensure all works comply with the Construction (Design and Management) Regulations 2015.
7. Arrange for temporary bracing frames to be secured to trestle legs to provide additional stability to trestle legs during repairs. This may include scaffolding construction for temporary bracing frames, subject to contractor design, or fabrication of bespoke temporary bracing frames that can be more readily moved between frames as repairs progress.
8. Remove deck boards, cast iron seat components, lamp posts and all associated materials. Arrange for these to be transported to an offsite facility for logging, assessment, and repair or reconstruction depending upon condition.
9. Remove the deck transverse structure and high level spider bracing. Record all timber and steelwork that remains and remove and transport to an offsite facility for repair and reconstruction.
10. Remove the principal deck level knee bracing to the head of each trestle. Angle bracing with associated fixing plates and collars to link trestle to longitudinal girder.
11. Remove the principal deck level spider bracing. This refers to the bracing at the head of each trestle and at intermediate positions along the length of the deck to including fixings to the repaired and/or reinstated longitudinal girders.
12. Remove the principal longitudinal girders. The pairs of lattice girders should be removed in sections and transported to offsite facility for repair or reconstruction.
13. Remove the trestle perimeter and internal bracing member. All trestle bracing should be removed and transported to offsite facility for repair or reconstruction.
14. Splint repairs to be made to trestle legs where appropriate after inspection. New steel plated bolted collars similar to existing splint clamp repairs to be fitted.
15. Repair intermediate deck support frames. The extent of corrosion should be reviewed and, where corrosion decay is compromising the integrity of the structure, plate repairs or replacement of steel sections should be undertaken. Allow for 20mm Grade S355-J2 structural



## **SCHEDULE OF REPAIRS**

steelwork in situ plated repairs and for site preparation and painting to main paint specification below at paragraph 24 of this Schedule.

16. Replace legs using tubular steel section to match existing structure.

Allow for 273x20 CHS Grade S355-J2 structural steelwork.

17. Undertake leg splint repairs. Arrange for steel collars to be used of detail similar to existing cast iron splint collars. These should suit the 300mm diameter of the existing cast iron legs.

18. Reinstate trestle bracing. This may be done by way of repair or by reconstruction of new bracing to replace areas lost or failed beyond repair.

Allow for 100x100x15 'L' members to perimeter lattice bracing with 50x16mm internal diagonal bracing. Spider bracing allow 100x100x15 'L' minimum section to match existing. 25mm diameter elevation bracing rods to match existing. All end plates to be adapted to enable retro fitting.

19. Repair and reinstate pair of principal longitudinal deck girders. This may include reconstruction of new lattice girder to replace areas lost or failed beyond repair.

Reform lattice girder with composite top and bottom members with back to back 200x100x15 angles and 15mm cap and base plates 100x15 diagonal bracing and pairs of back to back 100x100x15 'L' vertical members to longitudinal girders. All section sizes to match existing where possible or allowance within +10% where standard section sizes available. Unless noted otherwise material to be grade S355-J2 steelwork. Optional splice joints to be added to aid reassembly subject to approval by Historic England.

20. Repair and reinstate principal deck members. This may include fabrication of new members to replace units lost or failed beyond repair.

Allow for 203x203x46 kg/m transverse structural steelwork at approximately 1.5m centres with new 225x75mm thick unwrot treated steelwork bearing plates secured to top face of UC using pairs M16 s/s bolts at 900mm centres to facilitate fixing of repaired/replacement deck boards. Unless noted otherwise material to be grade S355-J2 steelwork with marine spec mastic used to seal all metal-metal contact joints to aid corrosion prevention.

21. Repair and reinstate deck.

225x75 Iroko timber decking boards in approximately 3.5m length to match existing, secured with M10 stainless steel coach screw fixings and pegged/sanded to flush finish. Allow for decking board lengths as required to extend into total 8 number projecting balconies. Perimeter timber beam 115x325 wrot treated and painted Douglas fir with one rounded edge, all to match existing.

22. Repair and reinstate deck benches and handrail.

To include repair of existing cast iron seat brackets/frames at approximately 1.5m centres, and provide new timber slats to match existing where missing or damaged. Seat timbers to be 175x75 wrot treated painted Douglas fir with one rounded edge and 225x75 wrot treated and painted Douglas fir to seat and 225x30 wrot t&g painted treated steelwork and 150x30 wrot t&g painted treated steelwork to seat backing all fixed to cast iron seat frames with s/s fixings. 60mm diameter steel tube handrail to be salvaged and reinstated with allowance for 50% replacement of defective.

**SCHEDULE OF REPAIRS**

23. Repair or recast cast iron lamp posts and deck level ironwork, to include blast cleaning and repainting.

Total of 12 number cast iron columns centred on balcony and 2 number free standing lamp posts. Allow for blast cleaning and inspection of all and repair/recasting as necessary with provisional estimate of 80% requiring repair/replacement. Allow for repainting of all prior to reinstatement.

24. Paint all steel work using suitable marine grade paint system.

Flash blast with a non-metallic abrasive (surface profile within the range of 20 - 30 microns) Apply Leighs Paint system to all steelwork, Metagard L574 Blast primer @ 25 microns dft 2 coats Epigrip L524 Modified Epoxy Coating @ 175 microns dft / per coat.

25. Repair stonework abutment by way of consolidating and pinning stonework to stabilised landward and island bearing masonry.

Allow for resetting 16 square metres of stonework, with allowance for 2 square metres of replacement of damaged or missing stonework. All set in NHL5 lime mortar. Allow for NHL5 lime grout core void consolidation to aid bonding of adjacent stonework. Total 1 cubic metre of grout, gravity fed in approximately 100-150 litre batches. Allow for total 20 number M10 x 450 long stainless steel dowels set in Hilti HY70 resin to ensure effective tie between existing and reset/replacement stone.

## Andrew Westbrook

---

**From:** Rachel Lewis  
**Sent:** 22 August 2019 08:53  
**To:** Christine Ward  
**Subject:** FW: Birnbeck Pier  
**Attachments:** Warning letter 1st - 6Aug2019.pdf; ATT00001.htm; Warning letter 2nd x 2 - 21 August 2019.pdf; ATT00002.htm; Draft sched repairs enc with 2nd warning letter.docx; ATT00003.htm

fyi

### Rachel Lewis

Development and Regeneration Programme Manager  
Placemaking and Growth  
North Somerset Council

**Tel:** 01934 426465

**Post:** Post Point 15, Town Hall, Weston-super-Mare, BS23 1UJ

**Web:** [www.n-somerset.gov.uk](http://www.n-somerset.gov.uk)

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**From:** Wahid Samady [mailto:wahid.samady@cnmestates.com]  
**Sent:** Wednesday, August 21, 2019 6:10 PM  
**To:** Rory Brogan <rory.brogan@cnmestates.com>  
**Cc:** Rachel Lewis <rachel.lewis@n-somerset.gov.uk>  
**Subject:** Fwd: Birnbeck Pier



Rachael Rory Brogan is the DM fir Birnbeck I have copied him in.  
We will revert to you.  
Regards

Sent from my iPhone

Begin forwarded message:

**From:** Wahid Samady <[wsamady@usa.net](mailto:wsamady@usa.net)>  
**Date:** 21 August 2019 at 17:54:22 BST  
**To:** Wahid Samady <[wahid.samady@cnmestates.com](mailto:wahid.samady@cnmestates.com)>  
**Subject:** Fwd: Birnbeck Pier

This message was sent from outside the company by someone with a display name matching a user in your organisation. Please do not click links or open attachments unless you recognise the source of this email and know the content is safe.

Sent from my iPhone

Begin forwarded message:

**From:** Rachel Lewis <[rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)>

**Date:** 21 August 2019 at 15:59:19 BST

**To:** "Wahid Samady" <[wsamady@usa.net](mailto:wsamady@usa.net)>

**Subject:** Birnbeck Pier

Dear Mr Samady,

As you are aware the Council and Historic England are increasingly concerned about the deteriorating condition of the Pier and its associated structures. We have endeavoured to contact you by post at the CNM Estates (Birnbeck) Ltd registered address but have not had a reply, so have today sent a second letter both to this address and also to the CNM Estates (London) registered address.

Please find attached copies of these letters.

I trust the contents of these letters are self-explanatory.

Kind regards

**Rachel Lewis**

Development and Regeneration Programme Manager  
Placemaking and Growth  
North Somerset Council

**Tel:** 01934 426465

**Post:** Post Point 15, Town Hall, Weston-super-Mare, BS23 1UJ

**Web:** [www.n-somerset.gov.uk](http://www.n-somerset.gov.uk)

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Care Connect: for all adult social services enquiries visit [www.n-somerset.gov.uk/careconnect](http://www.n-somerset.gov.uk/careconnect)

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## **IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY**

Planning (Listed Buildings and Conservation Areas) Act 1990, section 48

**REPAIRS NOTICE IN RESPECT OF Birnbeck Pier, Birnbeck Road, Weston-super-Mare, BS23 2BT**

ISSUED BY North Somerset Council

### **LISTED BUILDINGS REPAIRS NOTICE**

To: **The Secretary**  
**CNM Estates (Birnbeck) Ltd**  
c/o The Secretary  
CNM Estates (London)  
1<sup>st</sup> Floor, St Georges Court  
4 St Georges Square  
High Street  
New Malden  
KT3 4HG

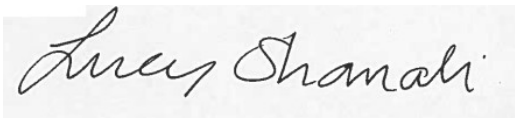
- 1 The Site known as Birnbeck Pier ('The Site') is listed under section 1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (hereinafter known as 'the 1990 Act'). The Site is shown edged in red on the map attached to this Notice and described for identification purposes only in Schedule 1 of this Notice.
- 2 It appears to North Somerset Council ('the Local Authority') whose area includes the Site and being the Local Authority for the purposes of section 48 of the 1990 Act that the works specified within Schedule 2 ('the Works') of this Notice are reasonably necessary for the proper preservation of the Site.
- 3 NOTICE IS HEREBY GIVEN that the Local Authority considers the works specified within Schedule 2 of this Notice reasonably necessary for the proper preservation of the Site.
- 4 If after two months from the date of service of this Notice the Local Authority have not withdrawn the Notice, the Local Authority may ask the Secretary of State to authorise it to acquire compulsorily the Site and any land contiguous or adjacent to it which appears to the Secretary of State to be required for preserving the Site or its amenities, or for affording access to it, or for its proper control or management.
- 5 The Secretary of State may make or confirm an order for the compulsory purchase of the Site and any land contiguous or adjacent to it if:
  - a) it appears to him/her that reasonable steps are not being taken for the proper preservation of the Site
  - b) s/he is satisfied that it is expedient to make provision for the preservation of the Site and



- c) s/he is satisfied that it is expedient for that purpose for it to be acquired compulsorily
- 6 If compulsory purchase procedures are initiated then any person having an interest in the Site which it is proposed to acquire compulsorily may, within 28 days after the service of the Notice required under section 12 of the Acquisition of Land Act 1981, apply to a magistrates' court for an order staying the proceedings on the ground that reasonable steps have been taken to properly preserve the Site.
- 7 On compulsory purchase of the Site, it shall be assumed for the purpose of assessing compensation that listed building consent would be granted for any works:
- a) for the alteration or extension of the Site or
  - b) for the demolition of the Site for the purpose of development of any class specified in Schedule 3 to the Town and Country Planning Act 1990.
- 8 If the Secretary of State is satisfied that the Site has been deliberately allowed to fall into disrepair for the purpose of justifying its demolition and the development or re-development of the site, or any adjoining site, he/she may include in the compulsory purchase order a direction for minimum compensation.
- 9 The effect of such a direction is that for the purpose of assessing compensation that is payable for compulsory purchase it is assumed that:
- a) planning permission would not be granted for any development or re-development of the Site, and
  - b) that listed building consent would not be granted for any works, other than works necessary for restoring the Site to and maintaining it in a proper state of repair
- 10 Where such direction is included in a compulsory purchase order or draft order any person having an interest in the Site may, within 28 days after service of the Notice of minimum compensation direction, apply to a magistrates' court for an order that no such direction should be included.
- 11 If you wish to discuss this Notice or any related matter you should contact Rachel Lewis, Development & Regeneration Programme Manager, North Somerset Council ([rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk) / 01934 426465) as soon as possible.

DATED the 9<sup>th</sup> day of September 2019

Signed

A handwritten signature in black ink on a light grey rectangular background. The signature reads "Lucy Shomali" in a cursive script.

Lucy Shomali  
Director of Development & Environment

For and on behalf of North Somerset Council  
Town Hall  
Walliscote Grove Road  
Weston-super-Mare  
BS23 1UJ

## **SCHEDULE 1**

The listed Site to which this Notice relates - **Birnbeck Pier, Birnbeck Road, Weston-super-Mare, BS23 2BT** is shown for the purposes of identification only edged red on the attached plan.

## **SCHEDULE 2**

### **Specification of works to be carried out**

1. Ensure that all works are undertaken in accordance with specialist advice.
2. Ensure site is safely set up for the works to be undertaken in accordance with Health and Safety requirements, including securing perimeter to site.
3. Arrange offsite facility for storage and repairs to historic fabric. Ensure that items removed from the site are recorded and stored safely.
4. Ensure appropriate surveys and inspections are undertaken, including laser scanning of the pier to assist with recording and development of repairs details.
5. Allow for marine vehicle and access provision, including all terrain access platforms, jack-up barges and associated plant and equipment.
6. Ensure all works comply with the Construction (Design and Management) Regulations 2015.
7. Arrange for temporary bracing frames to be secured to trestle legs to provide additional stability to trestle legs during repairs. This may include scaffolding construction for temporary bracing frames, subject to contractor design, or fabrication of bespoke temporary bracing frames that can be more readily moved between frames as repairs progress.
8. Remove deck boards, cast iron seat components, lamp posts and all associated materials. Arrange for these to be transported to an offsite facility for logging, assessment, and repair or reconstruction depending upon condition.
9. Remove the deck transverse structure and high level spider bracing. Record all timber and steelwork that remains and transport to an offsite facility for repair and reconstruction.
10. Remove the principal deck level knee bracing to the head of each trestle. Angle bracing with associated fixing plates and collars to link trestle to longitudinal girder.
11. Remove the principal deck level spider bracing. This refers to the bracing at the head of each trestle and at intermediate positions along the length of the deck to include fixings to the repaired and/or reinstated longitudinal girders.
12. Remove the principal longitudinal girders. The pairs of lattice girders should be removed in sections and transported to offsite facility for repair or reconstruction.
13. Remove the trestle perimeter and internal bracing member. All trestle bracing should be removed and transported to offsite facility for repair or reconstruction.
14. Splint repairs to be made to trestle legs where appropriate after inspection. New steel plated bolted collars similar to existing splint clamp repairs to be fitted.
15. Repair intermediate deck support frames. The extent of corrosion should be reviewed and, where corrosion decay is compromising the integrity of the structure, plate repairs or replacement of steel sections should be undertaken. Allow for 20mm Grade S355-J2 structural

steelwork in situ plated repairs and for site preparation and painting to main paint specification below at paragraph 24 of this Schedule.

16. Replace legs using tubular steel section to match existing structure.  
Allow for 273x20 CHS Grade S355-J2 structural steelwork.

17. Undertake leg splint repairs. Arrange for steel collars to be used of detail similar to existing cast iron splint collars. These should suit the 300mm diameter of the existing cast iron legs.

18. Reinstate trestle bracing. This may be done by way of repair or by reconstruction of new bracing to replace areas lost or failed beyond repair.  
Allow for 100x100x15 'L' members to perimeter lattice bracing with 50x16mm internal diagonal bracing. Spider bracing allow 100x100x15 'L' minimum section to match existing. 25mm diameter elevation bracing rods to match existing. All end plates to be adapted to enable retro fitting.

19. Repair and reinstate pair of principal longitudinal deck girders. This may include reconstruction of new lattice girder to replace areas lost or failed beyond repair.  
Reform lattice girder with composite top and bottom members with back to back 200x100x15 angles and 15mm cap and base plates 100x15 diagonal bracing and pairs of back to back 100x100x15 'L' vertical members to longitudinal girders. All section sizes to match existing where possible or allowance within +10% where standard section sizes available. Unless noted otherwise material to be grade S355-J2 steelwork. Optional splice joints to be added to aid reassembly subject to approval by Historic England.

20. Repair and reinstate principal deck members. This may include fabrication of new members to replace units lost or failed beyond repair.  
Allow for 203x203x46 kg/m transverse structural steelwork at approximately 1.5m centres with new 225x75mm thick unwrot treated steelwork bearing plates secured to top face of UC using pairs M16 s/s bolts at 900mm centres to facilitate fixing of repaired/replacement deck boards. Unless noted otherwise material to be grade S355-J2 steelwork with marine spec mastic used to seal all metal-metal contact joints to aid corrosion prevention.

21. Repair and reinstate deck.  
225x75 Iroko timber decking boards in approximately 3.5m length to match existing, secured with M10 stainless steel coach screw fixings and pegged/sanded to flush finish. Allow for decking board lengths as required to extend into total 8 number projecting balconies. Perimeter timber beam 115x325 wrot treated and painted Douglas fir with one rounded edge, all to match existing.

22. Repair and reinstate deck benches and handrail.  
To include repair of existing cast iron seat brackets/frames at approximately 1.5m centres, and provide new timber slats to match existing where missing or damaged. Seat timbers to be 175x75 wrot treated painted Douglas fir with one rounded edge and 225x75 wrot treated and painted Douglas fir to seat and 225x30 wrot t&g painted treated steelwork and 150x30 wrot t&g painted treated steelwork to seat backing all fixed to cast iron seat frames with s/s fixings. 60mm diameter steel tube handrail to be salvaged and reinstated with allowance for 50% replacement of defective.

23. Repair or recast cast iron lamp posts and deck level ironwork, to include blast cleaning and repainting.  
Total 12 number cast iron columns centred on balcony and 2 number free standing lamp posts. Allow for blast cleaning and inspection of all and repair/recasting as necessary with provisional estimate of 80% requiring repair/replacement. Allow for repainting of all prior to reinstatement.

24. Paint all steel work using suitable marine grade paint system.

Flash blast with a non-metallic abrasive (surface profile within the range of 20 - 30 microns)

Apply Leighs Paint system to all steelwork, Metagard L574 Blast primer @ 25 microns dft 2 coats Epigrip L524 Modified Epoxy Coating @ 175 microns dft / per coat.

25. Repair stonework abutment by way of consolidating and pinning stonework to stabilised landward and island bearing masonry.

Allow for resetting 16 square metres of stonework, with allowance for 2 square metres of replacement of damaged or missing stonework. All set in NHL5 lime mortar. Allow for NHL5 lime grout core void consolidation to aid bonding of adjacent stonework. Total 1 cubic metre of grout, gravity fed in approximately 100-150 litre batches. Allow for total 20 number M10 x 450 long stainless steel dowels set in Hilti HY70 resin to ensure effective tie between existing and reset/replacement stone.

**Date:** 11<sup>th</sup> November 2019  
**My ref:**  
**Your ref:**  
**Contact:** Rachel Lewis  
**Telephone:** 01934 426465  
**Email:** rachel.lewis@n-somerset.gov.uk



Development and Environment  
North Somerset Council  
Town Hall  
Walliscote Grove Road  
Weston-super-Mare  
BS23 1UJ

Mr Wahid Samady  
CNM Estates (Birnbeck) Ltd  
Aissela  
46 High Street  
Esher  
KT10 9QY

Dear Mr Samady

**Planning (Listed Buildings and Conservation Areas) Act 1990, Sections 47- 48  
Birnbeck Pier, Birnbeck Road, Weston-super-Mare, BS23 2BT**

As you are aware, North Somerset Council served a Repairs Notice on you as the current owner of Birnbeck Pier on 9<sup>th</sup> September 2019, using our powers under Section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Included in the Repairs Notice was a draft schedule of repairs which the Council as the local planning authority considered to be reasonably necessary for the proper preservation of Birnbeck Pier.

By law, we were obliged to allow you a minimum of two months from this date to respond, and confirm that you were taking all reasonable steps to properly preserve the building. As the two month period has ended and we have not received any firm proposals from you, I must advise that in the absence of any response we propose to proceed with legal action.

I still hope that this matter can be settled without recourse to statutory proceedings, but I must advise you that, unless we hear from you within 10 working days from the date of this letter, confirming that you will be taking reasonable steps for the proper preservation of this listed building, in accordance with the previously provided repairs schedule, together with a timescale for their implementation, we will be proceeding under section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

I would be grateful if you would contact Rachel Lewis, Regeneration Programme Manager (contact details above), as a matter of urgency.

Please note that a copy of this letter has also been sent to the registered address of CNM Estates (London) Ltd.

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Town Hall, Weston-super-Mare BS23 1UJ





Yours sincerely,

A handwritten signature in cursive script that reads "Lucy Shomali".

Lucy Shomali  
Director of Development & Environment

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This letter can be made available in large print, audio, easy read and other formats.

Documents on our website can also be emailed to you as plain text files.

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Jones Lang LaSalle Ltd  
30 Warwick Street London W1B 5NH  
+44 (0)20 7493 4933

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Ms Rachel Lewis  
Development and Regeneration Programme Manager  
Placemaking and Growth  
North Somerset Council  
Town Hall  
Walliscote Grove Road  
Weston-super-Mare  
BS23 1UJ

Your ref  
Our ref  
Direct line 07885 820800  
Email [paul.crisp@eu.jll.com](mailto:paul.crisp@eu.jll.com)

**BY EMAIL ONLY**

5<sup>th</sup> June 2020

Dear Rachel,

### **Birnbeck Pier – Repairs Notice**

I refer to your email dated 3<sup>rd</sup> June 2020 in respect of the above matter.

We are grateful for your response and your confirmation that you welcome the progression of matters to resolve the future of Birnbeck Pier.

In our letter dated 1<sup>st</sup> June 2020, we advised you that we would be carrying out some immediate works in week commencing 8<sup>th</sup> June following which we would be submitting a fuller programme of works which would comment on how we intend to address the works outlined in the Repairs Notice. In your email, you explained that with regards to the immediate works we had planned to undertake, listed building consent would be required. You also explained that method statements and/ or Schedules of Works should accompany the applications and that no works should commence until these consents are in place. Our intention with the immediate works was only to make the Pier safe however we are grateful for your clarification on the matter and happy to be guided by the Council.

As such, we have slightly revised our approach. Instead, we will shortly provide you with a more immediate programme of works to address the priority items listed in the Repairs Notice to safeguard the Pier ahead of the impending winter storm season. This will include key milestones, the first of which will be the submission of an application for listed building consent. We will then provide you with the fuller programme during week commencing 15<sup>th</sup> June 2020.

Jones Lang LaSalle Ltd  
30 Warwick Street London W1B 5NH  
+44 (0)20 7493 4933

jll.co.uk

Our Structural Engineer, HOP, will be visiting the site on Friday 5<sup>th</sup> June to determine whether any material is required to be removed from the foreshore and whether there is any risk to navigation or public safety which may require immediate attention.

We can confirm that any material removed will be fully documented and will be logged (to include photographs). This log will be shared with the Council. Any material found/removed will be stored on site until such time that its provenance can be confirmed. No material will be disposed of. These works will be maintenance works and will not involve the removal of any deck planks or other parts of the structure (excepting those elements that are deemed to pose a risk to navigation or public health). We are currently in discussions with the Marine Maritime Organisation to obtain the requisite consent for these works to commence. We will provide you with confirmation that the licence has been obtained.

For your information, a Temporary Works Compound already exists on the landward side of the Pier. This will be the location of any welfare facilities associated with undertaking of any works. This will also be the location of which any material recovered from the foreshore or that which poses a navigation or public health risk will be stored.

The above demonstrates our continued efforts to respond to the Repairs Notice and to engage with the Council in a meaningful manner. It remains our intention to secure the long term future of the Pier. In addition to the above, we will be submitting an application for the removal of the North Jetty (which has already received consent).

Yours sincerely,

Paul Crisp  
Head of Heritage  
**For and on Behalf of JLL**

cc. John Ette – Historic England (by email)

## Andrew Westbrook

---

**From:** Crisp, Paul <Paul.Crisp@eu.jll.com>  
**Sent:** 12 June 2020 16:43  
**To:** Rachel Lewis  
**Cc:** john.ette@HistoricEngland.org.uk  
**Subject:** Birnbeck Pier  
**Attachments:** 20200612 Rachel Lewis.pdf; 20200612 Programme T02.pdf; 20200612 Immediate Works Method Statement.pdf

**Follow Up Flag:** Follow up  
**Due By:** 17 June 2020 10:00  
**Flag Status:** Flagged



Rachel,

As promised, please find attached correspondence relating to Birnbeck Pier. This includes a immediate programme of works, which includes the progress made to date.

We also enclose a Method Statement which details how we intend to salvage material from the foreshore. This identifies that material will be stored securely on site and logged according to its provenance.

Please could you confirm that you are happy with the Method Statement as we require your confirmation as part of the application to the Marine Management Organisation. A separate Method Statement is being sent to Natural England.

I have also copied in John Ette and, by copy, would ask if John could also confirm that he is happy with the attached Method Statement.

I look forward to hearing from you.

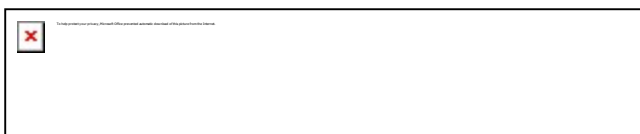
Regards

Paul

Paul Crisp  
Head of Heritage & Townscape  
JLL

T: +44 (0)207 399 5429  
M: +44 (0)7885 820800

[paul.crisp@eu.jll.com](mailto:paul.crisp@eu.jll.com)  
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Ms Rachel Lewis  
Development and Regeneration Programme Manager  
Placemaking and Growth  
North Somerset Council  
Town Hall  
Walliscote Grove Road  
Weston-super-Mare  
BS23 1UJ

Your ref  
Our ref  
Direct line 07885 820800  
Email [paul.crisp@eu.jll.com](mailto:paul.crisp@eu.jll.com)

BY EMAIL ONLY

12<sup>th</sup> June 2020

Dear Rachel,

### **Birnbeck Pier – Repairs Notice**

I refer to our ongoing exchange of correspondence in respect of the above matter.

As promised, please find enclosed our initial programme of works. This identifies the considerable work undertaken to date and also the immediate works that we are currently progressing. This immediate programme is issued ahead of a fuller programme, which will follow during week commencing 15<sup>th</sup> June 2020. This fuller programme will address how we intend to stabilise the pier structure and how the Pier can be developed as a focus of the regeneration of the surrounding area.

You will note from the programme that we have already completed lines 1 to 16 of the initial programme. Line 17, the submission of Method Statements, forms part of this letter. We have therefore made considerable progress in dealing with matters to address the Repairs Notice.

On this basis, we enclose a Method Statement which sets out how we intend to recover and securely store relevant items that from the foreshore. This salvaging operation does not require listed building consent. Please could you confirm that you are happy with the Method Statement so that we can submit the licence application to the Marine Management Organisation to cover this immediate phase of works.

As part of these immediate works, we will also be identifying any material on the Pier which could cause any risk to navigation or public safety. This exercise is entirely one of identification and no material will be removed. Any necessary works arising from this will, as per your request, be subject of an application for listed building consent for their removal and storage on site. In line with our construction and contractual obligations, these works need to be fully detailed and documented through drawings. We intend to make a

pre-application submission in early July setting out how we intend to address these items, with a formal application for listed building consent to follow thereafter.

We can confirm that this application for listed building consent will cover the following matters:

1. The removal of any material that poses a risk to navigation or health and safety;
  2. The works, set out below, as required by the Repairs Notice.
- 
7. Arrange for temporary bracing frames to be secured to trestle legs to provide additional stability to trestle legs during repairs. This may include scaffolding construction for temporary bracing frames, subject to contractor design, or fabrication of bespoke temporary bracing frames that can be more readily moved between frames as repairs progress.
- 
8. Remove deck boards.
- 
11. Remove the principal deck level spider bracing. This refers to the bracing at the head of each trestle and at intermediate positions along the length of the deck -
- 
13. Remove the trestle perimeter and internal bracing member.  
All trestle bracing should be removed and transported to an offsite facility for repair or reconstruction.
- 

This application for listed building consent will identify the location for the storage of items. Importantly, these works will allow for the Pier structure to be made safe to allow for it be surveyed which, in turn, will influence how we intend to address the other matters in the Repairs Notice. We trust that you appreciate that this is a complex structure, the repair of which needs to be properly considered.

The above demonstrates our continued efforts to respond to the Repairs Notice and to engage with the Council in a meaningful manner. It remains our intention to secure the long term future of the Pier. In addition to the above, we will be submitting an application for the removal of the North Jetty (which has already received consent).

Yours sincerely,

Paul Crisp  
Head of Heritage  
**For and on Behalf of JLL**

cc. John Ette – Historic England (by email)



## Birnbeck Pier Refurbishment Strategy 2020

ID	Task Name	Duration	Start	Finish	Half 2, 2020											
					A	M	J	J	A	S	O					
1	<b>Birnbeck Pier Restoration</b>	<b>80 days?</b>	<b>Mon 11/05/20</b>	<b>Fri 28/08/20</b>	Birnbeck Pier Restoration											
2	<b>Team Mobilisation</b>	<b>25 days?</b>	<b>Mon 11/05/20</b>	<b>Fri 12/06/20</b>	Team Mobilisation											
3	Appointment of Consultants	0 days	Fri 22/05/20	Fri 22/05/20	Appointment of Consultants											
4	Review of LB Repair Notice	5 days	Mon 11/05/20	Fri 15/05/20	Review of LB Repair Notice											
5	Development Initial Refurbishment strategy	7 days?	Mon 18/05/20	Tue 26/05/20	Development Initial Refurbishment strategy											
6	Initial Refurbishment strategy report	0 days	Tue 26/05/20	Tue 26/05/20	Initial Refurbishment strategy report											
7	Develop Initial Project Programme	4 days	Thu 28/05/20	Tue 02/06/20	Develop Initial Project Programme											
8	Issue Draft Project Programme	0 days	Wed 03/06/20	Wed 03/06/20	Issue Draft Project Programme											
9	HOP Site visit to Verify Initial Refurbishment Strategy	1 day?	Fri 05/06/20	Fri 05/06/20	HOP Site visit to Verify Initial Refurbishment Strategy											
10	Site visit Report	5 days	Mon 08/06/20	Fri 12/06/20	Site visit Report											
11	Hold POINT Issue Draft Project Programme to LBA	0 days	Fri 12/06/20	Fri 12/06/20	Hold POINT Issue Draft Project Programme to LBA											
12	<b>Immediate Priority Work</b>	<b>48 days?</b>	<b>Wed 27/05/20</b>	<b>Fri 31/07/20</b>	Immediate Priority Work											
13	<b>Scope and Licensing</b>	<b>34 days?</b>	<b>Wed 27/05/20</b>	<b>Mon 13/07/20</b>	Scope and Licensing											
14	Develop Scope for Artefact / Debris Recovery	5 days	Wed 27/05/20	Tue 02/06/20	Develop Scope for Artefact / Debris Recovery											
15	Collate Opinion from consultants on Ecology and Heritage Interventions.	5 days	Wed 03/06/20	Tue 09/06/20	Collate Opinion from consultants on Ecology and Heritage Interventions.											
16	Produce Method Statements for NE, HE LBA Comment	3 days	Wed 10/06/20	Fri 12/06/20	Produce Method Statements for NE, HE LBA Comment											
17	Submit Method Statements to NE, EH	0 days	Fri 12/06/20	Fri 12/06/20	Submit Method Statements to NE, EH											
18	MS Approval NE, EH	10 days	Mon 15/06/20	Fri 26/06/20	MS Approval NE, EH											
19	Submit Method Statement to LBA	0 days	Fri 03/07/20	Fri 03/07/20	Submit Method Statement to LBA											
20	MS Approval LBA	5 days	Mon 06/07/20	Fri 10/07/20	MS Approval LBA											
21	MMO Licence Assuming Fast Track Applies	1 day?	Mon 13/07/20	Mon 13/07/20	MMO Licence Assuming Fast Track Applies											
22	<b>Immediate Priority Site Works (Tidally Constrained TBC)</b>	<b>14 days?</b>	<b>Tue 14/07/20</b>	<b>Fri 31/07/20</b>	Immediate Priority Site Works (Tidally Constrained TBC)											
23	Mobilisation	5 days	Tue 14/07/20	Mon 20/07/20	Mobilisation											
24	Establish Works compound and storage	5 days	Tue 21/07/20	Mon 27/07/20	Establish Works compound and storage											
25	Recovery of Artefacts / Debris from foreshore (Tidally Constrained TBC)	3 days	Tue 28/07/20	Thu 30/07/20	Recovery of Artefacts / Debris from foreshore (Tidally C											
26	Demobilisation	1 day?	Fri 31/07/20	Fri 31/07/20	Demobilisation											
27	<b>High Priority Works</b>	<b>60 days</b>	<b>Mon 08/06/20</b>	<b>Fri 28/08/20</b>	High Priority Works											
28	<b>Design Development</b>	<b>25 days</b>	<b>Mon 08/06/20</b>	<b>Fri 10/07/20</b>	Design Development											
29	Collation and review of historical information	5 days	Mon 08/06/20	Fri 12/06/20	Collation and review of historical information											
30	Design Development & production of base drawings	10 days	Mon 15/06/20	Fri 26/06/20	Design Development & production of base drawings											
31	Structural / Civil Engineering inspection and Report on Stability and Safety	5 days	Mon 29/06/20	Fri 03/07/20	Structural / Civil Engineering inspection and Report on Stability and Safety											
32	CDM duties inc Notification and production of preconstruction information	5 days	Mon 06/07/20	Fri 10/07/20	CDM duties inc Notification and production of preconstruction infor											
33	Structural Appraisal of Bracing	5 days	Mon 15/06/20	Fri 19/06/20	Structural Appraisal of Bracing											
34	Review of structural implications of deck removal & temporary works	5 days	Mon 22/06/20	Fri 26/06/20	Review of structural implications of deck removal & temporary works											
35	Production of Licensing Drawings	5 days	Mon 29/06/20	Fri 03/07/20	Production of Licensing Drawings											
36	Collate Opinion from consultants on Ecology and Heritage Interventions.	5 days	Mon 29/06/20	Fri 03/07/20	Collate Opinion from consultants on Ecology and Heritage Interventions.											
37	Appointment of Contactor for High Priority Works	5 days	Mon 06/07/20	Fri 10/07/20	Appointment of Contactor for High Priority Works											
38	HOLD POINT Client Approval / Instruction of Developed High Priority works Package	0 days	Fri 10/07/20	Fri 10/07/20	HOLD POINT Client Approval / Instruction of Developed High Priority											
39	<b>Licensing (Assuming Fast Track Process applies)</b>	<b>35 days</b>	<b>Mon 13/07/20</b>	<b>Fri 28/08/20</b>	Licensing (Assuming Fast Track Proc											
40	Pre-Application advice from LBA	25 days	Mon 13/07/20	Fri 14/08/20	Pre-Application advice from LBA											
41	Pre-Application Advice from Historic England	25 days	Mon 13/07/20	Fri 14/08/20	Pre-Application Advice from Historic England											
42	Pre-Application Advice from Natural England	25 days	Mon 13/07/20	Fri 14/08/20	Pre-Application Advice from Natural England											
43	Pre-Application Advice Environment Agency	25 days	Mon 13/07/20	Fri 14/08/20	Pre-Application Advice Environment Agency											
44	Prepare Application to MMO Licence and submit	10 days	Mon 17/08/20	Fri 28/08/20	Prepare Application to MMO Licence a											
45	Prepare SSSI Permit to Natural England and submit	5 days	Mon 17/08/20	Fri 21/08/20	Prepare SSSI Permit to Natural England an											
46	Prepare LB Consent and Submit	5 days	Mon 17/08/20	Fri 21/08/20	Prepare LB Consent and Submit											

Project: 2020 05 XX HOP Programme Date: Fri 12/06/20	Task	Critical Task Progress	Rolled Up Task	Rolled Up Progress	Project Summary
	Task Progress	Milestone	Rolled Up Critical Task	Split	Group By Summary
	Critical Task	Summary	Rolled Up Milestone	External Tasks	Deadline

# Birnbeck Pier

## Method Statement for foreshore clean

12<sup>th</sup> June 2020

Prior to commencing activity in the intertidal zone, all Contractors shall plan works around tides and contact Milford Haven Coastguard operation centre 01646 690 909 (24hours) and advise of intentions for that day and agree any ongoing liaison requirements. These calls should be logged, and a summary provided to the works programme co-ordinator.

Contractors should also carry out their normal Risk Assessment, which should include an understanding of tides in the area.

Birnbeck Pier is a grade II\* listed building dating from 1862. There are also a number of other listed buildings within the immediate vicinity which include several on Birnbeck Island. A plan of these buildings is included at attachment 1. Any works to the listed structure may require listed building consent. It is therefore important that only authorised works, or works that do not affect the special architectural or historic interest of the listed building are undertaken. If there is any confusion or clarity is sought over the extent of works, please refer to the works programme co-ordinator or the Heritage Advisor.

The structure should be assumed unsafe over and under until it is determined otherwise. It is recommended that individuals are not exposed to either deck access or areas under the pier or within a sensible buffer zone (subject to risk assessment) until this advice changes.

As the site lies within the Severn Estuary European Marine Site (incorporating Special Area of Conservation, Special Protection Area, Ramsar site and Site of Special Scientific Interest) works will be preceded by, and undertaken during, an ecological watching brief to monitor for the possibility of direct damage to the features of ecological interest listed within the various designations, as well as disturbance to any significant aggregations of birds associated with them.

Furthermore, works will be carried out under consent from Natural England to carry out operations within an SSSI. An application for consent has been made and a decision is currently pending.

### Works to be carried out

This method statement relates to the following works:

1. The removal of any material from the foreshore which is likely to have originated from a listed structure.

### Outline Method

Contractor will establish a compound and suitable welfare facilities at the pier root end.

An area in the forecourt will be set aside for stockpiling artefacts, which will be fenced for security.

Contractor will enable access to the foreshore on foot.

After assessing tides and during a suitable tidal window, a search of the foreshore shall commence by hand picking debris from the foreshore, locally stockpiling and then recovery to the forecourt compound.

Where elements cannot be reasonably man handled (typically >20kg due to weight), the contractor may elect to use suitable tracked dumper to assist recovery. If required, this will be carefully lowered to the foreshore either by contract lift or winch assisted access. The access route and the route taken over the foreshore to recover any items will be agreed with the Ecological Advisor following their baseline review.

All works to be carried out in accordance with Prevent Pollution Guidance note 5 (PPG5).

Contractor will give due regard to flora and fauna on the foreshore and avoid tracking over biodiverse sensitive areas.

Works will be repeated over several tidal cycles as required demobilising to land between tides.

### Recording/Logging

In the first instance, any material removed from the foreshore should be set to one side. This material should be inspected by the heritage advisor to advise on its significance. If material appears to have originated from a listed structure, it should be logged according to the steps below.

In the undertaking of the works identified at nos. 1 above, a log of the material should be maintained. This log should include:

1. A photograph of the item. This should be of a high enough quality and under reasonable lighting conditions to allow the detail of the material to be understood. The photograph should include a ruler or similar item to allow its dimensions to be understood.
2. A description of the item, with approximate sizes (length, width, depth).
3. Recording of any specific identification marks or detailing through photography.
4. Each item should be given a unique reference number which should also be included on the log sheet. This unique number should be securely attached to the recovered item.
5. Details of where the item is stored. The item should be stored securely on site to prevent any theft or vandalism.

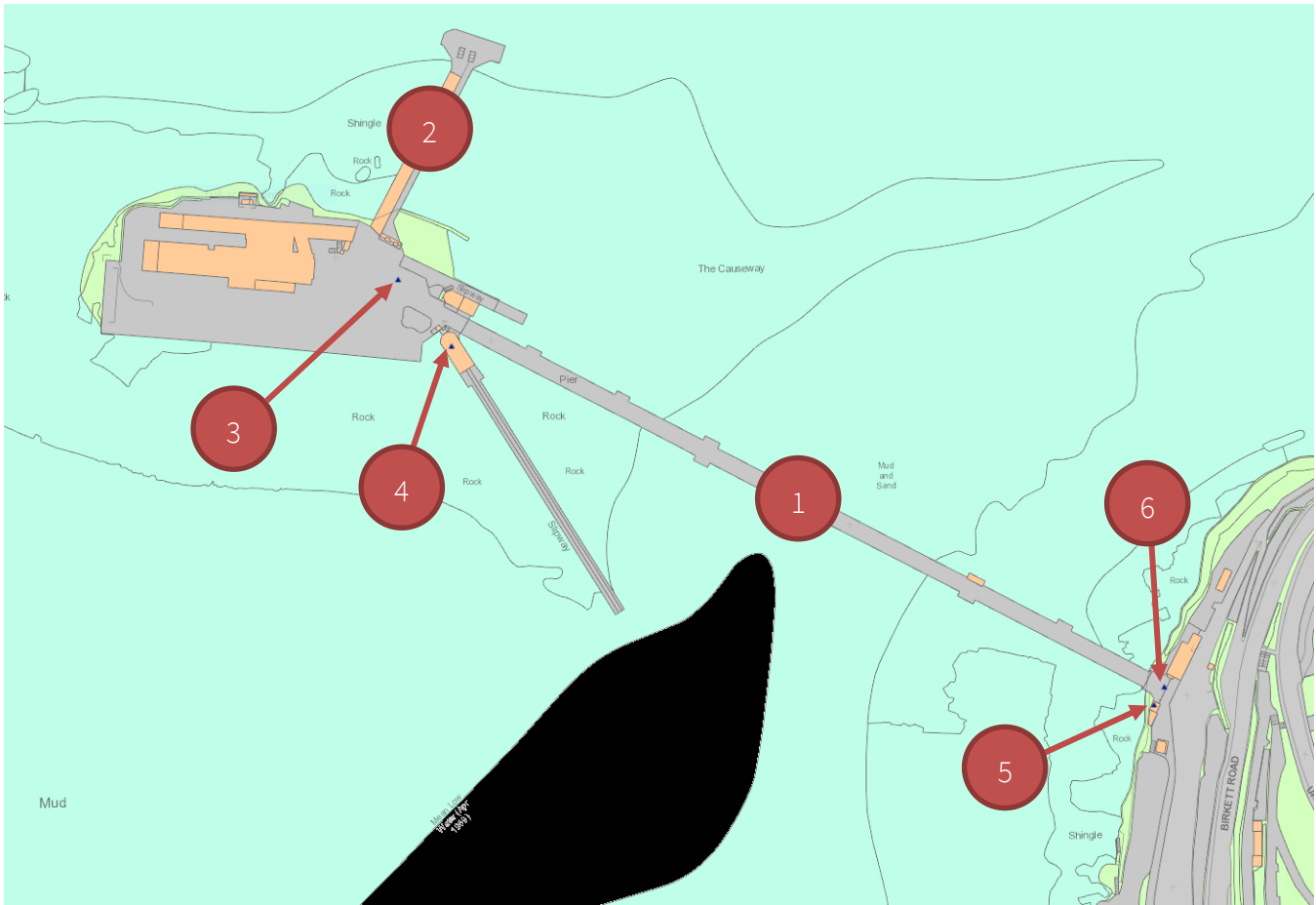
A copy of the log should be retained on site and should also be sent to the works programme co-ordinator, the heritage advisor and the ecological advisor.

Without exception, no material is to be removed from site without prior inspection by the Heritage Advisor and/or the local planning authority and/or Historic England.

### Key Contacts

Works Programme Co-ordinator	Heritage Advisor	Ecological Advisor
Kamran Rahmat	Paul Crisp	Harry Fox
CNM Estates	Head of Heritage, JLL	Principal Ecologist
E: <a href="mailto:Kamran.rahmat@cnmestates.com">Kamran.rahmat@cnmestates.com</a>	E: <a href="mailto:paul.crisp@eu.jll.com">paul.crisp@eu.jll.com</a>	Clarkson & Woods
M: 07961 471607	M: 07885 820800	E: <a href="mailto:harry.fox@clarksonwoods.co.uk">harry.fox@clarksonwoods.co.uk</a>
		M: 07814582276

# Attachment 1. Listed Buildings



Reference	Description	Grade
1	Birnbeck Pier	II*
2	North Jetty	II
3	Clock Tower	II
4	Lifeboat House & Slipway	II
5	Entrance Gates & Turnstiles	II
6	Toll House Lodge	II

## Andrew Westbrook

---

**From:** Crisp, Paul <Paul.Crisp@eu.jll.com>  
**Sent:** 22 June 2020 16:07  
**To:** Rachel Lewis  
**Cc:** john.ette@HistoricEngland.org.uk  
**Subject:** RE: Birnbeck Pier  
**Attachments:** 20200622 Rachel Lewis.pdf; Immediate Works Method Statement 20200622 Final for submission.pdf; 2020 06 22 Programme T04.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged



Rachel,

Thanks for your email last week.

When I received your email, I was about to send you the full programme! Rather than confusing matters, I postponed sending you this so that we could address the points that you raise.

Accordingly please find attached a letter setting out approach and addressing your comments. I have also attached the full programme and the revised Method Statement.

For your information, the attached Method Statement has been submitted to Natural England to obtain their consent. We also require confirmation that you are happy with the Method Statement so that we can obtain consent from the Marine Management Organisation for the works. We would be grateful if you could respond on this as soon as possible. By copy, we also require the consent of Historic England and John Ette is copied in to this email in this regard.

It would also be helpful if we could arrange a call (zoom, teams or similar) to discuss the programme and the review the works. Would you be able to provide some dates when your team might be available

I trust that the attached documents are clear. Please do let me know if you have any queries.

We look forward to hearing from you.

Regards

Paul

Paul Crisp  
Head of Heritage & Townscape  
JLL

M: +44 (0)7885 820800

[paul.crisp@eu.jll.com](mailto:paul.crisp@eu.jll.com)  
[jll.co.uk](http://jll.co.uk)

---

**From:** Crisp, Paul  
**Sent:** 19 June 2020 18:38  
**To:** Rachel Lewis <rachel.lewis@n-somerset.gov.uk>

**Cc:** john.ette@HistoricEngland.org.uk  
**Subject:** RE: [EXTERNAL] RE: Birnbeck Pier

Rachel,

Thanks for your email.

We were in the process of submitting the full programme of works when your email was received.

As your email raises several important issues which we want to address, we will provide the full programme of works and a letter outlining approach on Monday. This is so that we can keep a single clear channel of communication open.

We trust that you are happy with this approach.

Regards

Paul

Paul Crisp  
Head of Heritage & Townscape  
JLL

M: +44 (0)7885 820800

[paul.crisp@eu.jll.com](mailto:paul.crisp@eu.jll.com)  
[jll.co.uk](http://jll.co.uk)

---

**From:** Rachel Lewis <[rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)>  
**Sent:** 19 June 2020 17:30  
**To:** Crisp, Paul <[Paul.Crisp@eu.jll.com](mailto:Paul.Crisp@eu.jll.com)>  
**Cc:** [john.ette@HistoricEngland.org.uk](mailto:john.ette@HistoricEngland.org.uk)  
**Subject:** [EXTERNAL] RE: Birnbeck Pier

Paul,

Thank you for your email and the attachments.

With regard to the method statement, while it seems fairly comprehensive it reads like a brief for a method statement rather than the actual statement to be used by those undertaking the works due to its use of words such as 'should' rather than something more definite. Can you confirm please? Also I was not sure what you meant by a 'separate method statement' being sent to Natural England, do you mean the same one being sent separately or is it a different one?

Your approach of a 'pre application' prior to submitting the LBC is welcomed, so that we can be clear about what does and does not require consent. Can you confirm that it will be only for salvaging Pier related objects and items 7, 8, 11 and 13 as listed in your letter?

As you know the repairs notice contained a schedule of 23 items. These are considered by the council and our advisors to be the works that are all necessary to effect a satisfactory repair to the structure. We would be concerned if the intention is to simply undertake the salvaging and 4 items you list as this would amount to partial demolition and some limited stabilisation, rather than repair.

I look forward to hearing from you.

regards

Rachel Lewis  
Development and Regeneration Programme Manager  
Placemaking and Growth  
North Somerset Council

**Tel:** 01934 426465

**E-Mail:** [rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)

**Post:** Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

**Web:** [www.n-somerset.gov.uk](http://www.n-somerset.gov.uk)

---

**From:** Crisp, Paul <[Paul.Crisp@eu.jll.com](mailto:Paul.Crisp@eu.jll.com)>  
**Sent:** Friday, June 12, 2020 4:43 PM  
**To:** Rachel Lewis <[rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)>  
**Cc:** [john.ette@HistoricEngland.org.uk](mailto:john.ette@HistoricEngland.org.uk)  
**Subject:** Birnbeck Pier



Rachel,

As promised, please find attached correspondence relating to Birnbeck Pier. This includes a immediate programme of works, which includes the progress made to date.

We also enclose a Method Statement which details how we intend to salvage material from the foreshore. This identifies that material will be stored securely on site and logged according to its provenance.

Please could you confirm that you are happy with the Method Statement as we require your confirmation as part of the application to the Marine Management Organisation. A separate Method Statement is being sent to Natural England.

I have also copied in John Ette and, by copy, would ask if John could also confirm that he is happy with the attached Method Statement.

I look forward to hearing from you.

Regards

Paul

Paul Crisp  
Head of Heritage & Townscape  
JLL

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Care Connect: for all adult social services enquiries visit [www.n-somerset.gov.uk/careconnect](http://www.n-somerset.gov.uk/careconnect)

Out of hours emergencies: 01934 622 669

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Development and Regeneration Programme Manager  
Placemaking and Growth  
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Town Hall  
Walliscote Grove Road  
Weston-super-Mare  
BS23 1UJ

Your ref  
Our ref  
Direct line 07885 820800  
Email [paul.crisp@eu.jll.com](mailto:paul.crisp@eu.jll.com)

BY EMAIL ONLY

22<sup>nd</sup> June 2020

Dear Rachel,

### **Birnbeck Pier – Repairs Notice**

I refer to our ongoing exchange of correspondence, in respect of the above matter.

Firstly, I would like to take the opportunity to clarify our intention with the forthcoming pre-application submission in respect of listed building consent. It is intended that this will cover the removal of any material that poses a risk to navigation and/or health and safety as well as items 7,8 11 and 13 of the Repairs Notice. I must reiterate that our Engineer, HOP Consulting, agrees that these works are required, and they must be prioritised ahead of the winter storms. We do not, however, intend to stop there in addressing the Repairs Notice.

Our Engineer, HOP Consulting, has completed an initial prioritisation exercise. The prioritisation process has considered heritage, existing condition, likely exposure to sea state and other time dependent deterioration processes that could impact on the stability and resilience of the Pier. Importantly, the prioritisation process has also incorporated how works can be safely and practically be implemented and the associated statutory Health and Safety duties, noted as a condition of the notice.

Priorities have been summarised as follows:

Priority	Definition
High	Work should be done as soon as practically possible and prior to the winter storm season to ensure the safety of the public, safeguard structural integrity or avoid a high cost penalty or high risk of loss of heritage assets. Some elements may require immediate action or load restrictions.
Medium	Work has a lower priority to High priority and should be completed as soon as practically possible; postponement carries some cost penalty or increased risk of loss of heritage assets. Work may depend on design development.
Low	Work may not be necessary depending on design development and method related planning or should be completed when practical to do so.
Statutory Duty	Statutory duties such as those relating to Health and safety are not prioritised and are assumed to be required for any construction project.

Medium and low priorities require further inspection, planning, design development and regulatory approvals. It is our intention to undertake an immediate campaign of works dealing with the foreshore which would be followed by high priority works (items 7,8 11 and 13 of the Repairs Notice). These predominately deal with matters of safety and arresting decline. We can then address the medium and low priority works when weather conditions allow. We intend to use this intervening period to specify the required works and obtain the necessary permissions, consents and licences, ready for a contractor to start on site when practicable.

As I am sure that you are aware, this is a highly complex and sensitive structure that needs to be dealt with sympathetically and in phases.

In response to your email dated 19<sup>th</sup> June 2020, 1730, I can confirm the following:

1. The Method Statement has been amended following your comments and a revised version is attached. This has also been submitted to Natural England (by Clarkson Woods, our ecological advisor) for their approval. Please could you confirm that you are happy with the enclosed Method Statement;
2. The forthcoming listed building consent pre-application submission will relate to items 7, 8, 11 and 13 of the Repairs Notice only. The justification for this is set out above;

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3. As set out above, it is our intention to address the Repairs Notice in its totality. The immediate works highlighted at items 7, 8, 11 and 13 of the Repairs Notice are the high priority works of matters of safety and arresing decline. We have set out above our approach to addressing the other items. Please could you confirm that you are happy with the immediate and full programme of works;

The enclosed, and the above, demonstrates our continued efforts to respond to the Repairs Notice and to engage with the Council in a meaningful manner. It remains our intention to secure the long term future of the Pier. In addition to the above, we will be submitting an application for the removal of the North Jetty (which has already received consent).

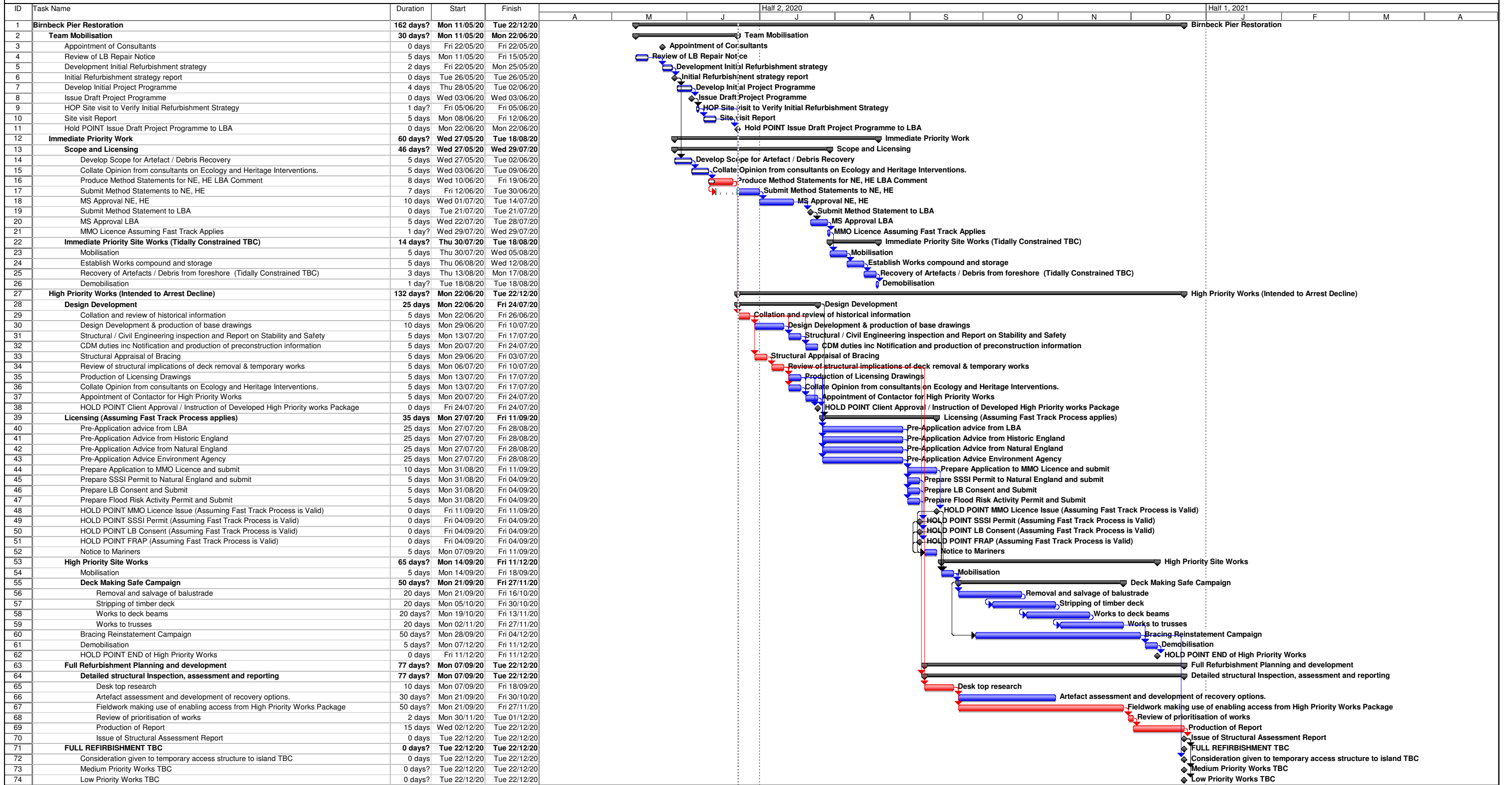
Finally, I will be in touch shortly to request a meeting (using Zoom or Teams) for us to review the programme and our proposed works.

Yours sincerely,

Paul Crisp  
Head of Heritage  
**For and on Behalf of JLL**

cc. John Ette – Historic England (by email)

# Birnbeck Pier Refurbishment Strategy 2020



Project: 2020 05 XX HOP Programme  
Date: Mon 22/06/20

Task: Critical Task Milestone Rolled Up Task Rolled Up Milestone Split Project Summary Deadline

Task Progress: Critical Task Progress Summary Rolled Up Critical Task Rolled Up Progress External Tasks Group By Summary

# Birnbeck Pier

## Method Statement for foreshore clean

22<sup>nd</sup> June 2020

Prior to commencing activity in the intertidal zone, all Contractors will plan works around tides and contact Milford Haven Coastguard operation centre 01646 690 909 (24hours) and advise of intentions for that day and agree any ongoing liaison requirements. These calls are to be logged, and a summary provided to the works programme co-ordinator.

Contractors will also carry out their normal Risk Assessment, which is to include an understanding of tides in the area.

Birnbeck Pier is a grade II\* listed building dating from 1862. There are also a number of other listed buildings within the immediate vicinity which include several on Birnbeck Island. A plan of these buildings is included at attachment 1. Any works to the listed structure may require listed building consent. It is therefore important that only authorised works, or works that do not affect the special architectural or historic interest of the listed building are undertaken. If there is any confusion or clarity is sought over the extent of works, contact the works programme co-ordinator or the Heritage Advisor.

The structure is to be assumed unsafe over and under until it is determined otherwise. Individuals should not be exposed to either deck access or areas under the pier or within a sensible buffer zone (subject to risk assessment) until this advice changes.

As the site lies within the Severn Estuary European Marine Site (incorporating Special Area of Conservation, Special Protection Area, Ramsar site and Site of Special Scientific Interest) works will be preceded by, and undertaken during, an ecological watching brief to monitor for the possibility of direct damage to the features of ecological interest listed within the various designations, as well as disturbance to any significant aggregations of birds associated with them.

Furthermore, works will be carried out under consent from Natural England to carry out operations within an SSSI. An application for consent has been made.

### Works to be carried out

This method statement relates to the following works:

1. The removal of any material from the foreshore which is likely to have originated from a listed structure.

### Outline Method

Contractor will establish a compound and suitable welfare facilities at the pier root end.

An area in the forecourt will be set aside for stockpiling artefacts, which will be fenced for security.

Contractor will enable access to the foreshore on foot. The precise location for access will be identified on site and confirmed with the ecological advisor.



After assessing tides and during a suitable tidal window, a search of the foreshore will commence by hand picking debris from the foreshore, locally stockpiling and then recovery to the forecourt compound. There are no vehicles to be used in these works. The route taken over the foreshore by contractors to recover any items will be agreed with the Ecological Advisor following their baseline review.

All works to be carried out in accordance with Prevent Pollution Guidance note 5 (PPG5).

Contractor will give due regard to flora and fauna on the foreshore and avoid tracking over biodiverse sensitive areas.

Works will be repeated over several tidal cycles as required demobilising to land between tides.

### Recording/Logging

In the first instance, any material removed from the foreshore will be set to one side. This material will be inspected by the heritage advisor to advise on its significance. If material appears to have originated from a listed structure, it will be logged according to the steps below.

In the undertaking of the works identified at nos. 1 above, a log of the material will be maintained. This log will include:

1. A photograph of the item. This is to be of a high enough quality and under reasonable lighting conditions to allow the detail of the material to be understood. The photograph is to include a ruler or similar item to allow its dimensions to be understood.
2. A description of the item, with approximate sizes (length, width, depth).
3. Recording of any specific identification marks or detailing through photography.
4. Each item is to be given a unique reference number which is included on the log sheet. This unique number is to be securely attached to the recovered item.
5. Details of where the item is stored. The item will be stored securely on site to prevent any theft or vandalism.

A copy of the log will be retained on site and will also be sent to the works programme co-ordinator, the heritage advisor and the ecological advisor.

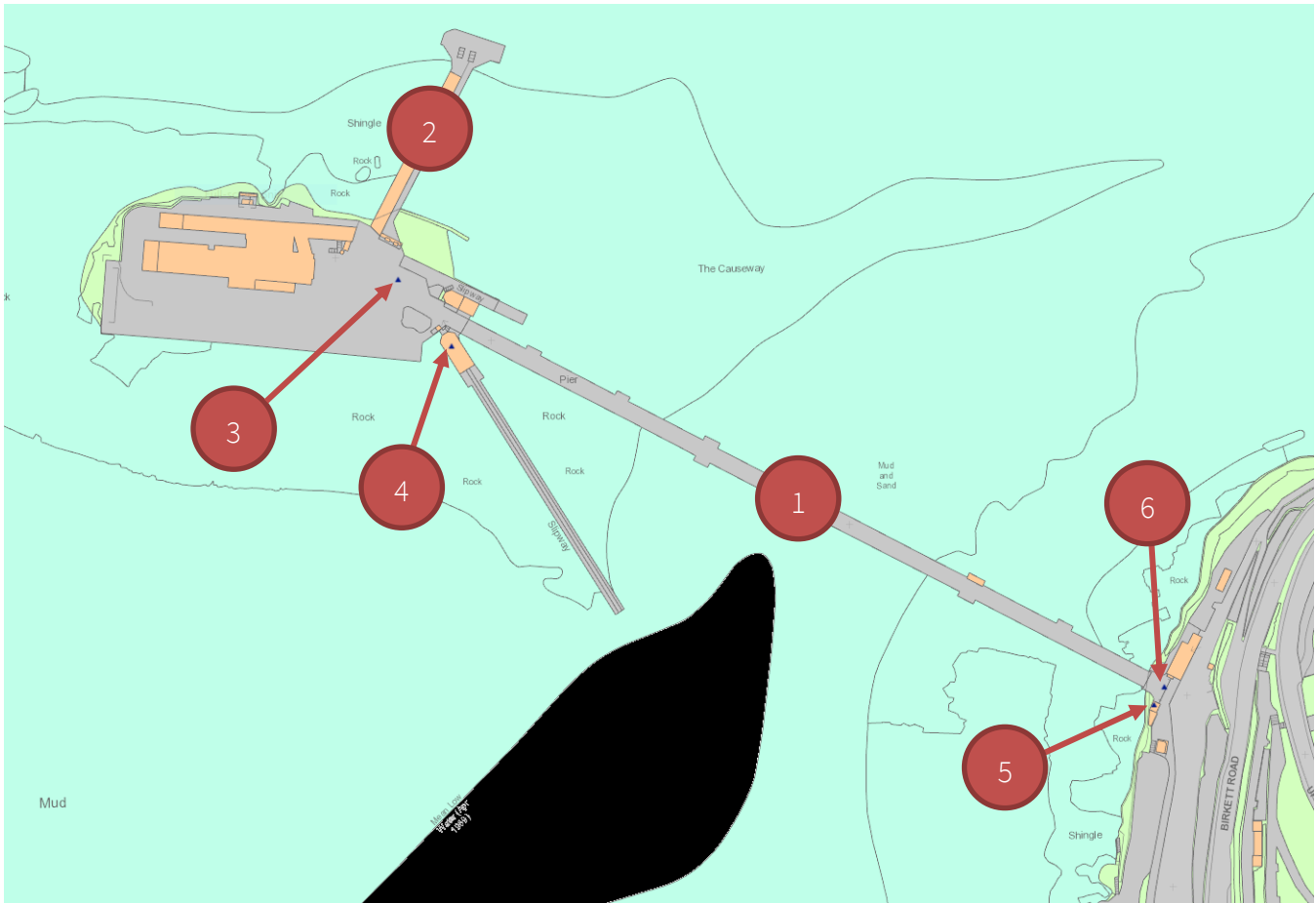
Without exception, no material is to be removed from site without prior inspection by the Heritage Advisor and/or the local planning authority and/or Historic England.

### Key Contacts

Works Programme Co-ordinator	Heritage Advisor	Ecological Advisor
Kamran Rahmat	Paul Crisp	Harry Fox
CNM Estates	Head of Heritage, JLL	Principal Ecologist
E: <a href="mailto:Kamran.rahmat@cnmestates.com">Kamran.rahmat@cnmestates.com</a>	E: <a href="mailto:paul.crisp@eu.jll.com">paul.crisp@eu.jll.com</a>	Clarkson & Woods
M: 07961 471607	M: 07885 820800	E: <a href="mailto:harry.fox@clarksonwoods.co.uk">harry.fox@clarksonwoods.co.uk</a>
		M: 07814582276



# Attachment 1. Listed Buildings



Reference	Description	Grade
1	Birnbeck Pier	II*
2	North Jetty	II
3	Clock Tower	II
4	Lifeboat House & Slipway	II
5	Entrance Gates & Turnstiles	II
6	Toll House Lodge	II

## Andrew Westbrook

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**From:** Crisp, Paul <Paul.Crisp@eu.jll.com>  
**Sent:** 01 July 2020 16:57  
**To:** Rachel Lewis  
**Cc:** Kate Hudson-McAulay  
**Subject:** RE: Birnbeck - works starting tomorrow?



Rachel,

Just to confirm our earlier discussions.

I have spoken with the Contractor on site. He has advised me that he has no intention of undertaking the foreshore clean and will not be accessing the foreshore in any way as we have not been given the required permissions to commence this element of work. I understand from the contractor that he spoke with one of the Rangers in respect of the tide times, but they have sought to minimise interaction with others given the need to socially distance.

I am therefore slightly perplexed how you have been advised that we will be accessing the foreshore as all the operatives on site are aware that the required permissions are not in place to allow this to progress. If you are able to provide the details of anyone from the contractors team that you, or your Rangers, have spoken to, we can ensure that we speak with that individual to ensure that the correct messaging is provided to anyone that asks.

To confirm, the contractor is currently renewing the Temporary Works Compound and setting up the welfare facilities, but that is all.

Regards

Paul

Paul Crisp  
Head of Heritage & Townscape  
JLL

M: +44 (0)7885 820800

[paul.crisp@eu.jll.com](mailto:paul.crisp@eu.jll.com)  
[jll.co.uk](http://jll.co.uk)

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**From:** Rachel Lewis <rachel.lewis@n-somerset.gov.uk>  
**Sent:** 01 July 2020 12:53  
**To:** Crisp, Paul <Paul.Crisp@eu.jll.com>  
**Cc:** Kate Hudson-McAulay <Kate.Hudson-McAulay@n-somerset.gov.uk>  
**Subject:** [EXTERNAL] RE: Birnbeck - works starting tomorrow?  
**Importance:** High

Paul,

I have had further reports this morning from the Councils seafront staff that the contractors are on site now and apparently intending to access the foreshore and remove 'debris'. However they clearly didn't check the tide times, as it is now coming in and access won't be possible safely until tomorrow (in daylight at least), even if they did have the necessary permissions.

This is contrary to the assurances that you gave me last night.

I would be grateful if you could find out what is happening and let me know as soon as possible.

Many thanks

Rachel Lewis  
Development and Regeneration Programme Manager  
Placemaking and Growth  
North Somerset Council

**Tel:** 01934 426465

**E-Mail:** [rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)

**Post:** Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

**Web:** [www.n-somerset.gov.uk](http://www.n-somerset.gov.uk)

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**From:** Rachel Lewis

**Sent:** Tuesday, June 30, 2020 4:41 PM

**To:** Crisp, Paul <[Paul.Crisp@eu.jll.com](mailto:Paul.Crisp@eu.jll.com)>

**Cc:** Kate Hudson-McAulay <[Kate.Hudson-McAulay@n-somerset.gov.uk](mailto:Kate.Hudson-McAulay@n-somerset.gov.uk)>

**Subject:** Birnbeck - works starting tomorrow?

Paul,

I have had reports from local people saying that they have met contractors from UK Ind Serv at the site this afternoon, who have been instructed to remove 'debris' from the island and the foreshore starting tomorrow.

I would be grateful if you could confirm if this is accurate?

As I understood it you wanted me to confirm that the council was happy with the method statement for recovery of artefacts from the foreshore (but not the island) before submitting to the MMO, and assuming all consents were received recovery work would start in mid-August.

I look forward to hearing from you shortly.

I have also cc'd Dr Hudson-McAuley, the Councils Conservation Officer into this email so you have her contact details in order that you can notify her when recovery of the items commences.

Regards

Rachel Lewis  
Development and Regeneration Programme Manager  
Placemaking and Growth  
North Somerset Council

**Tel:** 01934 426465

**E-Mail:** [rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)

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# North Somerset Council

## REPORT TO THE COUNCIL

**DATE OF MEETING: 14 JULY 2020**

**SUBJECT OF REPORT: BIRNBECK PIER - APPROVAL TO MAKE  
COMPULSORY PURCHASE ORDER (CPO)**

**TOWN OR PARISH: WESTON-SUPER-MARE**

**MEMBER PRESENTING: LEADER OF THE COUNCIL**

**KEY DECISION: NO**

### RECOMMENDATIONS

a) That, subject to an appropriate and legally binding agreement first being concluded with the Royal National Lifeboat Institution (RNLI) for the Council's costs and compensation liabilities to be paid by RNLI, the Council approves and authorises the Director of Development and Environment to make a Compulsory Purchase Order (CPO) under Section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to acquire the land and structures detailed in the Birnbeck Pier acquisition of land plan, and to seek confirmation of the CPO by the Secretary of State (or to confirm the CPO as an unopposed Order if appropriate).

b) To authorise the Director of Development and Environment to undertake all relevant and necessary steps to secure confirmation and delivery of the Order, including but not limited to:

i. Making subsequent amendments to the Order, the Statement of Reasons, the draft Order Map (within the existing boundary indicated on the Birnbeck Pier acquisition of land plan) and other documentation considered necessary to secure confirmation of the Order;

ii. Publication and advertisement of the Order, service of all appropriate notices (including site notices and other processes required to notify unidentified owners of interests in the land) in relation to the making of the Order and submission of the Order and all relevant accompanying documents to the Secretary for State for confirmation;

iii. Entering into any agreements or undertakings to secure the withdrawal of objections to the confirmation of the Order;

c) Following confirmation of the CPO to publicise and serve all appropriate notices in relation to the confirmation of the Order

d) To authorise the Director of Development and Environment, in consultation with the Leader of the Council and Head of Legal & Democratic Services to:

- i. make one or more general vesting declarations or serve notices to treat and notices of entry (as appropriate) in respect of all or any part of the land shown in the Birnbeck Pier acquisition of land plan following confirmation of the CPO;
  - ii. take all necessary steps to secure all relevant interests shown in the Birnbeck Pier acquisition of land plan, including negotiation of agreements, undertakings, transfers and any new rights required, with interested parties and to remove all occupants from the relevant land subsequent to the Council taking possession of the relevant land, if required; and
  - iii. acquire by agreement of interests in and over the relevant Land under Section 52 of the 1990 Act before and after confirmation of the Order and in respect of any new rights required for the protection, repair development or use of Birnbeck Pier.
- e) To authorise the Director of Development and Environment to appoint relevant external professional advisors and consultants to assist in facilitating confirmation of the Order and addressing any wider claims/ disputes related to the process;
- f) To authorise the Head of Legal & Democratic Services to take all required steps in relation to any legal proceedings relating to the Order, including:
- i. defending the decision to proceed with the Order in any Magistrates Court hearing seeking a stay of the CPO process,
  - ii. defending or settling claims referred to the Upper Tribunal (Lands Chamber) and/or applications made to the Courts and any appeals;
- g) To authorise the Director of Development and Environment, in consultation with the Leader of the Council and Head of Legal & Democratic Services to vest or otherwise acquire all or any part of the land shown in the Birnbeck Pier acquisition of land plan for the subsequent transfer of title of to RNLI or, at the direction of RNLI to a subsidiary company controlled by RNLI; and to grant over land owned by the Council to RNLI any temporary or permanent rights reasonably required by RNLI to facilitate the repair and redevelopment of Birnbeck Pier.
- h) That the Council approves and authorises the Director of Development and Environment, whether as part of the CPO process; by use of powers of appropriation and/or under Section 51 of the Planning (Listed Buildings and Conservation Areas) Act 1990; or by agreement, to acquire, secure or extinguish all legal, equitable and other interests in and rights to use or occupy the land and structures as shown in the Birnbeck Pier acquisition of land plan or any land held by the Council that may have new rights created in favour of RNLI to facilitate the repair and redevelopment of Birnbeck Pier.

## **1. SUMMARY OF REPORT**

**1.1** Negotiations with the current owner have been ongoing since 2014, including serving a statutory Repairs Notice, with no substantive proposals or action to safeguard or restore Birnbeck Pier (" the Pier") reached.

**1.2** Executive Decision 2019/20 EXE/70 - Birnbeck Pier and Associated Land, Proposed Way Forward, dated 5 February 2020 gave formal authority for officers to proceed with all relevant actions to prepare a Compulsory Purchase Order (CPO).

**1.3** Funding has been secured from Historic England to promote the compulsory acquisition of the Pier.

**1.4** The opportunity exists to secure the long term sustainable future of the Pier and return Royal National Lifeboat Institution (RNLI) lifesaving facilities to Birnbeck Pier and restore public access to the site.

## **2. POLICY**

### **2.1 National Planning Policy Framework: Section 16 – Conserving and enhancing the historic environment**

Paragraph 184 states that heritage assets are "an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations".

Para 192 (a) states that in determining applications, local authorities should have regard to "the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation..."

### **2.2 North Somerset Council Corporate Plan (2020/2024)**

#### **Aims and Priorities** (page 10)

- **A thriving and sustainable place** (pages 11 – 16)
- **A council which empowers and care about people** (pages 18 – 23)
- **An open and enabling organisation** (pages 24 – 29)

#### **A thriving and sustainable place**

- A great place for people to live, work and visit (pages 12/13)
- An attractive and vibrant place for business investment and sustainable growth (page 17)

#### **A council which empowers and cares about people**

- Partnerships which enhance skills, learning and employment opportunities (page 23)

#### **An open and enabling organisation**

- Engage with and empower our communities (page 25)
- Collaborate with partners to deliver the best outcomes (page 29)

### **2.3 North Somerset Council Core Strategy (2017)**

#### **Policy CS5- Landscape and the historic environment**

The council will conserve the historic environment of North Somerset, having regard to the significance of heritage assets such as conservation areas, listed buildings, buildings of local significance, scheduled monuments, other archaeological sites, registered and other historic parks and gardens.

Particular attention will be given to aspects of the historic environment which contribute to the distinctive character of North Somerset, such as the Victorian townscapes and seafronts in Weston and Clevedon.

**Area policy CS29 relating to Birnbeck Pier:** Priority will be given to regeneration of key redevelopment sites such as the Tropicana and Birnbeck Island. Development proposals in this area should-



- Have consideration for the sequential approach to development based on the National Planning Policy Framework and not prejudice the vitality and viability of the retail core, but instead should complement activities in the town centre
- Strengthen pedestrian and visual links and connections between the seafront and the retail core
- Be of the highest quality design which will enhance the visual appearance of the seafront and promenade.

## 2.4 Development management Polices: Sites and Policies Plan Part 1

Heritage assets are a finite and irreplaceable resource. They are a highly valued and essential part of North Somerset's cultural and local distinctiveness, and often promote community cohesion and identity through a legacy of having created a unique sense of place. When in active viable uses they help to promote economic vitality including tourism. North Somerset's heritage policies are designed as a strategic framework to guide the protection and enhancement of its heritage assets whether or not formally designated. Subject to the availability of resources the council will seek to formulate a comprehensive heritage management strategy engaging with local communities to promote the value of their heritage, and where necessary develop further measures to manage, protect and enhance it for the benefit of future generations.

The two key policies applicable to Birnbeck Pier are:-

- **(DM3) Conservation Areas** – policy aim is to conserve and wherever possible enhance North Somerset's conservation areas
- **(DM4) Listed Buildings** – policy aim is to safeguard the special architectural and historic interest of North Somerset listed buildings, their features inside and out, as well as their settings.

## 2.5 Weston-super-Mare Town Centre Regeneration: Supplementary Planning Document (SPD) (Feb 2017)

The area within which the SPD will apply is the town centre regeneration area as set out in the Site Allocations Plan Consultation Draft (March 2016) –



Whilst the guidance set out in the SPD applies within the designated area, regeneration and restoration is not limited to this. The renaissance of the Tropicana and potential restoration of **Birnbeck Pier** will contribute to the overall regeneration aims. Links with the area beyond the town centre by promoting access to the wider landscape are required as well as measures aimed at encouraging residents living in the suburbs and further away to use the town centre.

**Key Existing Characteristics** - Numerous listed buildings including the Royal Crescent, Royal Hotel and Claremont Crescent. Grade II\* listed **Birnbeck Pier** and Holy Trinity

Church provide individual points of architectural interest in the wider bay context. Buildings are predominantly three to four storey painted render or stone Victorian and Edwardian villas and terraces some with generous setbacks from the road, interspersed by areas of private open space and car parking.

## **2.6 Seafront Character Area of the Great Weston Conservation Area Appraisal and Management Plan (2019)**

The derelict state of Birnbeck Pier is cited as a significant detractor to the quality of the Conservation Area.

'Review rescue and reuse plans for Birnbeck Pier' is listed as a short/medium term action in the Conservation Area Management Guidelines and Action Plan.

## **2.7 NSC Weston Placemaking Strategy (2020 - in development)**

Currently in development with interim findings due for publication in the summer. Significant consultation work with local residents, visitors to the area, schools, local businesses and community organisations and groups has already taken place. Key to the strategy will be the identification of what gives people their 'sense of place' of the town i.e. what makes it special to them, provides a sense of wellbeing and acts as a lever to draw in additional investment and local business and community development. The pier has played a critical role in the history of the development of the town, and its poor condition was raised numerous times in the 'Weston Wishes' and other consultation undertaken as part of the strategy development. This will be reflected in the final strategy.

## **3. DETAILS**

### **3.1 Background**

Birnbeck Pier is a Grade II\* listed structure. Its condition is deteriorating and consequently it is a top priority on Historic England's Heritage at Risk national register (Category A: Very Bad). It is considered to be a nationally important structure that is 'at imminent risk of being lost because of neglect, decay or inappropriate development'.

Despite the extensive efforts of the Council since 2014, it has not been possible to secure any feasible, acceptable proposals for repair of the structure and, from observation, no significant maintenance is being carried out. The serving of a statutory repairs notice in September 2019, had led to some further dialogue with the owner of the Pier. The current owner has apparently appointed a new team of external consultants, who made contact with the Council on 1 June 2020. More recently they have suggested that they will work up proposals to address 4 of the 25 items listed in the Repairs Notice Schedule. Officers, after consultation with Historic England, have advised that proposals for all 25 items are required to safeguard the Pier structure. Meanwhile, the Pier continues to deteriorate at an accelerating pace.

RNLI owns the freehold of the lifeboat station and slipway but is no longer able to access its facility due to the condition of the Pier.

RNLI was forced to cease to use its Birnbeck station in 2013, after operating from the Pier for over 130 years, as it was no longer safe to access the Lifeboat Station over the deteriorating Pier. The principal "bridge" part of the Pier complex was last in use with a walkway laid for lifeboat crews to access the RNLI's station on Birnbeck Island, where the main facilities of the Pier complex were located when the Pier was open to the public.

RNLI's crew have since been operating from temporary accommodation at Marine Lake, although this is less than ideal as access to the sea is limited by the tides at this location.

The Weston lifeboat station is one of the busiest in the South West, and the RNLI have considered numerous options for a permanent site. This has led RNLI to again focus on its facility at Birnbeck Pier and the opportunities afforded by reopening the Pier. A study by RNLI has shown the Birnbeck Pier facility to be the best location for its permanent base for this busy part of the Bristol Channel. All alternatives considered are less than ideal, having restricted access to the sea and the considerable costs and loss of protected habitat associated with construction of new slipways. RNLI considers Birnbeck to be the best site for the local crew's operations.

The RNLI are open to a voluntary acquisition of the unencumbered freehold interest in the pier and island at market value, in order that they can create a lifesaving facility, return public access and create a sustainable future for the site. The RNLI confirm that a voluntary acquisition of the unencumbered freehold interest is not currently available to them.

Whilst engagement with the relevant parties will be pursued in good faith, in conjunction with the CPO process, it is not seen as likely that a transfer to RNLI will take place within a timescale which would allow RNLI to carry out works to repair and preserve the Pier and to re-open the lifeboat station.

### **3.2 The way forward**

It is believed that the long term sustainable future of the Pier can be secured through joint working between the Council, RNLI and Historic England. The proposal is that the Council secure the Pier (see Appendix 1: Proposed land to be acquired by CPO plan below), for the proper preservation and repair of the Grade II\* listed Pier, by transferring the title to RNLI to undertake the works to the Pier and reinstate a lifeboat station.

Partnership working and project planning has been taking place between the Council, the RNLI and Historic England to develop these proposals to both secure the repair of the Pier and provide for a sustainable future for the Pier.

Local Authorities have the power to undertake Compulsory Purchases of land for a number of defined purposes, and in this case the Council will use its powers to secure the proper preservation of a listed heritage asset where the owner has not taken steps to repair the structure following service of a repairs notice. Core funding for the purchase and major repair and restoration works has been confirmed by the RNLI Board of Trustees, subject to the following; (a) a staged project process and (b) further detailed inspections of the pier substructure to validate the work already done. Additional funding will be sought by the RNLI from for example, the National Lottery Heritage Fund, Historic England, other foundation trusts and its own highly respected fundraising campaigns.

The Council has committed to supporting this fundraising through in kind support of specialist officer time and expertise.

### **3.3 Current position**

Following Executive Decision 2019/20 EXE/70 dated 5 February 2020 - **Birnbeck Pier and Associated Land, Proposed Way Forward Following Issuing of Repairs Notice**, formal authority was granted to officers to proceed with all necessary actions in respect of the preparation of a Compulsory Purchase Order for Birnbeck Pier.

This work has been led by officers in the Development and Environment directorate, in consultation with the Leader and Deputy Leader of the Council, the Chief Executive, the

Executive Member for Business, Economy and Employment and elected Members for WSM Hillside and WSM Central Wards.

The following actions have now been taken -

### **3.3.1. Funding for the CPO process**

Funding has been secured from Historic England for the Council to undertake the Compulsory Purchase Order promotion process. Officers have been advised that Historic England view the repair and restoration of the Pier as a top priority and should additional funding become necessary, a further application may be submitted to Historic England.

### **3.3.2 Preparation of the draft CPO and Statement of Reasons**

Officers have drafted the Statement of Reasons document and appendices. This sets out the Council's case for CPO to the Secretary of State and is made up of –

- a detailed history of the site
- details of all known actions taken by the current owner to date
- details of all actions taken by North Somerset Council including;
  - Securing an independent valuation which concluded that, in the opinion of the independent valuers, the property in its existing condition has only nominal value
  - land referencing to identify all parties with a legal interest in, or right to occupy, the land proposed to be acquired
- a statement by RNLI in respect of their proposals for the site, and how these will be funded and maintained in the future
- a full set of appendices including plans, photographs and detailed timelines

### **3.3.3 Planning requirements**

RNLI have prepared and submitted a request for pre application advice to the Council. An experienced senior planning officer has been appointed, together with the Council's conservation and heritage officer, to work with the applicants and provide all necessary advice.

The draft Statement of Reasons document has been scrutinised by an external specialist legal team; the cost of which has been covered by Historic England funding.

It is anticipated that should the Council approve this report, the formal process of making a CPO could commence forthwith following the proposed legal agreement with RNLI being concluded.

### **3.4 The compelling case in the public interest for compulsory acquisition**

For the Council to make, and subsequently for the Secretary of State to confirm the compulsory purchase of land, both the Council and the Secretary of State must be satisfied that there is a compelling case in the public interest for land being taken from the current owner and transferred by law to the Council. This requirement is set out in the Government's Circular that applies to compulsory purchase, entitled "Guidance on compulsory purchase process and the Crichel Down Rules", most recently updated in July 2019.

A case for compulsory purchase is based on a number of factors including:

- (i) the legal power giving the Council the ability to acquire the land compulsorily;
- (ii) the existence of a compelling case in the public interest in general terms;

- (iii) what is the scheme underlying the proposed compulsory purchase;
- (iv) any planning and other impediments;
- (v) whether sources of funding are available and the timing of that funding; and
- (vi) Human Rights and Equalities Act considerations (see the comments in Legal Section below).

In addition, the national and local planning policies that are outlined in Section 2 above are relevant to the compelling case.

#### **3.4.1 The relevant powers**

The Council is empowered to make a Compulsory Purchase Order under Section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990 if it considers it should do so for the proper preservation of the relevant listed building. It has been the Council's concern for some time that the Birnbeck Pier structure is decaying rapidly, and time is increasingly of the essence for the Pier structure to be repaired. Intervention is now justified with the emerging proposals of the RNLI. The RNLI's expertise in raising funds for its key emergency response role and the need for RNLI to re-establish its operational base at the Pier all now allow the Council to be confident that, if CPO powers are obtained, there is a reasonable prospect that a scheme for repair of the Pier can move forward.

As required under the 1990 Act, a listed buildings repair notice was served on the owner in September 2019, but no substantive proposals have been put to the Council for any works of repair to be carried out and no repair activity has been undertaken. No applications for the required consents have been made. As RNLI's own proposals for the Pier emerged, time has been given to the Owner and RNLI to agree terms but suitable terms acceptable to both parties have not been settled. It is also increasingly clear that interests in the land other than the freehold owner make it more difficult for suitable commercial terms to be settled. It appears to that, if the Pier remains in its current ownership, little, if anything is likely to happen for the repair of the listed structure.

Under Section 47 of the 1990 Act, even once the Compulsory Purchase Order is made, a stay of the process can be sought by an owner by application to the Magistrates Court. This stay would halt the Compulsory Purchase Order proceedings whilst it is demonstrated by the owner that steps are being undertaken to secure the proper preservation of the listed structure. The Magistrates Court can stay the CPO from proceeding if satisfied that reasonable steps have been taken for properly preserving the building.

The Council is satisfied that the repairs notice has been validly served and is effective. The officers believe that, without intervention by the Council, repairs to the Pier are unlikely to occur within a reasonable timescale.

#### **3.4.2 The compelling justifications for compulsory purchase**

Officers believe that the exercise of compulsory powers is justified to give a more realistic prospect of repairs being carried out to the Pier. This is a substantial justification for compulsory acquisition capable of outweighing the constitutional right of private land ownership. The Owner has failed to react substantively to the Repairs Notice which has now been in place for some time. The RNLI confirm there is currently no reasonable prospect of a voluntary acquisition of the unencumbered freehold interest. The condition of the Pier itself and the lack of attempt at any repair by the owner subsequent to the service of the repair notice in itself demonstrates compelling reasons why the compulsory purchase should proceed. In addition, there now appears a realistic prospect that a transfer of the



Pier to RNLI may well bring forward within a reasonable timescale the opportunity to carry out major works to the Pier (subsequent to all relevant consents being obtained by RNLI) to both reopen the RNLI's lifeboat station and reopen the Pier complex for public use. Use of compulsory powers to allow for the repair of the Pier is therefore fair, proportionate and appropriate, after alternatives to a CPO have been given time to allow for the repair of the Pier to be undertaken by the Owner.

### **3.4.3 RNLI's proposals**

RNLI wishes to reopen its lifeboat station at Birnbeck Pier. Extensive research by RNLI has established that the Pier location is the optimum location available to RNLI for re-establishing the Weston RNLI Station.

RNLI have prepared and submitted a detailed report, setting out their proposals and timelines. This will be incorporated into the Council's final Statement of Reasons submission for CPO to the Secretary of State.

As the Pier structure is not safe for the crew to use to access the lifeboat station, and the cost of repair is such that RNLI would not undertake such works without knowing it has the unfettered freehold ownership of the Pier, RNLI requires to have the freehold of the Pier before it invests charitable funds, secured by public donation, in such works.

RNLI confirms that there is currently no reasonable prospect that agreement for an unfettered freehold transfer of the landholding will be forthcoming.

The successful exercise of the compulsory purchase powers therefore would allow the Council to secure the site and transfer it to RNLI to invest in the repair of the Pier in accordance with its emerging concept for sympathetic redevelopment of the Pier.

There is a significant public interest in the compulsory acquisition therefore on the basis firstly, that funds should be available for investing in the repair of the Pier structure and secondly, that the crucial lifesaving role of the lifeboat station at Birnbeck Pier can resume.

RNLI has begun pre-application discussions with both the Council and Historic England regarding their proposals to restore the Pier, provide lifesaving facilities and to reopen the repaired Pier to the public. At the seaward end of the Pier there remain some largely ruined buildings from the historic use of the Pier as a public attraction, together with a large concrete raft on which many of the later Pier attractions were constructed. RNLI envisages removing the now crumbling raft and supporting structures, whilst providing all necessary crew and equipment office, training, maintenance/repair and storage facilities, plus environmentally sustainable visitor attractions. These include a visitor centre, walkways, gift shop and supporting facilities at the seaward end of the Pier, to complement the use by the Pier for RNLI. The ambition is to reinvigorate the Pier to allow for public interest whilst having suitable facilities that will both build on the visitor attraction by generating income for RNLI.

### **3.4.4 The scheme underlying compulsory purchase**

The scheme underlying the proposals for the compulsory purchase is for the restoration, repair and maintenance of the Birnbeck Pier, together with the reopening of the Pier to the public and the establishment of the visitor related facilities, as proposed by RNLI on its indicative plan that is the subject of pre-application discussions with the local planning

authority. It is this scheme that is to be disregarded in any assessment of compensation due.

### **3.4.5 Planning impediments**

The Council when considering whether or not to make the Compulsory Purchase Order (and the Secretary of State when considering whether or not to confirm the Order) must consider whether there are planning impediments that may prevent a scheme underlying a compulsory purchase from proceeding.

No planning or listed building consents, or Habitats Regulations processes have yet been undertaken or obtained by RNLI. At this stage only pre-planning application discussions have taken place.

The Pier and its environs are within the Birnbeck Conservation Area. The main pier structure is Grade II\* listed. The entrance gates, turnstiles, Toll House lodge, north jetty and clock tower are all Grade II listed.

In terms of setting, nearby historic buildings include the former Westcliffe College buildings (Grade II listed) and Claremont Crescent, adjacent to the Royal Pier Hotel and Captain's Cabin, is also Grade II listed.

Prince Consort Gardens is public open space and protected as a Local Green Space. The Severn Estuary is a Wildlife Site of International Importance protected by the RAMSAR Convention and is an EU designated Special Protection Area (SPA). It is a Site of Special Scientific Interest (SSSI) under UK legislation. Any proposals by RNLI will need the approval of both the local planning authority (NSC) and the Marine Management Organisation (MMO), and it is likely the consent of The Crown Estate will also be required. There are therefore some significant planning constraints applying to the Pier and its environs. RNLI will require a number of consents under –

- Town and Country Planning Act 1990
- Planning (Listed Building and Conservation Areas) Act 1990
- Wildlife and Countryside Act 1981
- Marine and Coastal Access Act 2009
- The Habitats Regulations

In addition, any planning processes will need to be subject to an Environmental Impact Assessment

RNLI is well experienced progressing development and managing its estate in highly regulated marine environments and is well known to the relevant national authorities such as the Marine Management Organisation and Natural England. RNLI is confident that planning permission and related consents can be secured so as to allow a sustainable, sensitive and viable scheme to proceed, allowing for reopening of the lifeboat station on the Pier.

There is a clear balance between moving forward quickly to ensure that further deterioration of the Pier is limited against the need to demonstrate that planning impediments may be dealt with. At this early stage it is not possible to say that no planning impediments exist but equally it is officers' initial view, without prejudice to any future consideration by the local planning authority, that the proposals being worked up by RNLI are proposals that are likely to comply with the Council's planning policies and form a fitting way of reopening the Pier for public use.



Officers believe there is a good prospect of the required consents being secured within the three year life time of the CPO, if confirmed by the Secretary of State. In any event the compelling need for proper maintenance and repair of the Pier to commence and the belief that this will not occur in a reasonable timescale without the Order being promoted, means that, the need for detailed studies underlying the need for Listed Building consent and planning permission must run in parallel with the process for securing compulsory powers.

The Council and RNLI will work together to enter into agreement covering the parties' liabilities regarding the compulsory purchase. This will include provisions relating to the need for RNLI to use reasonable endeavours to advance the application for planning permission and other necessary consents.

### **3.4.6 Funding**

Initial funding of £127,300 for the compulsory purchase process has been made available to the Council via an external grant from Historic England. This includes the commissioning of surveys and specialist legal advice together with a contribution towards NSC staff costs. The Council is contributing an estimated £11,000 of staff costs as in-kind match funding.

As part of the compelling case an acquiring authority should demonstrate that the funding for the compulsory purchase, including compensation and the funding for the underlying scheme, should be available within the three-year lifetime of the compulsory purchase powers, if the CPO is made and then confirmed by the Secretary of State.

The Council's external expert compensation surveyor has estimated that the likely value of the freehold interest in the Pier, assessed under the principles that apply to compulsory purchase, is likely to be no more than nominal. The Owner will be entitled to recover reasonable costs such as conveyancing and surveyors' fees and may potentially be entitled to a statutory loss payment. In addition, any other costs reasonably caused by and connected to the compulsory acquisition may also form part of the overall compensation claim, subject to the owner taking reasonable steps to mitigate such losses.

The Council will **not** make the compulsory purchase process order until an agreement is in place with RNLI that RNLI will cover the compulsory purchase process cost including compensation. RNLI's board of Trustees has approved moving forward with the Birnbeck scheme and subject to the relevant agreements being in place the parties are confident, that with the support of Historic England, the Council and RNLI's Board of Trustees the project is likely to proceed.

RNLI is well experienced in taking forward marine development projects and has the necessary internal support complimented by external resource where required to take the project forward. Funding for the repair of the Pier itself and subsequent development of the Pier facilities is reasonably likely to be available from RNLI's own funds complimented by specific fundraising campaigns, National Lottery Heritage Funds support and from Historic England.

Whilst therefore it is not possible to say that all funding for the repair, refurbishment and subsequent maintenance of the Pier is yet secured, officers are of the view that there is a reasonable prospect that RNLI will be able to secure the required funds for the repair of the Pier to proceed. RNLI's emerging proposals for development of the Pier to allow for an element of funding for future repair and a sustainable future for the Pier, through the facilities to be made available to the public on the Pier, also indicate that the proposals being advanced by RNLI are realistically the best prospect for the future of the Pier to be

secured. On that basis officers believe that the compelling case for compulsory acquisition can be made out and that there is a reasonable prospect of the necessary funding for the underlying scheme to be taken forward.

### **3.4.7 Anticipated CPO timeline**

Should Council approve this report the process will be to finalise then advertise and 'serve' the CPO. If the CPO is unopposed it can be confirmed within a matter of months, however if the owner seeks to contest it, the process could take up to a further 18 months to resolve. Timescales for this are dependent upon the nature of the challenge and the hearing at which the objection is considered. Assuming the process is successful, and the CPO is 'confirmed' by the Secretary of State the Council then has a period of up to 3 years to 'vest' and take possession.

## **4. CONSULTATION**

Public consultation has not been carried out and the feasibility and other background work has remained confidential whilst the interested parties have been investigating a way forward to secure the Pier's future. This has enabled RNLI to go through detailed internal project management, consider financial viability and authorisation processes.

At all times during this process, the Leader and Deputy Leader of the Council, the relevant ward members, the Chief Executive and the Director of Development and Environment have been fully informed and briefed, to ensure that the Council was willing in principle to explore the initiative.

It is anticipated that there will be a wide range of opportunities for the general public to get involved in the wider project as it develops, particularly in the planning application process, and including fundraising and volunteering. It is hoped that the Birnbeck Regeneration Trust, thanks to their experience and knowledge of the site and its history, will also be able to support local people who are interested in supporting the project.

## **5. FINANCIAL IMPLICATIONS**

The financial implications for the Council are limited to -

- Officer time – in kind support costs, part funded by Historic England
- Specialist external legal costs, independent valuation report and independent land referencing agents report. These are covered by the secured grant from Historic England
- CPO process costs. These are covered by the secured grant from Historic England

RNLI have undertaken detailed feasibility project planning for the repair and restoration of the Pier and the creation of a new station and crew quarters. These have been developed by RNLI's own specialist staff, architects and external marine engineering consultants. The project has gone through the RNLI's internal project procurement, risk analysis, operational viability and fundraising procedures and approval processes. The costs for delivering the project will be borne by the RNLI from its own resources together with specific fundraising appeals and external grants.

### **5.1 Principles of Agreement with RNLI**

An agreement is currently in preparation between the RNLI and the Council to cover the Council's compensation costs together with a back to back transfer of ownership once the CPO is confirmed and then the Pier is vested in RNLI.

The agreement will include provision for RNLI to advance its planning application and related processes so as to increase the prospects of all required consents being in place in the 3 year lifetime of the confirmed CPO.

The completed draft agreement will be submitted to all appropriate authorisation and scrutiny processes at both the Council and RNLI.

## **6. LEGAL POWERS AND IMPLICATIONS**

The Council can make the Compulsory Purchase Order using the powers in **Section 47 of the Planning (Listed Building & Conservation Area Act) 1990** ("the 1990 Act") which allow a local authority to seek powers to compulsorily acquire a listed building in need of repair if it appears to it that reasonable steps are not being taken for properly preserving the building.

The legal implications of making this order are that the current owner may seek to challenge it. This may take the form of legal exchanges between respective solicitors or escalate to a formal hearing in front of a Government Inspector (a similar scenario to that of a planning appeal hearing).

The Council has prepared a very detailed case, setting out all the previous opportunities that have been offered to the current owner to negotiate and agree the way forward, in a six year period since 2014.

## **7. RISK MANAGEMENT**

Currently the greatest risk is that the Pier and its associated features will further deteriorate, the site will continue to be inaccessible to the public and a blight on the surrounding area. Until recently it was felt that little could be done to prevent this happening due to the absence of a credible plan for the site's future. Such a plan is now in place, which is based on a partnership with the RNLI, a highly reputable organisation of long standing, together with the support of Historic England.

Historic England funding has already been secured to enable specialist legal, valuation, land referencing and other advice to be obtained. Also, to cover the cost of any potential external hearing. Historic England have provided a further letter of support, which confirms their approval of the course of action being undertaken by the Council and also a willingness to consider a further request for additional funding for this work, should this be required.

The Council has, in conjunction with external legal and other specialist advisors, produced a fully comprehensive Statement of Reasons document and set of Appendices for submission to the Secretary of State.

The risk to North Somerset Council is low and primarily involves the investment of officer time and the possibility of the current owner challenging the CPO process via a formal hearing.

In order to negate the potential risk that the Council would be liable to pay the costs of the current owner should the CPO application be dismissed, a legally binding indemnity agreement between the Council and the RNLI will be agreed.

At the point that the CPO is confirmed by the Secretary of State, the Council will have up to three years to formally acquire the site. Further authority will be sought at the appropriate

time to confirm the Councils willingness to do this, so should circumstances change with the external partners the Council would not be committed to proceeding with acquiring the site.

## **8. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS**

The Pier is located in an area subject to several designations under International Treaty (the Ramsar Convention) the Habitats Regulations and the Wildlife and Countryside Act 1981. Any proposals for works to the Pier will have to be considered in the context of the environmental protections afforded by those designations. This will include all appropriate consultations, statutory permissions and licences.

## **9. HUMAN RIGHTS AND EQUALITY IMPLICATIONS**

### **9.1 Human Rights Considerations**

The Human Rights Act 1998 incorporated into UK domestic law the European Convention on Human Rights (the Convention). The HRA 1998 makes it lawful for a public body to act in contravention of the Convention. The Convention includes provisions in the form of Articles, the aim of which is to protect the rights of individuals (including companies). In resolving to make a compulsory purchase order the Council has to consider the rights of those affected, principally property owners under the Convention. The relevant provisions are:

- a) **Article 1 of the First Protocol** – this protects the rights of the owner and the peaceful enjoyment of possession – no-one can be deprived of possession except in the public interest and subject to relevant international and national law.
- b) **Article 6 -Right to a fair and public hearing**
- c) **Article 8** - – this protects the private and family life, home and correspondence. No public authority can interfere with these works except in accordance with the law or necessary in the interest of public security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime or for the protection of health or morals or the rights or freedom of others;
- d) **Article 14** – the enjoyment of the rights of freedoms in the convention shall be secured without discrimination on any grounds such as sex, race, colour, language, religion, political or other opinion – nor social origin, associated national minority, property, birth or other status.

In the case of each of the above Articles (and the Convention in general) the Council must be conscious of the need to strike a balance between the rights of the individual and the interests of the public.

In the light of the significant public benefit that will arise from the protection and repair of the Pier being taken forward it is considered proportionate to make the Order and seek compulsory acquisition powers. It is not considered that any unlawful interference with an individual's rights will occur as any interference will be in accordance with the law and, where property interests are affected directly, the Compulsory Purchase Compensation Code will apply to assess the value of the interests in land expropriated or extinguished.

Further representations will be possible by persons interested in the relevant land before the Order can be confirmed. In addition, objections, if made, will be considered by an inspector appointed to recommend whether or not the Order as made by the Council should be confirmed by the Secretary of State.

The fact that compensation will be available to parties whose interest in land is directly affected through acquisition of land or new rights mean that human rights will not be infringed as the Council and Secretary of State will be following a process prescribed by law and from which a right to compensation arises if land is taken.

## **9.2 Equalities Act considerations**

Before making a decision, Section 149 Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following “protected characteristics”: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:

- i)** Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010
- ii)** Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to -
  - remove or minimise disadvantage suffered by persons who share a relevant protected characteristic;
  - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);
  - encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- iii)** Foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to
  - tackle prejudice
  - promote understanding

The proposed compulsory purchase does not engage any of the protected characteristics raised above. The decision to promote the Order has been taken because of the current condition of the Pier and because, with the assistance of RNLI and Historic England, the Council now has an opportunity to secure the future of the pier which will be of benefit to the public and increase public access to the Pier and Birnbeck Island. It is anticipated that detailed EIA will be built into the project for the Pier's restoration by the RNLI and will be considered by the local planning authority as part of its processing of the planning application.

Should the serving of the CPO result in an inquiry or hearing, a full EIA will be carried out in accordance with Council policy in respect of the hearing venue, access and facilities.

When restored and reopened, the Pier will be a place for everyone in the community to visit, support, fundraise and get involved in volunteering and training opportunities.

## **10. CORPORATE IMPLICATIONS**

A project of this scale and complexity has significant implications for the Council as a whole in terms of reputation and is an exemplar of the Council's ability to find and progress a sustainable feasible proposal that will finally resolve the long standing issues of the Pier.

The project will have a positive impact on the developing Placemaking Strategy for Weston-super-Mare. It will act as the catalyst for the regeneration of an area of the town that has significant architectural heritage and has played a key role in the history of the development of Weston. There are positive implications for the public realm including urban green space, renewed public transport links, opportunities for walking and cycling, links to wider tourism and event initiatives, and increased footfall from local residents and visitors.

## **11. OPTIONS CONSIDERED**

### **11.1 Do nothing**

The structure and buildings will continue their rapid deterioration, with a significant risk of collapse in due course.

### **11.2 Continue to negotiate with the current owner**

Officers and Members have engaged in talks with the current owner over several years and will continue to do so. Service of the Repairs Notice has not resulted in any substantive repair work being carried out. Continuing this approach is therefore unlikely to achieve progress within a reasonable timescale, if at all.

### **11.3 Serve a CPO on the current owner and NSC taking long term ownership**

The Council does not have the immediate or long term funding to commit to the levels of expenditure required for an ongoing commitment of this nature.

### **11.4 Acquire (by CPO) the current interests in the Pier with an immediate transfer of Ownership from NSC to RNLI**

Acquire (by CPO) the current interests in the Pier with an immediate transfer of ownership from NSC to RNLI via a back to back agreement [preferred option]

Realistically, this represents the only opportunity for the pier to be restored and brought back into a sustainable long term use. The RNLI are a highly reputable organisation with international recognition and their own significant fundraising abilities. Long term public access to the Pier should also be secured.

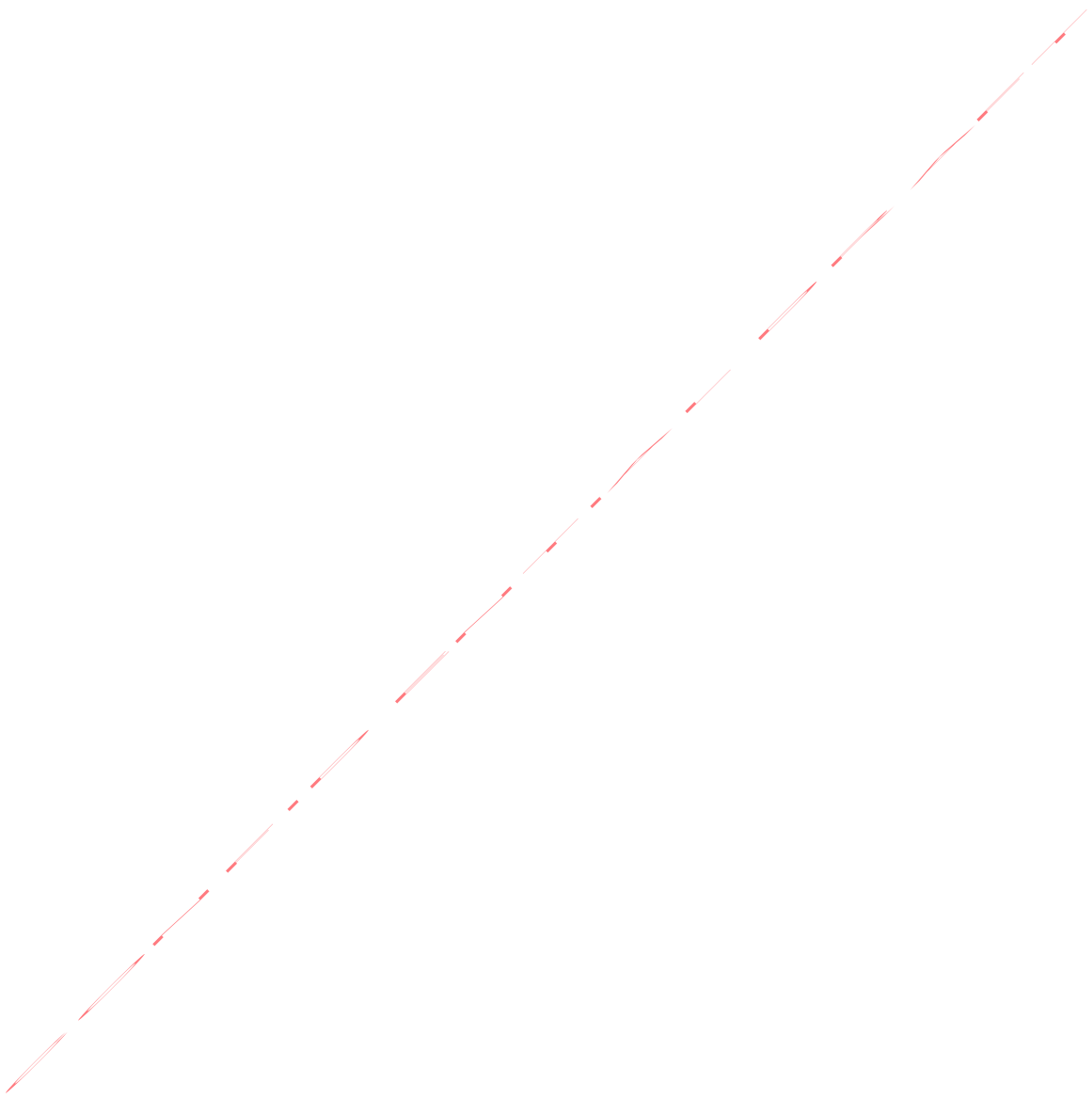
## **AUTHORS**

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Womble Bond Dickinson, solicitors advising the Council

## **BACKGROUND PAPERS**

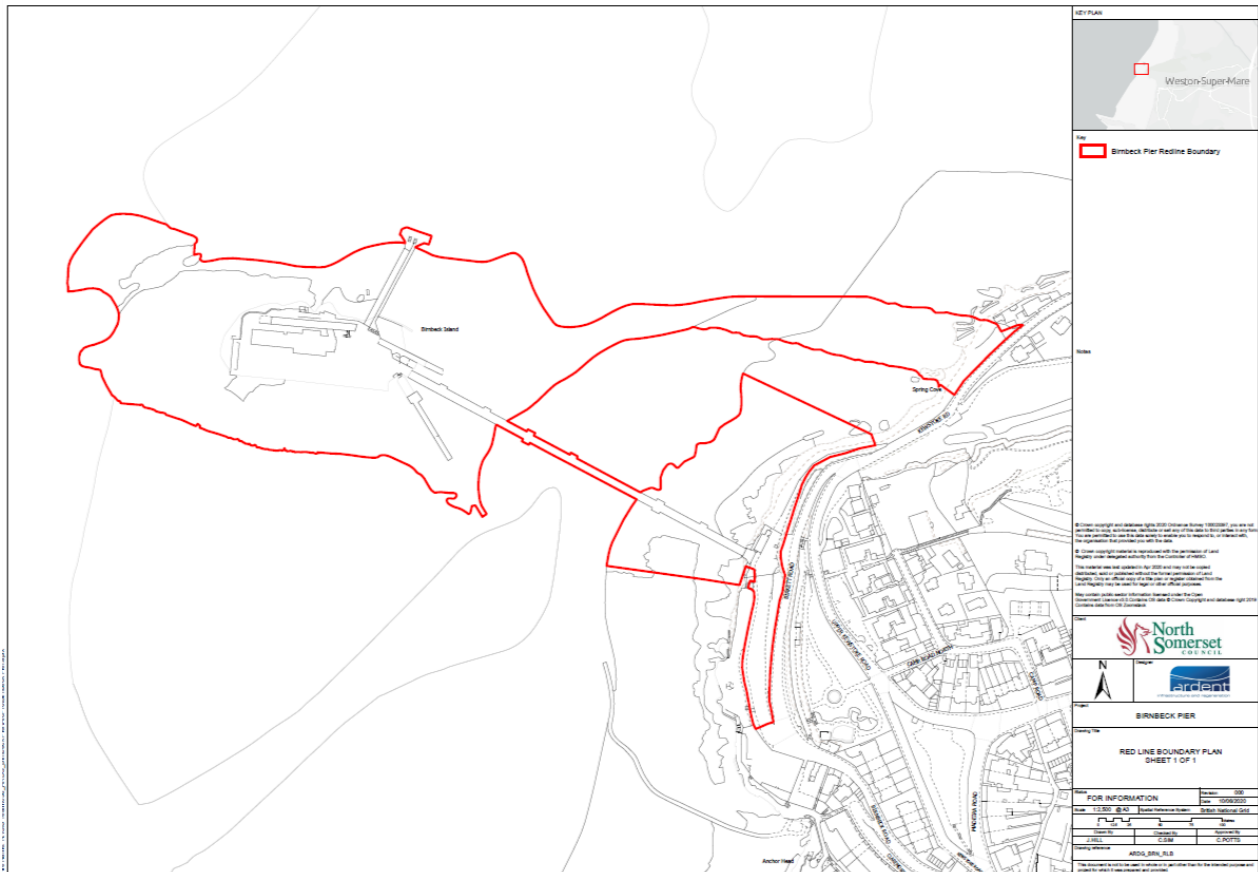
- Repairs Notice issued under Section 48, Planning (Listed Buildings and Conservation Areas) Act 1990 on 9 September 2019
- NSC 2019/20 EXE/70 report dated 5 February 2020 - Birnbeck Pier and Associated Land, Proposed Way Forward Following Issuing of Repairs Notice
- Draft NSC Statement of Reasons (SOR)
- Letter of support from Historic England dated 26 May 2020







# Appendix 1: Proposed land acquisition plan



## Minutes

of the Virtual Meeting of

## The Council

### Tuesday, 14th July 2020

held via Microsoft Teams.

Meeting Commenced: 2.30 pm Meeting Concluded: 3.25 pm

#### Councillors:

P David Shopland (Chairman)

P Richard Westwood (Vice Chairman)

P Marc Aplin

A Nigel Ashton

P Mike Bell

P Mike Bird

P Steve Bridger

P Peter Bryant

P Gill Bute

P Mark Canniford

P Ashley Cartman

P John Cato

A Caritas Charles

P Caroline Cherry

P James Clayton

P Sara Codling

P Andy Cole

P Peter Crew

P John Crockford-Hawley

P Ciaran Cronnelly

P Mark Crosby

P Donald Davies

P Catherine Gibbons

A Hugh Gregor

P Wendy Griggs

P Ann Harley

P Karin Haverson

P Sandra Hearne

P David Hitchins

P Steve Hogg

P Nicola Holland

P Ruth Jacobs

P Huw James

P Patrick Keating

P John Ley-Morgan

P Stuart McQuillan  
P Ian Parker  
P Robert Payne  
P Marcia Pepperall  
P Bridget Petty  
P Lisa Pilgrim  
P Terry Porter  
P Geoffrey Richardson  
A Tim Snaden  
P Mike Solomon  
P James Tonkin  
A Stuart Treadaway  
A Richard Tucker  
P Roz Willis  
Vacancy

P: Present

A: Apologies for absence submitted

**Officers in attendance:** Jo Walker (Chief Executive), Lucy Shomali (Director of Development and Environment), Sheila Smith (Director of People and Communities), Matt Lenny (Director of Public Health), Richard Penska (interim Director of Finance), Nicholas Brain (Head of Legal and Democratic Services), Vanessa Andrews (Corporate Services), Michèle Chesterman (Corporate Services), Sue Efford (Corporate Services), Rachel Lewis (Development and Environment), Paul Morris (Corporate Services), Mike Riggall (Corporate Services), Christine Ward (Development and Environment)

**Also in attendance:** Richard Guyatt, Womble, Bond, Dickenson Solicitors

## **COU Chairman's Introduction**

**83**

The Chairman welcomed everyone to this virtual meeting of the Council.

He outlined the procedures to be followed at the meeting and confirmed that decisions taken at this virtual meeting would have the same standing as those taken at a physical meeting of the Council in the Town Hall.

The meeting was being livestreamed on the internet and a recorded version would be available to view within 48 hours on the North Somerset Council website.

## **COU Public Participation, petitions, and deputations (Standing Orders 2(vi) and 17, as amended by new Standing Order 5A) (Agenda Item 1)**

**84**

The Chairman drew members attention to the submission received from Ben Moss, a Winford resident, seeking council support for genuinely transformative housing and land-use models. A copy of the submission had been circulated to all councillors and published on the website in advance of the meeting.

The statement was noted and referred to the Director of Development and Environment and the relevant Executive Member.

**COU 85 Declaration of disclosable pecuniary interest (Standing Order 37)  
(Agenda Item 4)**

None

**COU 86 Minutes of the meeting held on 18 February 2020 (Agenda Item 5 (1))**

**Resolved:** that the minutes of the meeting be approved as a correct record.

**COU 87 Minutes of the Extraordinary meeting held on 16 June 2020 (Agenda Item 5 (2))**

**Resolved:** that the minutes of the meeting be approved as a correct record.

**COU 88 Leave of Absence for Councillors for reasons related to Coronavirus  
(arising from Minute no. COU 8) (Agenda Item 5 (2))**

The Head of Legal and Democratic Services referred to a matter arising from the minutes of the extraordinary meeting on 16 June in relation to the six month rule and leave of absence due to covid related self-isolation or sickness. The current minute did not cover absence due to employment associated with covid related work where a member was unable to take time off during daytime hours. He was aware of at least one member who as a result of meetings being moved to the daytime had been precluded from attendance for this reason and therefore sought Council approval to include this type of absence in the approved categories for exemption from the six month rule.

**Motion:** Moved by Councillor Gibbons, seconded by Councillor Davies and

**Resolved:** that the scope of the minute regarding leave of absence for reasons related to coronavirus be extended to include absence for reasons of employment associated with covid related work.

**COU 89 Chairman's announcements (Agenda Item 8)**

The Chairman referred to Councillor Tucker's recent ill health and on behalf of councillors wished him a speedy recovery.

Councillor Gibbons thanked members on behalf of Councillor Tucker for their good wishes and reported that he hoped to be back soon.

**COU 90 Leader's announcements (Agenda Item 9)**

The Leader made the following announcements:

(1) He reported that Councillor Snaden was currently unwell and sent him best wishes for a speedy recovery on behalf of the Council.

(2) He asked councillors to reflect on the shocking and sad death of George Floyd and the 'Black Lives Matter' protests that followed across the world and

included peaceful and reflective protests in Weston and Portishead. He wished to make it clear that North Somerset Council condemns all forms of racism and there is no place for racism or hatred in North Somerset. In supporting the Black Lives Matter campaign the council recognises the historic and institutional injustice experienced by black and minority ethnic people across the world, including those within our own communities and he re-confirmed the council's commitment to work together with those communities and our partners to combat hate wherever it occurs.

He also referred to the 25th Anniversary of the Srebrenica genocide on 11 July and the theme for the remembrance of 'Every Action Matters'. He referred to the importance of honouring and remembering both the victims and survivors of the genocide and taking note of the lessons of what happens when hatred and intolerance is left unchallenged and can flourish. He reminded everyone that any hate incidents or crimes should be reported through the Safer North Somerset website or by contacting the council's Community Safety Team.

(3) He referred to all those who had died over recent months as a result of the coronavirus pandemic, to those who had cared for and treated them and those working tirelessly to keep people safe. He asked councillors to observe a minute's silence for reflection.

**COU Forward Plan dated 3 July 2020 (Agenda Item 11)**  
**91**

Councillor Davies presented the Forward Plan. He made reference to the new format which now included details of policy and scrutiny engagement as part of the decision making process.

**Resolved:** that the report be noted.

**COU Question Time (Standing Order No. 18) (Agenda Item 12)**  
**92**

Written questions were received from Councillor Keating and Councillor James and these, together with the responses from the relevant Executive Members, were circulated to all councillors and published on the website in advance of the meeting. Full details are contained in Appendix 1.

**COU Reports on joint arrangements and external organisations and questions relating thereto: Avon Fire Authority (Agenda Item 16 (1))**  
**93**

Councillor Payne presented the report.

**Resolved:** that the report be noted.

**COU Reports on joint arrangements and external organisations and questions relating thereto: Avon and Somerset Police and Crime Panel (Agenda Item 16 (2))**  
**94**

Councillor Westwood presented the report and responded to questions from members. With reference to comments in relation to the importance of strong messaging around community policing in the light of the 'Black Lives Matter' campaign and the need for sensitivity in enforcing the wearing of face

coverings, he stressed these were operational matters rather than matters for the Panel but undertook to pass these comments on to the Commissioner.

**Resolved:** that the report be noted.

**COU Political Balance Update (Agenda Item 17)**

**95**

The Head of Legal and Democratic Services reported on the revised political balance following the resignation of Paul Gardner as follows:

Independent 16, Conservative 13, Liberal Democrat 11, Labour 6, Green 3

He confirmed political balance for all the committee and panel sizes used was unaffected.

**Resolved:** that the revised political balance be noted.

**COU Council Outside Body Appointments 2020/21 – Birnbeck Regeneration Trust (Agenda Item 18)**

**96**

The Head of Legal and Democratic Services presented this item.

**Motion:** Moved by Councillor Davies, seconded by Councillor Jacobs and

**Resolved:** that Councillor Solomon be appointed to replace Councillor Ley-Morgan on the Birnbeck Regeneration Trust until the next Annual Council meeting.

**COU Birnbeck Pier – Approval to make Compulsory Purchase Order (CPO)**

**97**

Councillor Davies presented the report. He outlined the background to the report and the proposal which provided an opportunity for the council to intervene to safeguard the structure, to return it to the Royal National Lifeboat Institution (RNLI) to provide for an operational base on the island and to allow public to the Pier and the island once again which had not been possible since 1994. He outlined the benefits of pursuing the proposed CPO and referred to the indemnity agreement which would ensure any risk to the council was minimal. The RNLI was a well-resourced and highly experienced organisation and therefore a trusted and competent partner. He thanked Historic England for their ongoing support and commitment to the repair of the Pier and thanked officers for the report.

Councillor Davies referred to the letter members had received in the last few days from solicitors acting for CNM Estates, the Pier's owner, asking members to delay the decision as they were better placed than the RNLI to effect the required repairs. He suggested members would need to make their own judgement on this based on the track records of both organisations. He outlined the CPO process and the likely timescales involved. He confirmed there would be nothing to stop the owner taking responsibility and starting to address the required repairs even once the CPO process had commenced. With reference to the recommendations in the report he

proposed an additional recommendation offering CNM the opportunity to voluntarily sell the Pier to the Council or the RNLI before CPO proceedings commenced, thereby avoiding a potentially protracted and costly legal process and enabling all parties to move forward, as follows:

“that the CPO not be served until CNM is given a further opportunity to sell the site voluntarily to the council or a party that the council is satisfied will take the necessary timely steps to repair the Pier . Therefore officers be instructed to contact CNM, as owners of Birnbeck Pier, to make a time limited offer to acquire the whole Pier holding for market value plus reasonable transactional costs. Should CNM not be willing to sell, the CPO process should proceed.”

In discussing the report members expressed full support for the proposal and gave cross party backing for the recommendations as set out. Reference was made to the lack of action taken by the current owners to undertake the required repairs and their failure to convince the authorities of their determination or ability to do so. It was recognised that depriving an owner of their private property was not a decision to be taken lightly but, in noting the current owners had been given considerable opportunity to take responsibility but had chosen not to, it was considered the right course of action to proceed with the CPO. This may be the final opportunity to save the Pier given its current state of neglect. Reference was made to the wider responsibilities of owners of key heritage sites to look after and protect them on behalf of the public, and to the broader regeneration benefits of pursuing this course of action.

**Motion:** Moved by Councillor Davies, seconded by Councillor Solomon and

**Resolved:**

(1) that, subject to an appropriate and legally binding agreement first being concluded with the Royal National Lifeboat Institution (RNLI) for the Council's costs and compensation liabilities to be paid by RNLI, the Council approves and authorises the Director of Development and Environment to make a Compulsory Purchase Order (CPO) under Section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to acquire the land and structures detailed in the Birnbeck Pier acquisition of land plan, and to seek confirmation of the CPO by the Secretary of State (or to confirm the CPO as an unopposed Order if appropriate);

(2) that the Director of Development and Environment be authorised to undertake all relevant and necessary steps to secure confirmation and delivery of the Order, including but not limited to:

(i) Making subsequent amendments to the Order, the Statement of Reasons, the draft Order Map (within the existing boundary indicated on the Birnbeck Pier acquisition of land plan) and other documentation considered necessary to secure confirmation of the Order;

(ii) Publication and advertisement of the Order, service of all appropriate notices (including site notices and other processes required to notify unidentified owners of interests in the land) in relation to the making of



the Order and submission of the Order and all relevant accompanying documents to the Secretary for State for confirmation;

(iii) Entering into any agreements or undertakings to secure the withdrawal of objections to the confirmation of the Order;

(3) that following confirmation of the CPO the Director of Development and Environment be authorised to publicise and serve all appropriate notices in relation to the confirmation of the Order;

(4) that the Director of Development and Environment be authorised, in consultation with the Leader of the Council and Head of Legal & Democratic Services to:

(i) make one or more general vesting declarations or serve notices to treat and notices of entry (as appropriate) in respect of all or any part of the land shown in the Birnbeck Pier acquisition of land plan following confirmation of the CPO;

(ii) take all necessary steps to secure all relevant interests shown in the Birnbeck Pier acquisition of land plan, including negotiation of agreements, undertakings, transfers and any new rights required, with interested parties and to remove all occupants from the relevant land subsequent to the Council taking possession of the relevant land, if required; and

(iii) acquire by agreement of interests in and over the relevant Land under Section 52 of the 1990 Act before and after confirmation of the Order and in respect of any new rights required for the protection, repair development or use of Birnbeck Pier.

(5) that the Director of Development and Environment be authorised to appoint relevant external professional advisors and consultants to assist in facilitating confirmation of the Order and addressing any wider claims/ disputes related to the process;

(6) that the Head of Legal & Democratic Services be authorised to take all required steps in relation to any legal proceedings relating to the Order, including:

(i) defending the decision to proceed with the Order in any Magistrates Court hearing seeking a stay of the CPO process;

(ii) defending or settling claims referred to the Upper Tribunal (Lands Chamber) and/or applications made to the Courts and any appeals;

(7) that the Director of Development and Environment be authorised, in consultation with the Leader of the Council and Head of Legal & Democratic Services to vest or otherwise acquire all or any part of the land shown in the Birnbeck Pier acquisition of land plan for the subsequent transfer of title to RNLI or, at the direction of RNLI to a subsidiary company controlled by RNLI; and to grant over land owned by the Council to RNLI any temporary or

permanent rights reasonably required by RNLI to facilitate the repair and redevelopment of Birnbeck Pier;

(8) that the Council approves and authorises the Director of Development and Environment, whether as part of the CPO process; by use of powers of appropriation and/or under Section 51 of the Planning (Listed Buildings and Conservation Areas) Act 1990; or by agreement, to acquire, secure or extinguish all legal, equitable and other interests in and rights to use or occupy the land and structures as shown in the Birnbeck Pier acquisition of land plan or any land held by the Council that may have new rights created in favour of RNLI to facilitate the repair and redevelopment of Birnbeck Pier; and

(9) that the CPO not be served until CNM is given a further opportunity to sell the site voluntarily to the council or a party that the council is satisfied will take the necessary timely steps to repair the Pier . Therefore officers be instructed to contact CNM, as owners of Birnbeck Pier, to make a time limited offer to acquire the whole Pier holding for market value plus reasonable transactional costs. Should CNM not be willing to sell, the CPO process should proceed.

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Chairman

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## Appendix 1

### North Somerset Council Council Meeting, 14 July 2020 Question Time (Agenda Item 12)

#### **1. Question from Cllr Keating to Cllr Davies, Leader of the Council and Executive Members for Housing**

“While the lockdown has both led to a welcome surge in community support and volunteering, it has also increased isolation for many.

This is particularly true for individuals and families that have been placed in social housing in rural communities. For those used to living in a town, relocating to a village can be challenging - particularly if they have no access to a car. Shops are more expensive than the big supermarkets and access to support and social networks is more difficult during lockdown. Some support is being provided by community volunteers, but this is not sustainable over the longer term.

**What consideration or support is the Council providing for families relocated from towns to housing in rural areas?”**

#### **Response from Cllr Davies**

“Thank you for your question and note the very difficult impact of social isolation on very many during the pandemic. However I am somewhat confused by your question. In North Somerset Council we use our HomeChoice process for those who are on our housing list looking for a home or who are existing tenants who wish to move. This system is applicant led, in that no-one is allocated a home, rather they bid for a home of their choice. Anyone moving to a more rural location would do so because they have chosen to do so. Even when in exceptional circumstances the council make a direct let to discharge a statutory homeless duty we always take care not to allocate a home away from the persons support networks. Wherever they live those in social housing provided by Housing Associations will often have access to their dedicated support services.

One of the actions of this council has been to work as hard as we can to ensure that a reasonable level of public transport provision is maintained during the pandemic to assist in reducing social isolation. However from the point of view of my own ward, which has a very high level of non-private rented properties in a village setting, there is plenty of affordable shopping available for all without the cost of travelling to a supermarket away from the village as well as strong community support. This is certainly not unique as NS Together has demonstrated when during the Covid 19 pandemic the council has been able to work with 27 community led networks who have provided social support to residents across North Somerset. Many of these networks have been formed in individual villages and people have used local knowledge to identify and offer support help their immediate neighbours. In many locations, these networks are intending to continue providing support beyond Covid 19, and across a wider range of issues. NSC is committed to working with them to ensure that we can continue to connect people who approach the council for support to these local partners.”

#### **2. Question from Cllr James to Cllr Petty, Executive Members for Climate Emergency and Environment**

“Residents in my ward along Lipgate Place, the High Street, and Gordano School suffered from flooding last week, which was a threat to their livelihoods and

wellbeing. People along these road face fears of flooding every time it rains heavily during a high tide. I spoke to Officers earlier this month and they made it clear the problem was a lack of capacity for extra floodwater - and that the solution is extra flood infrastructure - investing in flood management and prevention locally.

An upgraded length of pipework providing a suitable outfall is essential to reduce the painful flooding experienced along the High Street, Bristol road and Lipgate Place in long term, and also the Council and its partners like Wessex Water needs to more actively manage the rhynes and gullies along Portishead South to improve the surge capacity.

Problems like these are going to become more and more apparent as the Climate Emergency gets worse and worse in North Somerset.

1. What are the council doing to reduce the flood risk in Portishead South, and wider North Somerset?
2. What level of funding is required to deliver better flood management infrastructure?"

### Response from Cllr Petty

“What are the Council doing to reduce flood risk in North Somerset?

North Somerset carries out the Council’s duties as Lead Local Flood <sup>1</sup> Authority (LLFA) under the Flood and Water Management Act 2010 and the Land Drainage Act 1991.

Flood risk across North Somerset is widespread and varied in its nature and, requires management through a prioritised risk-based approach. Internal property flooding is the most disruptive and damaging, with external property and Highway flooding second and flooding of open land at the bottom of the vulnerability hierarchy.

In line with responsibilities as Lead Local Flood Authority, North Somerset Council produced a Local Flood Risk Management Strategy (LFRMS), approved and published in 2014. The LFRMS identifies the communities most vulnerable to local flood risk, using numbers of properties at risk of internal flooding as the primary indicator of community vulnerability and outlines how we, in partnership with other agencies and the community, will seek to manage these risks.

The output from the LFRMS is a list of the top 15 communities most at risk from flooding. These are listed (in alphabetical order) in table 1 below.

**Table 1 List of most vulnerable communities identified for the strategy (in alphabetical order)**

Community				
Backwell	Clevedon	Langford	Pill	Wrington
Churchill	Congresbury	Long Ashton	Portbury	Weston-super-
Claverham	Hutton	Nailsea	Winscombe	

*\* It should be noted that the strategy has identified two specific parts of WsM which are most vulnerable: 1) Milton Hill and Worle, and 2) Central and West WsM.*

It will be noted that Portishead does not appear as one of the communities most at risk from flooding, but this does not mean we will not take action where this is considered appropriate.

<sup>1</sup> Local Flood Risk is flood risk from Ordinary Watercourses, Groundwater and Surface Water. Flood Risk from Main Rivers and the Sea is Managed by the Environment Agency.

Following the LFRMS, an Implementation plan was developed which is regularly, reviewed and updated

Following the Strategy and Implementation Plan. schemes to reduce flood risk which have so far been completed are:

- Weston super Mare – Milton Hill £150k Joint Wessex Water and NSC funded project to reduce the risk of surface water flooding to properties and the highway;
- Wrington – £600k central government grant funded project, reducing the risk of flooding from an Ordinary Watercourse to 95 properties.

Since the approval of the LFRMS in 2014, we have continued to collect flood risk data through flood incident reporting so that, along with updates to computer modelling, this information can be used to update the strategy and the vulnerable communities list as appropriate.

The Environment Agency are currently updating their National Flood and Coastal Erosion Risk Management Strategy and we are expecting guidance on the requirements for subsequent updates to Local Flood Risk Management Strategies to be provided later this year.

What are the Council doing to reduce flood risk in Portishead

While Portishead does not feature on the list of the top 15 most vulnerable communities, we recognise that there are further communities at risk from flooding throughout the district.

Although the strategy focuses on high vulnerability communities and larger schemes, consideration is still given to the management of frequent flooding in areas with lower vulnerability and fewer property numbers, particularly where this can be managed through minor interventions.

Recent flooding in Portishead was caused by a known issue which has been under investigation by Wessex Water and the Highways department. Unfortunately, the combination of locally high rainfall intensities, steep topography and issues with the drainage system connections and how it connects to a blind ditch mean it is not straightforward to resolve. However, we are liaising with both Wessex Water and the highways teams internally to agree how the risk of flooding can be reduced.

Funding to deliver better flood risk management

Funding for large flood risk management schemes comes primarily from external sources including central government grants, partnership contributions and local levy. We also have a small Local Flood Risk Management and Coast protection operational budget which allows us to progress small schemes. Some schemes are also funded from highways budgets, the bulk of which also come from central Government. Unfortunately, this is insufficient to address every location across North Somerset and therefore schemes need to be prioritised.

Upcoming larger scale Flood and Coastal Erosion Risk Management Schemes include:

- Weston super Mare (Summer Lane) £1.4m, primarily central government funded, with partnership funding contributions from Wessex Water and NSC, reducing the risk of surface water flooding to 89 properties.

This scheme is the only scheme of its type in England which has been supported for funding by central government in the last 5 years.

- Weston super Mare sea defence upgrade – required to be complete in approximately 25 years' time to reduce risk to 1500 properties from the effects of climate change - £30-40 million.

Flood Risk Management interventions are generally long term and often technically complex projects requiring a phased approach to assessment and design, particularly with respect to capital investment measures.

It is important to note that the delivery of any proposed flood risk reduction measures, major or minor will be dependant on the availability of funding relative to wider priorities. For internally funded and LTP projects, scheme prioritisation is balanced with other highways projects and for external funding priorities are balanced regionally or nationally.”

# Print Version

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## Summary

Reference	20/P/1784/LBC
Application Received	Thu 30 Jul 2020
Application Validated	Thu 30 Jul 2020
Address	Birnbeck Pier, Birnbeck Island Birnbeck Road Weston-super-Mare BS23 2BN
Proposal	Listed Building Consent application for immediate works relating to Repairs Notice consisting of: Section 4 (part)- Ensure appropriate surveys and inspections are undertaken; Section 7 - Arrange for temporary bracing frames to be secured to trestle legs to provide additional stability to trestle legs during repairs. This may include scaffolding construction for temporary bracing frames, subject to contractor design, or fabrication of bespoke temporary bracing frames that can be more readily moved between frames as repairs progress; Section 8- Remove deck boards. Cast iron seat components, lamp posts and all associated materials. Arrange for these to be transported to an offsite facility for logging, assessment and repair, or reconstruction depending upon condition; Section 11 (part) - Remove the principal deck level spider bracing; Section 13 - Remove the trestle perimeter and internal bracing member. All trestle bracing should be removed and transported to an offsite facility for repair or reconstruction
Status	Decided
Decision	Approve
Decision Issued Date	Thu 18 Feb 2021
Appeal Status	Unknown
Appeal Decision	Not Available



## Further Information

Application Type	Listed Building Consent
Decision	Approve
Actual Decision Level	Delegated Decision
Expected Decision Level	Not Available
Case Officer	Andrew Stevenson
Parish	Weston-super-Mare
Ward	Weston-super-Mare Hillside
District Reference	Not Available
Applicant Name	CNM Estates (Birnbeck) Limited
Agent Name	Jones Lang LaSalle Limited
Agent Company Name	Not Available
Agent Address	30 Warwick Street London W1B 5NH
Environmental Assessment Requested	No

## Contacts

### Ward Councillors

Councillor Mark Canniford

Address	
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Councillor John Crockford-Hawley

Address	
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## Important Dates

Application Received Date	Thu 30 Jul 2020
Application Validated Date	Thu 30 Jul 2020
Consultation Deadline	Wed 23 Sep 2020
Extended Determination Deadline	Not Available
Decision Made Date	Thu 18 Feb 2021

Decision Issued Date	Thu 18 Feb 2021
Determination Deadline	Thu 24 Sep 2020

## Related Information

There are 38 documents associated with this application.

There are 0 cases associated with this application.

There is 1 property associated with this application.

## Birnbeck Pier

20/08/20 2pm

Meeting of key parties to discuss LBC application for 'immediate works' (typed version of contemporaneous handwritten notes taken by Rachal Lewis)

### Present

Paul Crisp	JLL
Nigel Hoker	HOP
Kamran Rahman	CNM
Wahid Samady	CNM (part)
John Ette	Historic England
Rachel Lewis	NSC
Christine Ward	NSC

### Agenda

- 1 Access Licence
- 2 LBC
- 3 Refurbishment Strategy
- 4 AOB

NH confirmed that an MMO exemption is granted – PC to forward

PC asked about LBC, RL replied that more information was required especially on materials

Refurb strategy, NH – desktop review of documents available

All parties agree re condition and stability  
Risks involved – consider it vulnerable,  
considered how to stabilise, salvage balustrade etc  
consider bracing to be the most important now  
phase 2 works to follow

RL question, concern re when 'phase 2' ?

WS joined at 2.45pm

RL asked if refurb strategy was considered by Nigel to be adequate?

WS said its accepted by all that 'phasing' approach is the right one;

- Remove loose debris and clean foreshore
- Bracing
- Then in parallel discussion re further works

WS now sees this as a judicial process and accused Council of 'dragging feet' and delaying process

RL explained that Conservation officer will do LBC as a separate process (from CPO)

WS proposed to start with 3 or 4 bays, then start on others

WS said what about maintenance – something the Council should condition

RL challenged this and said that maintenance is the owner's responsibility

WS - RNLI have not done anything for 150 years [RNLI not owner]

WS – spoke about 2005 Mr Scotts 'Crystal Palace' and councillors' comments

CPO 'made them think'

Want to do commercial deal with RNLI

Will send letter to RNLI Trustees and copy to Don [Leader of NSC] [stating] 'they are going to have to pay for it'

Says will challenge in Magistrates Court

£1m for bracing

PC - confident that refurb strategy is adequate

NH – [has] priorities list covers all the items in the Repairs Notice

JE – partial approach of 'refurb strategy' is a risk

PC – thinks its ok

NH - address stability first

RL - separate approach of – LBC, dealt with under planning rules and CPO - will need all repairs addressed

JE – [requires] comprehensive and detailed programme and schedule, consents and resources required

## LICENCE FOR ACCESS

North Somerset District Council ("the Council") hereby grant UK Industrial Services (the "Licensee") permission to undertake the 'Permitted Use' as defined below:

**THE PERMITTED USE:** Subject to compliance with the Covenants contained herein, to take access by foot to and from the publicly accessible steps giving access to the Weston-super-Mare foreshore in the vicinity of Birnbeck Pier, in order to handpick and carry debris from the foreshore, up the steps and across the route as shown approximately dotted red on the following image (the "Use"). The foreshore, the steps to and from the foreshore in the vicinity of Birnbeck Pier and the route as shown dotted red, hereinafter being referred to as (the "Site").



- 1      **COVENANTS**                      The Licensee will:-
- 1.1      Comply and procure compliance with the provisions of all relevant Acts of Parliament and the Regulations and requirements of all Local or other Authorities in relation to the Use.
- 1.2      Ensure that
- (i) the Use shall not be commenced without the prior knowledge and approval of the Council's Health & Safety Officer and any other appropriate bodies.
  - ii) the Use shall not be commenced without firstly providing to the satisfaction and approval of the Council a Risk Assessment for the Use
  - iii) the Use shall be carried out in accordance with the Method Statement included at Appendix 1 to this Licence.
- 1.3      Discharge any liability which may arise under any Legislation or otherwise in consequence of the Use.
- 1.4      In the event of any body requiring or imposing conditions additional to, or differing from, those of the Council in respect of the Use, ensure that such further or additional conditions are not dealt with without the prior consent of the Council.

- 1.5 Take out adequate insurance cover to a minimum of £10M and ensure that any person, company or other body engaged in the Use is adequately insured to the same sum in respect of the death of, or injury to, persons or damage to any property or any potential accidents, proceedings, costs, claims, demands and liabilities arising as a consequence of the Use.
- 1.6 Ensure that the Use is conducted in a manner in accordance with the council's Planning, Health & Safety and Environmental Health controls and requirements.
- 1.7 Ensure that sufficient hoardings, warning notices, warning lights, fences, supervisors, banksmen or such other measures as may reasonably be required are at all times employed and maintained to adequately protect the safety of the general public and any persons engaged by the Licensee.
- 1.8 Ensure that no activities are carried out on the Site which are likely to result in contamination of the Site or any waterways situated thereon, thereunder or nearby.
- 1.9 Ensure that no nuisance and as little inconvenience or annoyance as possible is caused to the Council, its tenants and the owners or occupiers of any adjoining or neighbouring property.
- 1.10 Keep the Council fully indemnified against all actions, proceedings, claims, demands, outgoings, liabilities, injury and third party claims or demands consequent upon the Use and, without prejudice to the generality of the foregoing, indemnify the Council in respect of the full costs of any reinstatement costs and any disturbance or damage consequent upon the Use.
- 1.11 Ensure that the only persons (other than the Council's employees or Agents) who take access to the Site under the terms of this Licence are employees of the Licensee or Sub-Contractors employed for the purpose of carrying out the Use.
- 1.12 Ensure that, immediately on completion of the Use, the Site, including the foreshore and the steps giving access to the foreshore and any landscaping features, buildings, pavements and public highways adjacent thereto are fully reinstated, making good all damage caused by the Use and leaving the Site in a good condition, to the full satisfaction of the Council.
- 1.17 Pay full compensation for all, and any, loss, damage or injury of whatever nature occasioned by or arising out of the Use.
- 1.19 Ensure that any public footpaths or accessways in the vicinity of the Site remain open, accessible, clean and safe for use by the general public at all times.
- 1.20 Ensure that the Use is carried out on foot and by hand only and all movements over the Site are strictly monitored and controlled by an adequate number of Banksmen to ensure the safety of the general public and the Licensee's employees at all times.

## 2 **CONSIDERATION**

- 2.1 The Licensee will pay to the Council , on demand, the sum of £1 in consideration of the grant of this Licence.
- 2.2 The Licensee will provide the Council with a full list and photographic record of any items recovered in carrying out the Use, as per that set out in the attached method statement agreed with Historic England.

## 3 **LICENCE PERIOD AND EXPIRY DATE**

- 3.1 This Licence will commence on at 00:01am on 20<sup>th</sup> August 2020 and terminate at midnight on 27<sup>th</sup> August 2020.

## 4 **TERMINATION**

- 4.1 The permission conferred by this Licence shall immediately terminate on the breach or non-observance of any of the Covenants set out in Clause 1 hereof but this Clause shall be without prejudice to the Licensee's obligations contained herein and, in particular, the obligations to make good any damage caused to the Site.
- 4.2 If the Licensee shall fail to comply with any of its obligations hereunder, the Council shall be at liberty to take such action as it may think fit to prevent such breach occurring or to minimise or remediate the effect of any such breach and all costs so incurred (including all legal costs) shall be paid by the Licensee to this Council, on demand.

## 5 **DISPUTES**

- 5.1 Any dispute or difference of any kind whatsoever which occurs between the parties in relation to any thing or matter under, out of, or in connection with, this Licence may, at the instance of the Council, be referred to a Chartered Surveyor or such other suitable person for determination of the dispute, the person or persons so determining the matter acting as an expert and having the power to determine the responsibility for payment of the costs of the reference.

## 6 **DECLARATIONS**

- 6.1 The Licence granted herein is personal to the Licensee and is not capable of assignment.
- 6.2 This Licence is restricted to the Use and shall not be deemed to permit any further act, deed or event for which the specific consent of the Council shall be required.
- 6.3 No representation is made, nor warranty given, by the Council that any part of the



the Site, including the foreshore and the public steps are fit for the Use or for any purpose and any such usage will be at the Licensee's own risk and the Council will not be responsible for any loss, injury, damage or expense which may be suffered or sustained in the event of any part of the Site proving defective or unfit for the Use.

- 6.4 All fossils, coins, artefacts, articles of value or antiquity and structures and other remains or things of geological, historical or archaeological interest discovered on the Site shall, as between the Council and the Licensee, be deemed to be the absolute property of the Council and the Licensee shall take and ensure that every reasonable precaution is taken to prevent such article or thing being removed or damaged and shall, immediately upon discovery thereof, acquaint the Council of such discovery and carry out the Council's directions as to the disposal of such article or thing.
- 6.5 Nothing herein contained or implied shall prejudice or affect the rights, powers, duties and obligations of the Council in the exercise of its functions as a Local or Highway or Planning or other Authority and the rights, powers, duties and obligations of the Council under all public and private Statutes, Byelaws, Orders and Regulations may be as fully and effectually exercised in relation to the Land as if the Council were not the owner of the Land and this Licence had not been executed by the Council and any approval or consent given, or granted, by the Council in pursuance of the provisions of this Licence shall not be deemed to be given or granted by the Council in any capacity other than as owner of the Land.
- 6.6 The Licensee hereby acknowledges that its occupation of the Site and this agreement constitutes a Licence only and nothing herein shall create, or be deemed to create, the relationship of landlord and tenant between the parties hereto.

IN WITNESS whereof this Licence was executed on behalf of the parties hereto:

SIGNED BY )  
On behalf of the Council )  Dated 20/8/20

SIGNED BY )  
On behalf of the Licensee )  Dated 19/08/20

**Attachment 1. Method Statement**

# *Birnbeck Pier*

## **Method Statement for foreshore clean**

9<sup>th</sup> July 2020

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Prior to commencing activity in the intertidal zone, all Contractors will plan works around tides and contact Milford Haven Coastguard operation centre 01646 690 909 (24hours) and advise of intentions for that day and agree any ongoing liaison requirements. These calls are to be logged, and a summary provided to the works programme co-ordinator.

Prior to commencing activity, the contractor should notify the works programme co-ordinator and the heritage advisor of the intention to start on site, noting the intended duration of the works. The Heritage Advisor will notify the Council of the intended start date.

Contractors will also carry out their normal Risk Assessment, which is to include an understanding of tides in the area. This should also include the risks associated with using the access stairs and access over the rocks. These are slippery due to being below the high tide line.

Birnbeck Pier is a grade II\* listed building dating from 1862. There are also a number of other listed buildings within the immediate vicinity which include several on Birnbeck Island. In addition, the Council have advised that the whole of the area is curtilage listed and therefore there is to be no removal of other artefacts from any area or from any building without prior approval being sought from the Council. A plan of the listed buildings is included at attachment 1.

Only the works set out within the agreed scope of works are to be undertaken (set out below). If there is any confusion or clarity is sought over the extent of works, contact the works programme co-ordinator or the Heritage Advisor.

The structure is to be assumed unsafe over and under until it is determined otherwise. Individuals should not be exposed to either deck access or areas under the pier or within a sensible buffer zone (subject to risk assessment) until this advice changes.

As the site lies within the Severn Estuary European Marine Site (incorporating Special Area of Conservation, Special Protection Area, Ramsar site and Site of Special Scientific Interest) works will be preceded by, and undertaken during, an ecological watching brief to monitor for the possibility of direct damage to the features of ecological interest listed within the various designations, as well as disturbance to any significant aggregations of birds associated with them.

Furthermore, works will be carried out under consent from Natural England to carry out operations within an SSSI. An application for consent has been made.

## Works to be carried out

This method statement relates to the following works:

1. The removal of any material from the foreshore which is likely to have originated from a listed structure.

## Outline Method

Contractor will establish a compound and suitable welfare facilities at the pier root end.

Any material salvaged from the foreshore will be stored within the former Pier Masters Cottage which is contained within the Works Compound. The Cottage is boarded up and access is only possible to those with a key from the front door.

Contractor will enable access to the foreshore on foot. The foreshore is to be accessed from Birkett Road near the former picket booth and pier head where there are publicly accessible footsteps to the foreshore. No other access points will be allowed given the number of sensitive ecological habitats.

After assessing tides and during a suitable tidal window, a search of the foreshore will commence by hand picking debris from the foreshore, locally stockpiling and then recovery to the forecourt compound where it will be logged and placed in secure storage on the site. The items will be carried up the access steps and into the works compound. The attached plan shows the access point to be used and the route to be taken from the steps to the works compound.

Using the publicly accessible steps, and managing the interaction between the public and contractors, the following steps will be undertaken:

1. The contractor will position the *'access route banksman'* at the top of the stairs;
2. Before ascending the stairs with any material, the *'recovery team'* will seek confirmation from the *'access route banksman'* that the stairs are clear, and that any members of the public be temporarily held at the top of the stairs. Upon receiving confirmation of the access route being clear, the contractor will ascend the steps with the recovered material;
3. Upon reaching the top of the stairs, the *'access route banksman'* will confirm that the access steps are clear and allow any members of the public to use the steps;
4. The *'access route banksman'* will accompany the *'recovery team'* along the footpath to the works compound and will place the recovered items within the compound. These will then be logged before being stored in the Pier Masters Cottage.

All works to be carried out in accordance with Prevent Pollution Guidance note 5 (PPG5).

Contractor will give due regard to flora and fauna on the foreshore and avoid tracking over biodiverse sensitive areas.

Works will be repeated over several tidal cycles as required demobilising to land between tides.

## Recording/Logging

In the first instance, any material identified on the foreshore for recovery should be tagged and its location should be marked using GPS co-ordinates.

Any material removed from the foreshore will be inspected by the heritage advisor to advise on its significance. If material appears to have originated from a listed structure, it will be logged according to the steps below.

In the undertaking of the works identified at nos. 1 above, a log of the material will be maintained. This log will include:

1. A photograph of the item. This is to be of a high quality and under reasonable lighting conditions to allow the detail of the material to be understood. The photograph is to include a ruler or similar item to allow its dimensions to be understood.

2. A description of the item, with approximate sizes (length, width, depth).
3. Recording of any specific identification marks or detailing through photography.
4. Each item is to be given a unique reference number which is included on the log sheet. This unique number is to be securely attached to the recovered item.
5. Details of where the item is stored. The item will be stored securely on site to prevent any theft or vandalism.
6. The GPS co-ordinates of the location from which it was recovered. If it is not possible to record the GPS Co-ordinates, a photograph showing the location of the item in relation to one of the trusses of the Pier or another recognisable locating feature should be provided. This should be accompanied by a plan showing the location of the photograph and the item recovered.

A copy of the log will be retained on site and will also be sent to the works programme co-ordinator, the heritage advisor and the ecological advisor. The record should also be provided to Dr Hudson-McAuley, the Council's Conservation Officer. The heritage advisor will ensure that the log is circulated to the Council's Conservation Officer.

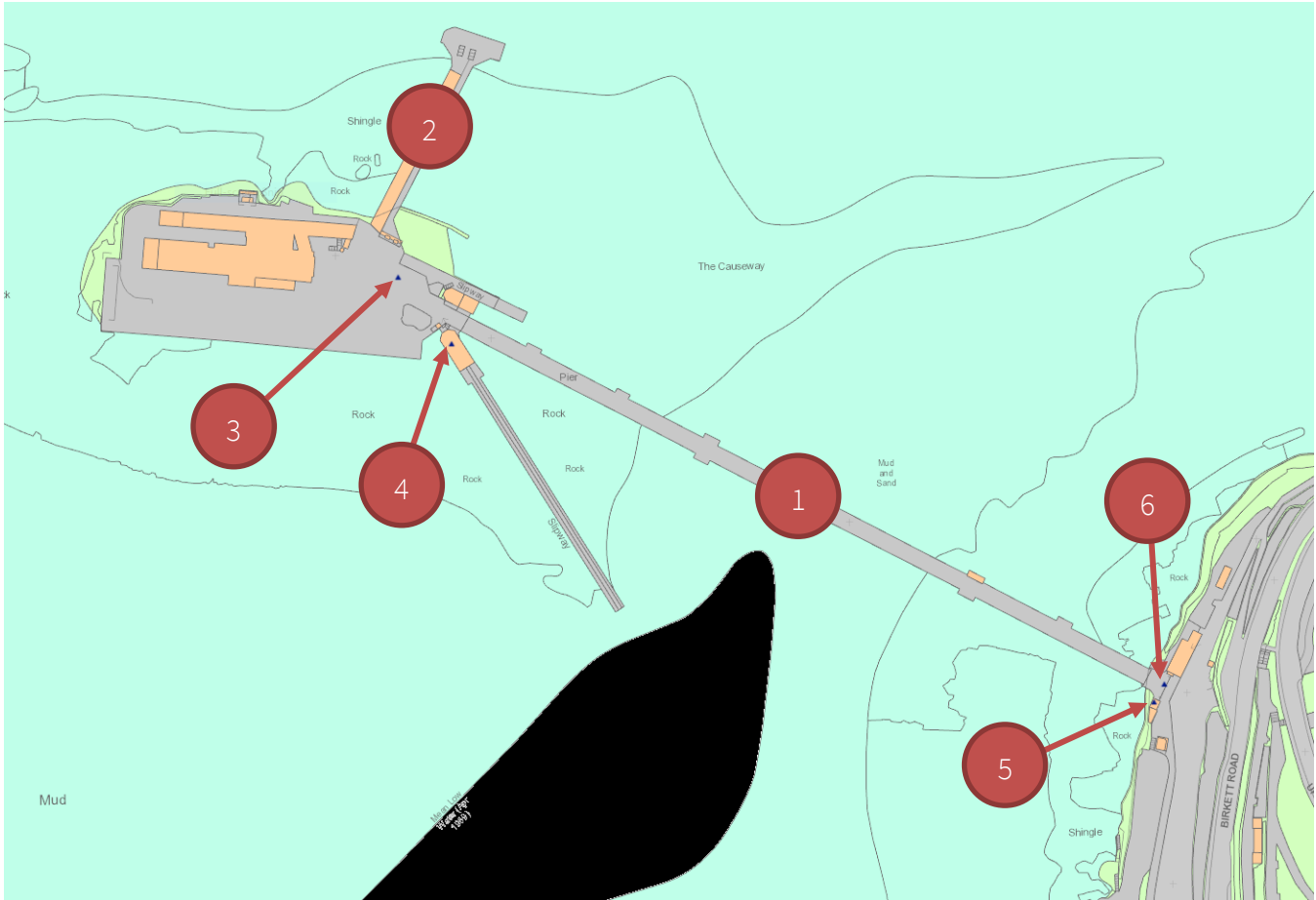
Without exception, no material is to be removed from site without prior inspection by the Heritage Advisor, the local planning authority and Historic England.

### Key Contacts

Works Programme Co-ordinator	Heritage Advisor	Ecological Advisor
Kamran Rahmat	Paul Crisp	Harry Fox
CNM Estates	Head of Heritage & Townscape	Principal Ecologist
E: <a href="mailto:Kamran.rahmat@cnmestates.com">Kamran.rahmat@cnmestates.com</a>	JLL	Clarkson & Woods
M: 07961 471607	E: <a href="mailto:paul.crisp@eu.jll.com">paul.crisp@eu.jll.com</a>	E: <a href="mailto:harry.fox@clarksonwoods.co.uk">harry.fox@clarksonwoods.co.uk</a>
	M: 07885 820800	M: 07814582276

# Attachment 1. Listed Buildings

Please note that the Council advise that the entirety of the land is curtilage listed and therefore no works should commence unless within the agreed scope of works.



Reference	Description	Grade
1	Birnbeck Pier	II*
2	North Jetty	II
3	Clock Tower	II
4	Lifeboat House & Slipway	II
5	Entrance Gates & Turnstiles	II
6	Toll House Lodge	II



## **Attachment 2. Foreshore access point and route to the Works Compound.**



# Birnbeck Pier

Access Route for foreshore clean



'Access route banksman' to be positioned here to manage interaction between public and contractors

Route to be used by operatives to transfer salvaged material to Works Compound for logging

Access point to foreshore to allow for beach clean



# Attachment 3. Public Liability Insurance

**TO WHOM IT MAY CONCERN**

Date: 23<sup>rd</sup> June 2020

Dear Sirs

**UK Industrial Services Ltd**

With reference to the above client, we would confirm that the following arrangements are in place for their Contractors All Risks insurance:-

**Combined Liability Insurance**

Insurer	:	Lloyds of London Syndicate (XL/Catlin)
Policy Number	:	B07971914786
Policy Period	:	31/01/2020 – 30/01/2021
Employers Liability Limit of Indemnity	:	£10,000,000 Any One Occurrence
Public Liability Limit of Indemnity	:	£10,000,000 including Excess Layer Any One Occurrence
and in Aggregate for Products and Pollution Liability		
Policy Excess	:	£2,500 Each & Every Claim

**Contractors All Risks Insurance**

Insurer	:	Chubb Insurance Company of Europe SE
Policy Number	:	UKCRNC96953
Policy Period	:	19/03/2020 – 18/03/2021
Contract Works & Materials	:	£500,000 Any One Contract
Hired in Plant Limit of Indemnity	:	£225,000 Any One Occurrence & Any One Item
Policy Excess	:	£2,500 Each & Every Claim

**Professional Indemnity Insurance**

Insurer	:	Tokyo Marine HCC
Policy Number	:	PI20F822361
Policy Period	:	22/06/2020 – 21/06/2021
Limit of Indemnity	:	£2,000,000 Any One Claim and In Aggregate (including defence costs)
Policy Excess	:	£10,000 Each & Every Claim

Yours faithfully  
for/UK & Ireland Insurance Services Ltd



**Maggie Wdowiarz**  
Commercial Account Handler  
Direct Dial: 0161 925 4937  
Email: [mw@ukandi.com](mailto:mw@ukandi.com)



**Phone call from Wahid Samady to Rachel Lewis 14 September 2020 15.41**

WS called saying that they were putting together information for a second LBC. He first said that this would be for the remainder of the works but later in the conversation said that this would just be for the medium priority work. He asked if I would advise a pre application first – I confirmed that it is council policy to encourage pre-apps, especially where applications might be complex. He said he would do this once the current LCB is dealt with.

RL asked about repayment of the debt charge to NSC. WS laughed and said he would write to the Council about it, but we wouldn't like it.

WS also said that he had repaid the debt on the Royal Pier Hotel and that he would now bring forward proposals to redevelop this site. He said that advice from JLL was that the proposals would be policy compliant. He didn't get into the details of the proposals but indicated that they were as had been previously discussed for a building significantly larger than the 2011 application. Again he proposes to submit a pre application for this, and will instruct JLL to contact me to start this process.

Rachel Lewis 15/09/20



Sir/Madam  
North Somerset Council  
North Somerset Council, Post Point 5  
Town Hall  
Weston- Super-Mare  
North Somerset  
BS23 1UJ

Direct Dial: 0117 975 0717

Our ref: L01222010

14 October 2020

Dear Sir/Madam

### **Arrangements for Handling Heritage Applications Direction 2015**

**BIRNBECK PIER, BIRNBECK ISLAND, BIRNBECK ROAD, WESTON-SUPER-MARE, BS23 2BN**

**Application No. 20/P/1784/LBC**

Thank you for your letter of 25 September 2020 regarding further information on the above application for listed building consent. On the basis of this information, we offer the following advice to assist your authority in determining the application.

#### **Historic England Advice**

We wrote to you on 28 August 2020 in respect of the above application, welcoming the principle of the proposals but expressing concerns about (i) a lack of information and (ii) whether the proposals were capable of delivery.

The application is made in response to your council serving a repairs notice on the owners of the pier, and this is part of their attempt to comply with the notice. The repairs notice is the first stage in a process which may eventually lead to a compulsory purchase order, but that is a separate process not relevant to our assessment of these proposals.

The additional information supplied in respect of our concerns about a lack of information consists of a supplementary heritage report, method statement, and phasing strategy.

The information provided only details works to a typical trestle/bay. We know the pier is in very variable condition, and would expect details of proposed works to each bay to be provided. The laser scan data and results referred to in the supporting text should be shared, to allow our engineers to fully assess the proposals.

The application applies for permission to carry out the works which are considered high priority. Considerable removal of fabric is necessary, with only limited subsequent



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HistoricEngland.org.uk



rebuilding at this stage. Our greatest concern is that the pier deck and supporting beams would be removed and not reinstated under these plans, if consented. The deck ties the trestles together and we are concerned that if removed, the remaining trestles would be vulnerable to collapse.

Further information should be supplied demonstrating the impact of the deck removal on the rigidity of the trestles. However it would be far preferable if the reinstatement of the deck were included in this package of works.

The phasing strategy, in our view, is inadequate. We agree with the sequencing of works as detailed by the HOP report, but no timescales are detailed in this document. The separate programme chart is very basic and should detail the sequencing described in the HOP report. We are content, however, that this could also be controlled through an appropriately-worded condition.

Our concerns about whether the proposals are capable of delivery remain unaddressed; there is a long history of neglect at Birnbeck Pier. Approval of the application could result in a situation whereby substantial demolition of the pier is agreed and undertaken, but without any guarantee of its subsequent restoration. Removing further elements of the structure, while necessary to facilitate its restoration, could make the pier more vulnerable if further phases of restoration fail to proceed.

We therefore suggest that your authority considers a legal agreement to ensure that safeguards are in place to conserve the pier to allow for its later full restoration. My colleagues in our London office have encountered a similar situation previously at Battersea Power Station. Here, the building's well-known chimneys were found to require total rebuilding and there were concerns that if demolished there were no guarantees of their rebuilding. To address this, the developer entered into a section 106 agreement with the local authority. This required a bond to be in place before demolition began, securing finance for the chimneys rebuild even if the developer walked away from the project.

There are parallels between the Battersea case and Birnbeck Pier. Both are II\* listed structures on the heritage at risk register, and both require (or required) considerable financial investment in parts of the structure incapable of providing a financial return.

A similar agreement could be used for the works to Birnbeck Pier, requiring the works proposed by this application to be delivered in full and the structure of the pier brought into a condition whereby further decline is arrested. This could take the form of a unilateral undertaking to ensure that funds would be available through an irrevocable letter of credit, secured via a section 106 agreement.

Our guidance on section 106 agreements, which can be attached to both planning or listed building consents, can be found here:



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<https://historicengland.org.uk/advice/hpg/termsconsent/106/>

There may be other legally-binding mechanisms to secure delivery of the project, and your council should take legal advice to establish the best approach to take. We would be happy to participate in these discussions.

Paragraph 198 of the National Planning Policy Framework advises that “Local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.” We suggest that a legal framework to guarantee delivery is necessary to provide the certainty required that the development will proceed and to avoid the Grade II\* listed pier being placed at further risk through elements being removed and not replaced.

We are happy to discuss this with yourselves and the applicant, and potentially a colleague from our legal department. Please contact me at your earliest convenience so we can try and organise an online meeting.

The application should not be approved in its current form.

### **Recommendation**

Historic England has concerns regarding the application on heritage grounds. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraph 198 of the NPPF.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

Yours sincerely

### **Simon Hickman**

Principal Inspector of Historic Buildings and Areas

E-mail: [simon.hickman@HistoricEngland.org.uk](mailto:simon.hickman@HistoricEngland.org.uk)



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## Print Version

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## Summary

Reference	20/P/2546/LBC
Application Received	Mon 19 Oct 2020
Application Validated	Fri 11 Dec 2020
Address	North Jetty, Birnbeck Pier Birnbeck Island Birnbeck Road Weston-super-Mare
Proposal	Partial demolition of the North Jetty to remove walkway and 5no. trestle piers
Status	Decided
Decision	Approve
Decision Issued Date	Thu 08 Apr 2021
Appeal Status	Unknown
Appeal Decision	Not Available

## Further Information

Application Type	Listed Building Consent
Decision	Approve
Actual Decision Level	Delegated Decision
Expected Decision Level	Not Available
Case Officer	Andrew Stevenson
Parish	Weston-super-Mare
Ward	Weston-super-Mare Hillside
District Reference	Not Available
Applicant Name	CNM Estates (Birnbeck) Limited
Agent Name	Mr K Hunt
Agent Company Name	JLL

Agent Address	JLL 31 Great George Street Bristol BS1 5QD
Environmental Assessment Requested	No

## Contacts

### Ward Councillors

Councillor Mark Canniford

Address	
---------	--

Councillor John Crockford-Hawley

Address	
---------	--

## Important Dates

Application Received Date	Mon 19 Oct 2020
Application Validated Date	Fri 11 Dec 2020
Consultation Deadline	Thu 28 Jan 2021
Extended Determination Deadline	Fri 09 Apr 2021
Decision Made Date	Thu 08 Apr 2021
Decision Issued Date	Thu 08 Apr 2021
Determination Deadline	Fri 05 Feb 2021

## Related Information

There are 18 documents associated with this application.

There are 0 cases associated with this application.

There is 1 property associated with this application.

## Andrew Westbrook

---

**From:** Crisp, Paul <Paul.Crisp@eu.jll.com>  
**Sent:** 23 October 2020 17:23  
**To:** Rachel Lewis  
**Cc:** Kate Hudson-McAulay; Kamran Rahmat  
**Subject:** Birnbeck Pier - beach clean



Rachel, Kate,

Apologies that this has taken a while to get to you – a combination of large file transfer challenges and one of the personnel of the contractor having some personal matters to attend to.

The link below will take you to the record with each image also provided as a separately accessible jpeg.

<https://1drv.ms/u/s!AqmdtvS0vGuigQWHW2AoClVz-uGG?e=cB8xvV>

The arisings are securely stored within the basement of the café.

We note from earlier discussions with Rachel that there are larger items on the foreshore, but these cannot be lifted without tracked machinery or other equipment. We are looking at recovering these as part of the implementation of the high priority works.

Regards

Paul

Paul Crisp  
Head of Heritage & Townscape  
JLL

M: +44 (0)7885 820800

[paul.crisp@eu.jll.com](mailto:paul.crisp@eu.jll.com)  
[jll.co.uk](http://jll.co.uk)



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**THE NORTH SOMERSET COUNCIL (BIRNBECK PIER)  
COMPULSORY PURCHASE ORDER 2020**

**The Planning (Listed Buildings and Conservation Areas) Act 1990  
and the Acquisition of Land Act 1981**

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**APPLICATION FOR STAY IN COMPULSORY PURCHASE PROCEEDINGS**

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1. The Complainant is CNM Estates (Birnbeck) Limited of St Georges Court, 4 High Street, St Georges Square, High Street, New Malden, Surrey KT3 4HG. The Complainant is a person having an interest in Birnbeck Island and Grade II\* listed Birnbeck Pier, Weston Super Mare, including access way and surrounding waters and sea bed together with hardstanding, former landscaped gardens and paths, buildings, toll gates, car park off Birkett Road leading to Birnbeck Pier and other relevant land (“the Pier and Relevant Land”).
2. Under powers in s. 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the “Listed Building Act”), the North Somerset Council (the “Defendant”) has made the North Somerset Council (Birnbeck Pier) Compulsory Purchase Order 2020 (“the Order”).
3. The Order seeks authorisation from the Secretary of State for the acquisition of the Pier and Relevant Land (comprising 81380.66 square metres, as described in the Schedule to the Order and delineated and shown edged red and coloured pink, numbered 01 on a sealed map marked “Map referred to in the North Somerset Council (Birnbeck Pier) Compulsory Purchase Order 2020”).
4. The Complainant now applies for an order staying all further proceedings for the compulsory acquisition of the Pier and Relevant Land.

**A. LEGAL AND POLICY CONTEXT**

## Repairs Notices

5. If a listed building is not kept in a reasonable state of preservation, then the local authority or Secretary of State can serve on the owner a repairs notice under s.48 of the Listed Buildings Act. Such notice is a preliminary step to compulsory purchase of the building.
6. A repairs notice must specify the works which are considered reasonably necessary for the building's preservation, as well as explaining the effect of ss. 47 - 50 of the Listed Buildings Act.

## Compulsory acquisition

7. Under s. 47, there is a two-stage process: first, service of a repairs notice; and, second, service of a notice of compulsory acquisition on every owner, lessee and occupier if, after the expiry of two months it appears to the appropriate authority that reasonable steps are not being taken for properly preserving the building; see s. 48 of the Listed Buildings Act.
8. In making a compulsory purchase order under s. 47, the Secretary of State and the acquiring authority must follow the procedure laid down by the Acquisition of Land Act 1981 and regulations made thereunder: see s. 47(2) of the Listed Buildings Act.

## Application to magistrates' court

9. Under the provisions of s. 47(4) of the Listed Buildings Act:

*“any person having an interest in the building which it is proposed to acquire compulsorily under this section may, within 28 days after the service of the notice<sup>1</sup> ... apply to a magistrates' court acting for the petty sessions area within which the building is situated for an order staying further proceedings on the compulsory purchase order; and, under section 47(5) if the court is satisfied that reasonable steps have been taken for properly preserving the building, the court shall make an order accordingly.”*

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<sup>1</sup> i.e. the notice required under s. 12 of the Acquisition of Land Act 1981.

10. On receipt of the Complaint, the court will issue a Summons on Complaint<sup>2</sup>. The local authority will then attend to answer the Complaint.
11. An order staying the compulsory purchase proceedings must be granted if the court is satisfied that “*reasonable steps have been taken for properly preserving the building*”.
12. Anyone aggrieved by the decision of the magistrates’ court can appeal to the Crown Court: see s. 47(6).

### **Relevant guidance**

13. The Ministry of Housing, Communities and Local Government has published “*Guidance on Compulsory purchase process and The Crichel Down Rules*” dated July 2019 (the “**CPO Guidance**”). Section 11 is of particular relevance to listed buildings in need of repair.

### **B. THE REPAIRS NOTICE**

14. On 9 September 2019, a repairs notice was issued by the Council (the “*Repairs Notice*”), with Schedule 2 of the Repairs Notice setting out a “*specification of works to be carried out*”, comprising of 25 items.
15. A copy of the Repairs Notice is appended to this Application.

### **C. THE COMPULSORY PURCHASE ORDER**

16. On 14 July 2020, the Defendant resolved to compulsorily acquire the Pier and Relevant Land.
17. On 18 September 2020, the Defendant made the North Somerset Council (Birnbeck Pier) Compulsory Purchase Order 2020 (referred to above and below as “*the Order*”).
18. The Complainant received a revised letter of service providing notice of the making of the Order on 25 September 2020.

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<sup>2</sup> In Form 99; Magistrates’ Courts Act 1980 ss. 51, 52; Magistrates’ Courts Rules 1981, rr. 34, 98.

#### D. THE APPLICATION AND GROUNDS

19. The Complainant now applies for an order staying all further proceedings for the compulsory acquisition of the Pier and Relevant Land on the ground that reasonable steps have been taken to properly preserve the Pier and Relevant Land.
20. The Complainant is committed to carrying out works of repair to the Pier and Relevant Land. Substantive progress is being made with reference to the works required pursuant to the Repairs Notice, as follows:

	<b>Summary description of step taken</b>	<b>Date range</b>
1	Appointment of a highly experienced consultant team including a heritage expert and an expert in the repair of historic piers	April – June 2020
2	Ensuring that all works are undertaken in accordance with specialist advice (Item 1 in Schedule to Repairs Notice)	Throughout
3	Ensuring Site is safely set up for the works to be undertaken in accordance with Health and Safety requirements, including securing perimeter to Site (Item 2 in Schedule to Repairs Notice)	Throughout
4	Ensuring appropriate surveys and inspections are undertaken, including laser scanning of the Pier to assist with recording and development of repairs details (Item 4 in Schedule to Repairs Notice)	Throughout
5	Production of an overarching Refurbishment Strategy	May – June 2020
6	Production of an intended programme to address the Repairs Notice	May – June 2020
7	Submission of revised approach, including key dates for the immediate programme of works and preparing an application for listed building consent	June 2020
8	Production of an Initial Programme of Works with reference to i) team mobilisation; ii) immediate priority of work; and iii) high priority of work	June 2020
9	Submission of Method Statement for foreshore clean, so that the licence application to the Marine Management Organisation could be submitted. Subsequent revisions in response to Council comments, with the Method Statement being approved by the Council on 3 July 2020	June – July 2020
10	Submission of Full Programme of Works	June 2020
11	The preparation of a prioritisation process for the works, ranging from High – Medium – Low – Statutory Duty	July 2020
12	Submission of Listed Building Consent (Ref 20/P/1784/LBC) application to address four items listed in the Schedule to the Repairs Notice, with further	July 2020



	information provided in a timely fashion as required by the Council (Items 7, 8, 11 and 13 in the Schedule to the Repairs Notice)	
13	Licence for Access granted by the Council and foreshore clean undertaken on the same day	August 2020
14	Laser scan of the Site (Item 4 in Schedule to Repairs Notice)	September 2020
15	Preparation of second Listed Building Consent application to address the next stage of works	October 2020
16	Submission of an application for the renewal of the North Jetty consent	October 2020

21. The Complainant will produce evidence in support of the above steps, along with evidence to support the submission that they constitute “reasonable steps” that “have been taken for properly preserving the building”. The Court will note that it is highly likely that further steps will have been taken by the time that the Complaint comes on for a hearing.
22. The Court will also note that – given the need for licences and Listed Building Consent(s) – the speed with which the above (and further) steps can be achieved is largely controlled by the Council. The Complainant will produce evidence in relation to the Council’s intransigence in this regard.
23. If the Court is satisfied that “reasonable steps have been taken for properly preserving the building”, then it must make an order staying all further proceedings for the compulsory acquisition of the Pier and Relevant Land.

**E. CONCLUSION**

24. The Complainant respectfully asks that the magistrates’ court issues a Summons in the terms of the Complaint and Summons appended to this Application.
25. Having issued the Summons, the magistrates’ court is invited to give directions providing for the parties to file and serve i) statements of case; and ii) proofs of evidence; iii) any further evidence; and iv) listing the Application for both case management and a final hearing.

26. The Complainant will in due course invite the magistrates' court to make an order staying all further proceedings for the compulsory acquisition of the Pier and Relevant Land.

**F. APPENDICES**

Appendix 1: The North Somerset Council (Birnbeck Pier) Compulsory Purchase Order 2020 and Schedule;

Appendix 2: Repairs Notice dated 9 September 2019 and Schedule thereto;

Appendix 3: Complaint and summons;

Appendix 4: Sections 47 – 50 of the Listed Building Act.

**APPENDIX 1 - THE NORTH SOMERSET COUNCIL (BIRNBECK PIER)  
COMPULSORY PURCHASE ORDER 2020 AND SCHEDULE**

**IMPORTANT: THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**THE NORTH SOMERSET COUNCIL (BIRNBECK PIER)  
COMPULSORY PURCHASE ORDER 2020**

The Planning (Listed Buildings and Conservation Areas) Act 1990  
Section 47(1)(a) and The Acquisition of Land Act 1981

**To: CNM Estates (Birnbeck) Limited**

**Relating to: Birnbeck Pier, Weston-super-Mare (Plot No. 01)**

1. North Somerset Council made on 18 September 2020 the North Somerset Council (Birnbeck Pier) Compulsory Purchase Order 2020 under Section 47 (1) (a) of the Planning (Listed Building and Conservation Areas) Act 1990. It is about to submit this order to the Secretary of State for Digital, Culture, Media & Sport for confirmation, and if confirmed, the order will authorise North Somerset Council to purchase compulsorily the land described below for the purpose of repairing and restoring Birnbeck Pier and ensuring its future preservation.

2. A copy of the order and of the map referred to therein may be viewed online by accessing the following link: [www.n-somerset.gov.uk/birnbeckcpo](http://www.n-somerset.gov.uk/birnbeckcpo). As a result of the coronavirus pandemic, access to view a hard copy of the order and accompanying map is more restricted at the present time. A hard copy of the order and map may be viewed **by appointment only** at Weston-super-Mare Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ on Mondays, Wednesdays and Fridays. Arrangements can be made to view a hard copy of the order and map by contacting Council Connect on **01934 888888**.

3. Under section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990, any person having an interest in a listed building which it is proposed to acquire compulsorily under that section may, within 28 days after the service of this notice, apply to the magistrates' court for an order staying further proceedings on the compulsory purchase order, and if the court is satisfied that reasonable steps have been taken for properly preserving the building, the court must make an order accordingly.

4. Subject to any action taken under the Planning (Listed Buildings and Conservation Areas) Act 1990 (which also provides for appeals against decisions of the court) the position with respect to this order is set out below.

5. If no relevant objection as defined in section 13(6) of the Acquisition of Land Act 1981 is made, or if all such objections made are withdrawn, or if the confirming authority is satisfied that every objection made relates exclusively to matters of compensation which can be dealt with by the Lands Tribunal, the confirming authority may confirm the order with or without modifications.

6. In any other case where a relevant objection has been made which is not withdrawn or disregarded, the confirming authority is required, before confirming the order either—

(i) to cause a public local inquiry to be held; or

(ii) to afford to the objector an opportunity of appearing before and being heard by a person appointed by the confirming authority for the purpose; or

(iii) with the consent of the objector to follow a written representations procedure.

7. The confirming authority may then, after considering the objection and the report of the person who held the inquiry or hearing or considered the written representations, confirm the order with or without modifications. In the event that there is no objection, whether by a qualifying person or otherwise, the confirming authority may in certain circumstances permit the acquiring authority to determine confirmation of the order.

8. Any objection to the order must be made in writing to the Secretary of State for Digital, Culture, Media & Sport at [enquiries@dcms.gov.uk](mailto:enquiries@dcms.gov.uk) or 100 Parliament Street, London, SW1A 2BQ before **Friday 30 October 2020** and should state the title of the order, the grounds of objection and the objector's address and interests in the land.

**DESCRIPTION OF LAND:**

The acquisition of land at and around Birnbeck Pier to include all interests in:

81380.66 square metres of Birnbeck Island and Grade II\* listed (1129718) Birnbeck Pier, Weston Super Mare, including access way and surrounding waters and sea bed together with hardstanding, former landscaped gardens and paths, buildings, toll gates, car park off Birkett Road leading to Birnbeck Pier and other relevant land, but excluding mines and minerals reserved to The Queen's Most Excellent Majesty.

**Dated: 24 September 2020**

N P Brain  
Head of Legal and Democratic Services  
**North Somerset Council**

**THE NORTH SOMERSET COUNCIL (BIRNBECK PIER) COMPULSORY PURCHASE ORDER 2020**

**The Planning (Listed Buildings and Conservation Areas) Act 1990  
and the Acquisition of Land Act 1981**

The District Council North Somerset (in this order called "the acquiring authority") makes the following order-

1. Subject to the provisions of this order, the acquiring authority is under section 47 (1) (a) of the Planning (Listed Buildings and Conservation Areas) Act 1990 hereby authorised to purchase compulsorily the land described in paragraph 2 for the purposes of the preservation of Birnbeck Pier, a grade II\* listed building, because reasonable steps are not being taken for properly preserving the listed building.
2. The land authorised to be purchased compulsorily under this order is the land described in the Schedule and delineated and shown edged red and coloured pink, numbered 01 on a map prepared in duplicate, sealed with the common seal of the acquiring authority and marked "Map referred to in the North Somerset Council (Birnbeck Pier) Compulsory Purchase Order 2020".

SCHEDULE

Table 1

Number on map (1)	Extent, description and situation of the land (2)	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 – name and address (3)			
		Owners or reputed owners	Lessees or reputed lessees	Tenants or reputed tenants (other than lessees)	Occupiers
01	<p>81380.66 square metres of Birnbeck Island and Grade II* listed (1129718) Birnbeck Pier, Weston Super Mare, including access way and surrounding waters and sea bed together with hardstanding, former landscaped gardens and paths, buildings, toll gates, car park off Birkett Road leading to Birnbeck Pier and other relevant land, but excluding mines and minerals reserved to The Queen's Most Excellent Majesty</p> <p><b>(Freehold – ST212047)</b></p>	<p>CNM Estates (Birnbeck) Limited St Georges Court 4 High Street, St Georges Court, New Malden KT3 4HG (Co. Reg. – 07584898)</p> <p>The Queen's Most Excellent Majesty c/o The Crown Estate Commissioners 1 St James's Market London SW1Y 4AH in respect of Mines and Minerals reservation (<i>excluded from acquisition</i>)</p>	-	-	<p>Birnbeck Regeneration Trust 32 Southside Weston-super-Mare Somerset BS23 2QX (Co. Reg. – 05077252)</p> <p>SIP Parking Limited Peter House Oxford Street Manchester Greater Manchester M1 5AN (Co. Reg. – 06752126)</p> <p>SIP Car Parks (1) Limited Peter House Oxford Street Manchester Greater Manchester M1 5AN (Co. Reg. – 08456205)</p> <p>Wales and West Utilities Limited Wales &amp; West House Spoooner Close Coedkernow Newport NP10 8FZ (Co. Reg. – 05046791) (in respect of apparatus)</p>

Number on map (1)	Extent, description and situation of the land (2)	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 – name and address (3)			
		Owners or reputed owners	Lessees or reputed lessees	Tenants or reputed tenants (other than lessees)	Occupiers
					<p>Western Power Distribution PLC Avonbank Feeder Road Bristol BS2 0TB (Co. Reg. – 09223384) (in respect of apparatus)</p> <p>Bristol Water PLC Bridgwater Road Bristol BS13 7AT (Co. Reg. – 02662226) (in respect of apparatus)</p> <p>British Telecommunications PLC 81 Newgate Street London EC1A 7AJ (Co. Reg. – 01800000) (in respect of potential apparatus)</p> <p>Engie Power Limited No.1 Leeds 26 Whitehall Road Leeds LS12 1BE (Co. Reg. – 04236804) (in respect of potential apparatus)</p>



Number on map (1)	Extent, description and situation of the land (2)	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 – name and address (3)			
		Owners or reputed owners	Lessees or reputed lessees	Tenants or reputed tenants (other than lessees)	Occupiers
					<p>GTC Pipelines Limited  Energy House  Woolpit Business Park  Woolpit  Bury St Edmunds  IP30 9UP  <i>(Co. Reg. – 03104203)</i>  (in respect of potential apparatus)</p> <p>Utility Assets Limited  7 Laxton Close  Attleborough  NR17 1QY  <i>(Co. Reg. – 07255054)</i>  (in respect of potential apparatus)</p> <p>Marine Management Organisation  Lancaster House  Hampshire Court  Newcastle upon Tyne  NE4 7YH  United Kingdom</p>

**Table 2**

Number on map (4)	Other qualifying persons under section 12(2A)(a) of the Acquisition of Land Act 1981 (5)		Other qualifying persons under section 12(2A)(b) of the Acquisition of Land Act 1981 – not otherwise shown in Tables 1 & 2 (6)	
	Name and address	Description of interest to be acquired	Name and address	Description of the land for which the person in adjoining column is likely to make a claim
01	Brian Sullivan 1345 Wester Street Palo Alto California 94301 United States of America (in respect of registered charge)	in respect of a registered charge ( <i>Registered charge dated 10 October 2014</i> )		
01	The Royal National Lifeboat Institution West Quay Road Poole Dorset BH15 1HZ ( <i>Reg. Charity No. - 209603</i> )	in respect of rights to access Lifeboat Station ( <i>Transfer dated 14 August 1998</i> )		
01	The unknown successors to John Hugh Wadham Pigott Smyth Pigott	in respect of rentcharge <i>contained in Conveyance dated 28 October 1864</i>	Unknown successors to John Hugh Wadham Pigott Smyth Pigott	In respect of all interests rights and Covenants including:  (a) that the rights, liberties, privileges, easements and conveniences granted within the 1864 Conveyance will be exercised in a proper and workmanlike manner doing as little damage as may being the premises and will duly repair or compensate for any damage which may be incurred or sustained; and  (b) covenants to not at any time erect build or place any messuage or other building or permanent structure or erection whatsoever other than or except the pier or part thereof or its abutments or supports or some of them

Number on map (4)	Other qualifying persons under section 12(2A)(a) of the Acquisition of Land Act 1981 (5)		Other qualifying persons under section 12(2A)(b) of the Acquisition of Land Act 1981 – not otherwise shown in Tables 1 & 2 (6)	
	Name and address	Description of interest to be acquired	Name and address	Description of the land for which the person in adjoining column is likely to make a claim
				or its toll houses fences gates approaches appurtenances.
01	The unknown successors to The Reverend Charles Ranken Hall	in respect of rentcharge contained <i>Conveyance dated 28 October 1864</i>	Unknown successors to The Reverend Charles Ranken Hall	<p>Covenants</p> <p>(a) that the rights, liberties, privileges, easements and conveniences granted within the 1864 Conveyance will be exercised in a proper and workmanlike manner doing as little damage as may be to the premises and will duly repair or compensate for any damage which may be incurred or sustained; and</p> <p>(b) not at any time erect build or place any messuage or other building or permanent structure or erection whatsoever other than or except the pier or part thereof or its abutments or supports or some of them or its toll houses fences gates approaches appurtenances.</p>
01	The Queen's Most Excellent Majesty c/o The Crown Estate Commissioners 1 St James's Market London SW1Y 4AH	in respect of rentcharge ( <i>Conveyance dated 11 June 1897</i> )		
01	The Board of Trade King Charles Street Whitehall London SW1A 2AH	in respect of rentcharge ( <i>Conveyance dated 11 June 1897</i> )		

Number on map (4)	Other qualifying persons under section 12(2A)(a) of the Acquisition of Land Act 1981 (5)		Other qualifying persons under section 12(2A)(b) of the Acquisition of Land Act 1981 – not otherwise shown in Tables 1 & 2 (6)	
	Name and address	Description of interest to be acquired	Name and address	Description of the land for which the person in adjoining column is likely to make a claim
01	Secretary of State for Business, Energy and Industrial Strategy 1 Victoria Street London SW1H 0ET United Kingdom (as presumed successor in function to the Board of Trade)	in respect of rentcharge ( <i>Conveyance dated 11 June 1897</i> )		
01	The Queen's Most Excellent Majesty c/o The Crown Estate Commissioners 1 St James's Market London SW1Y 4AH	in respect of restrictive covenants and rights ( <i>Conveyance dated 17 July 1908 and conveyance dated 23 June 1938</i> )		
01	The Board of Trade King Charles Street Whitehall London SW1A 2AH	in respect of restrictive covenants and rights ( <i>Conveyance dated 17 July 1908 and conveyance dated 23 June 1938</i> )		

Number on map (4)	Other qualifying persons under section 12(2A)(a) of the Acquisition of Land Act 1981 (5)		Other qualifying persons under section 12(2A)(b) of the Acquisition of Land Act 1981 – not otherwise shown in Tables 1 & 2 (6)	
	Name and address	Description of interest to be acquired	Name and address	Description of the land for which the person in adjoining column is likely to make a claim
01	Secretary of State for Business, Energy and Industrial Strategy 1 Victoria Street London SW1H 0ET United Kingdom (as presumed successor in function to the Board of Trade)	in respect of restrictive covenants and rights (Conveyance dated 17 July 1908 and conveyance dated 23 June 1938)		

Given under the Common Seal of North Somerset Council

The COMMON SEAL of  
The DISTRICT COUNCIL  
of NORTH SOMERSET  
was hereunto affixed in  
the presence of:

20/21-230

A. Rich

Name: ..... ANN RICH ..... FOR: HEAD OF LEGAL AND DEMOCRATIC SERVICES

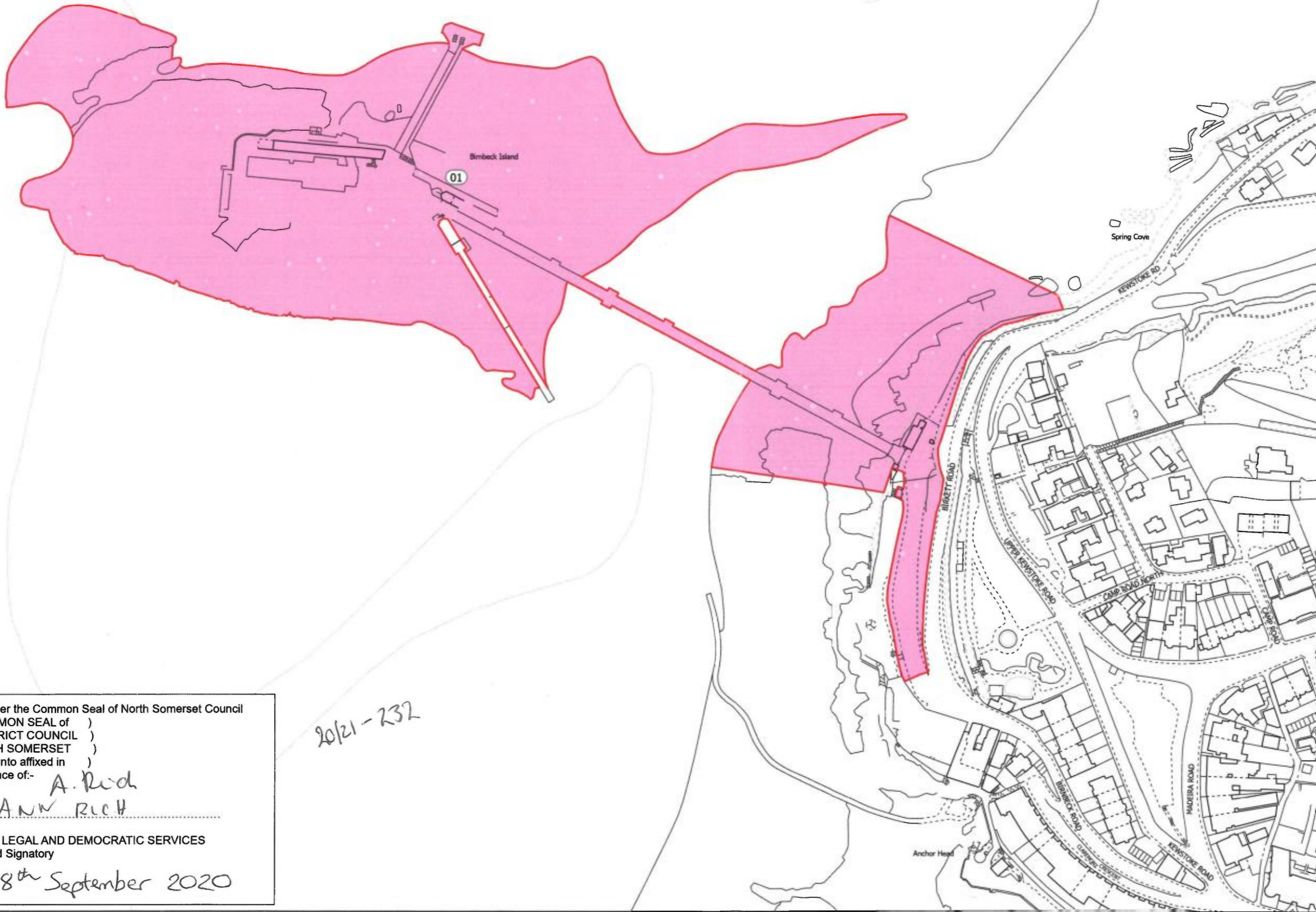
Authorised Signatory

Date: 18<sup>th</sup> September 2020





**KEY**  
 Order Land Boundary  
 Freehold land to be acquired



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Client: **BIRNBECK PIER**

Drawing Title: **ORDER MAP SHEET 1 OF 1**

Status: <b>FINAL</b>	Revision: 001
Scale: 1:2,500 @ A3	Date: 13/07/2020
Spatial Reference System: British National Grid	
Drawn By: J.HILL	Checked By: C.SIM
Approved By: C.POTTS	
Drawing reference: ARDG_BRN_OrderPlan	

Plot Date: 10 September 2020 16:03  
 File Name: L:\GIS Team\038\_Ardg\_Birnbeck Pier\ArcPro\Birnbeck Pier.aprx

Given under the Common Seal of North Somerset Council  
 The COMMON SEAL of )  
 The DISTRICT COUNCIL )  
 Of NORTH SOMERSET )  
 was hereunto affixed in )  
 the presence of:- *A. Rich*  
 Name: *ANN RICH*  
 FOR:  
 HEAD OF LEGAL AND DEMOCRATIC SERVICES  
 Authorised Signatory  
 Date: *18<sup>th</sup> September 2020*

*20/21-232*



**The Planning (Listed Building & Conservation Areas) Act 1990**

## **Statement of Reasons**

**relating to**

**North Somerset Council (Birnbeck Pier)  
Compulsory Purchase Order 2020**

**18 September 2020**



## **INDEX OF SECTIONS**

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10. Special Considerations
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## Section 1. Introduction

1.1 This document is the Statement of Reasons of North Somerset Council ("the Council") prepared in connection with the making of a compulsory purchase order ("the Order"), entitled **North Somerset Council (Birnbeck Pier) Compulsory Purchase Order 2020**.

1.2 The Council has made the Order pursuant to the powers in **Section 47 of the Planning (Listed Building & Conservation Area Act) 1990** ("the 1990 Act") which allow a local authority to seek powers to compulsorily acquire a listed building in need of repair if it appears to it that reasonable steps are not being taken for properly preserving the building.

1.3 The Council is the local planning authority for the area within which Birnbeck Pier ("the Pier") and the adjoining land included in the Order (together "the CPO Site") is located. Please see **Appendix A** for the Order Map. A list of documents relevant to the Order is provided at **Appendix B**.

1.4 The CPO Site is in Weston-super-Mare ("Weston") in the administrative ward of Weston-super-Mare Hillside, in the district of North Somerset, South West England. It is located approximately 0.8 mile /1.3km from the centre of Weston and extends into the Bristol Channel. The CPO Site lies within the Great Weston Conservation Area.

1.5 The Pier, which consists of a historic bridge structure linking the mainland to an island, is statutorily listed at Grade II\*. Other buildings within the CPO Site, including the North Jetty, are statutorily listed in their own right at Grade II. A plan of the building and structure listings is provided at **Appendix F**.

1.6 The Pier has been on Historic England's Heritage at Risk register<sup>1</sup> since 1999 (the first published edition of the Register).

1.7 The Pier is in a state of extreme disrepair. The Council has had extensive contact with the owner of the Pier, CNM Estates Birnbeck Ltd ("the Owner") since the Owner purchased the Pier in 2014. This contact included the serving of a Dangerous Structures Notice on the Owner under Section 77 of The Building Act 1984 on 15 January 2016 in respect of the Grade II listed North Jetty. A Repairs Notice in respect of the Pier was served on the Owner on 9 September 2019 (the "Repairs Notice"). This notice is provided at **Appendix E**.

1.8 Little action has been taken by the Owner subsequently to safeguard and repair this nationally important listed structure. During July – September 2020, the Council has been contacted by consultants appointed by the Owner in respect of an application for Listed Building Consent, relating to four specific elements from the twenty five required items in the Schedule attached to the Repairs Notice issued on 9 September 2019. However, these four items applied for are primarily demolition

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<sup>1</sup> [Historic England Heritage At Risk Register/](#)

and stabilisation works and do not constitute a comprehensive repair or restoration scheme.

1.9 The state of disrepair of the Pier also led to the Royal National Lifeboat Institution (RNLI) having to leave its base on Birnbeck Island in 2014. RNLI owns freehold land on Birnbeck Island, comprising a lifeboat station and slipway.

1.10 The Council has therefore exercised its statutory power to make the Order in order to preserve the Pier.

1.11 The Council is working with RNLI to enable RNLI to secure the Pier and CPO site which will permit RNLI to obtain funding for the repair of the Pier, allow RNLI to re-establish its vital lifesaving presence on Birnbeck Island and facilitate the re-opening to the public of the CPO Site.

## **Section 2. Enabling Powers**

2.1 Sections 47 - 51 of The Planning (Listed Building & Conservation Areas) Act 1990 ("the 1990 Act"), allow a local authority, Historic England (in Greater London) or the Secretary of State to compulsorily acquire a listed building in need of repair if it appears that reasonable steps are not being taken for properly preserving the building. A prerequisite of making a compulsory purchase notice is the service of a repairs notice under Section 48 of the 1990 Act.

### **Relevant Land**

2.2 Under Section 47 of the 1990 Act, the acquiring authority may include within the order land the listed building together with any relevant land. Section 47(7) defines relevant land as:

*"in relation to any building, means the land comprising or contiguous or adjacent to it which appears to the Secretary of State to be required for preserving the building or its amenities, or for affording access to it, or for its proper control or management".*

### **Extent of the listed building and relevant land**

2.3 Section 1(5) of the 1990 Act 1990 provides that buildings and other structures within the curtilage of a listed building that pre-date July 1948 are to be considered as forming part of the listed building. Therefore, any built structure that is within the curtilage of the Pier and built before 1948 is considered to be part of the Grade II\* listed Pier. The curtilage of the Grade II\* listed Pier is defined by the title boundary of Land Registry title ST3062SE. The curtilage of the Pier contains a number of buildings and structures that pre-date 1948 including the grade II listed North Jetty, Toll House Lodge, original lifeboat station, Entrance Gates and Turnstiles and Clock Tower. These buildings and structures are included in the Order as part of the listed Pier together with other unlisted buildings and structures within the curtilage of the Grade II\* listed Pier that were built before 1948 (see Section 4 below).

2.4 As well as those buildings and structures that are considered to form part of the listed Pier, the title for the Pier also comprises other areas of land, including the majority of Birnbeck Island, cliffs, accesses, foreshore and the adjoining car park, that have historically been part of the Pier holding. These areas will continue to be important to provide access to the CPO Site and for the proper management of the CPO Site in the future and are therefore appropriately included in the Order as 'relevant land' for the purpose of preserving the Pier.

## Section 3. Historical Context and Special Interest of the Pier

3.1 The Pier is designated as a Grade II\* listed building. Grade II\* buildings are particularly important as buildings of "more than special interest" and only 5.8% of listed buildings in England are Grade II\* listed. The Pier has been listed at Grade II\* because it survives as one of the 14 piers designed by Eugenius Birch, the noted Victorian engineer. Most of the other piers designed by Eugenius Birch have been destroyed or demolished, with only six currently remaining-

- Aberystwyth Royal Pier (Grade II)
- Birnbeck Pier (Grade II\*)
- Bournemouth Pier (unlisted)
- Eastbourne Pier (Grade II\*)
- Hastings Pier (Grade II)
- North Pier, Blackpool (Grade II)

3.2 Birch revolutionised pier design using screw pile construction. This method was based on Alexander Mitchell's patent and involved screwing the cast iron columns into the sea bed. This meant that piers were strong enough to accommodate large buildings and increased numbers of people. The Pier consists of 15 groups of four columns designed to support a timber deck. The ironwork came from the Isca Foundry Co. of Newport, Gwent who were engineers, iron founders and railway plant manufactures who exhibited at the 1862 Great Exhibition.

3.3 The Pier is over 154 years old and is unique as being the only pier in England connected to an island. It was constructed between 1862 and 1867 with the foundation stone being laid in 1864. It opened to the public in 1866.

3.4 The building of the Pier coincided with the Victorian expansion of the railways and changing conditions in the work place which for the first time meant that ordinary people could enjoy a seaside holiday.

3.5 The Pier served a dual function - as a landing stage for passenger steamer services around the Bristol Channel and as a distinctive tourist destination in its own right. Visitors arrived by steamer from both the English and Welsh sides of the Channel. Once landed there was plenty of all day entertainment available including (at various times) cafes, pavilions, a water slide, funfair rides and amusements. At its height, the Pier was the Victorian equivalent of a modern theme park. It was also a major transportation link, with scheduled steam ship services arriving from, and departing to, destinations including Cardiff, Minehead, Ilfracombe and Lundy Island.

3.6 Steamers played a large part in the history of the Pier, with regular ferry services continuing up until 1971. Special excursion steamer trips continued to use the Pier for a number of years after this, until it was closed to the public in 1994.

### *RNLI and Birnbeck Pier*

3.7 The Royal National Lifeboat Institution (“RNLI”) has played a very important role in the life and history of both the Pier, and the development of Weston as a town. Establishing their first lifeboat station on the Pier between 1881 and 1882, the RNLI remained there until 2014. In the 131 years that the RNLI station at the Pier was operational, it formed a critical part of the network of RNLI stations around the coast. The first motor lifeboat to be placed on the Somerset coast was operated from the Pier and over the years, the local RNLI crew was presented with six awards for gallantry and saved many lives.

### *Second World War to the Present Day*

3.8 With the onset of WWII, the Pier remained intact and protected thanks to its designation by the Admiralty as ‘HMS Birnbeck’. It did not suffer the fate of other piers - partial demolition as an anti-invasion precaution or bomb damage. The Pier also became the base of the Directorate of Miscellaneous Weapons Development (DMWD), which conducted highly secret weapons testing in the Bristol Channel.

3.9 After 1945, the Pier gradually returned to its normal activities of providing holiday entertainment, as a busy station for the RNLI and as a ferry terminal. In the 1970s, visitor numbers began to decline. The general view is that this was because of the rise of affordable Mediterranean package holidays, and people having more options as to how they spent their money.

3.10 From the 1970s onwards, the Pier suffered a slow and steady decline in both popular attraction and its general condition. Its ownership changed several times, with various multi-million pound development plans being proposed on each occasion. None of these plans were progressed.

3.11 Following the closure of the Pier to the public in 1994, its deterioration has accelerated. Today, the Pier is at imminent risk of collapse unless an extensive repair and restoration programme can be secured and put into place as soon as possible. Such a programme is urgently needed so that the historic significance of the Pier can be preserved and enjoyed by future generations.

3.12 A timeline showing the history of the Pier since its construction began in 1862 is provided at **Appendix H**.



## **Section 4. Description of the CPO Site and Surroundings**

4.1 The CPO Site encompasses the Grade II\* listed Pier together with all the other land and buildings within the Land Registry title ST3062SE. The land within that title comprises the Pier structure, Birnbeck Island (excluding RNLI's lifeboat station and slipway), some areas of cliff and foreshore and the approaches to the Pier from Birkett Road and Kewstoke Road. This collective area forms the curtilage of the Pier.

4.2 The Pier extends approximately 1,150 feet (351 metres) into the Bristol Channel/Severn Estuary. The landward end of the Pier sits at the base of a steeply rising cliff on the end of a ridge forming the northern edge of Weston.

4.3 This section includes a description of the Pier and the other listed buildings on the CPO Site, non-listed buildings and structures and other elements within the CPO Site, the environmental designations relating to the CPO Site and other prominent features in the surrounding area.

### **The Pier, other listed buildings on the CPO Site**

4.4 Photographs illustrating the history of the Pier are available in **Appendix J**

### **Main bridge structure**

4.4.1. The Main bridge structure is Grade II\* listed and was constructed 1862-67. It is approximately 317m (1040 ft) long, originally approximately 366m (1200 ft) and approximately 6m (20 ft) wide. Its Ironwork was forged by the Isca Foundry of Newport Gwent and includes iron girder piers with cross girders to side of deck. Deck supports and tubular iron legs with outward splay are grouped into fours and linked by braces. The wooden deck is flanked by continuous cantilevered seating with curved openwork backs and hand rails and swan-neck stanchions. As of February 2020, two sections of this have now been lost.

4.4.2 Small bays project at intervals along the sides of the deck with cast iron lamp standards fixed to sides of the Pier.

4.4.3 The remaining original structures and historic features of the Pier have not been maintained and the rate of deterioration is now accelerating. Cast iron metalwork, woodwork, glass, stone and other historic features all require extensive repair and, and in some cases, replacement using appropriate materials and craftsmanship.

4.4.4 The schedule of works relating to the Repairs Notice gives details of the specific works that are required to restore the Pier to a good condition. The Repairs Notice and schedule of works is provided at **Appendix E**.

4.4.5 Apart from the main bridge structure, there are several other buildings and structures on the Pier, on the island and on the mainland within the curtilage of the Pier, which are described below. Maps and plans showing the location of the listed buildings and structures are provided at **Appendix F**.

### **Entrance Gates and Turnstiles**

4.5 The Entrance Gates and Turnstiles are Grade II listed, constructed during the 1860's at the landward end of main bridge structure. They comprise two cast iron gate piers with moulded capitals and floral lamp bases together with two flanking pairs of cast iron turnstiles attached to the original Toll House Lodge on the left and altered house on the right. There is in addition a section of floral railing attached on right.

### **Toll House Lodge**

4.6 The Toll House Lodge is Grade II listed and was constructed during the 1860's, of limestone rubble with a low hipped slate roof.

### **North Jetty**

4.7 The North Jetty is Grade II listed, constructed probably in the late 1860's but with extensive repairs dating from 1903 – 1905. It runs north from the island. Iron cross-girders support the deck. Coupled tubular shafts with diagonal braces rim from the sea to the girders. At the outer end a landing stage with densely clustered supports with some diagonal bracing on south side. There is also a tiny pavilion, now mostly collapsed. The North Jetty (partially collapsed in December 2015) which led to it being deemed dangerous and beyond repair and resulted in the Council building control team serving a Section 77 Notice under the Building Act 1984. As a result of this notice, Listed Building Consent was sought by the Owner for partial demolition of the structure. Consent was approved with conditions in 2016 but to date the approved works have not yet been carried out. A copy of the Notice and timeline of events is provided at **Appendix I**.

### **Clock Tower**

4.8 The Clock Tower is Grade II listed, built in the late 19<sup>th</sup> century of limestone rubble as a tower structure with a tiled ogee roof. The square tower has clock faces on 4 sides above a plat band. In 2019, two men were prosecuted for trespass and criminal damage for gaining access to the Pier and smashing the remaining clock face.

### **Other unlisted buildings and structures within the CPO Site**

4.10 Within the CPO Site are the following additional structures:

**4.10.1. East and West Pavilion buildings on the island** – these buildings are in a ruinous state with large areas of roof and other historic features missing or collapsed on the ground. Stone built with pitched tiled roof and cast ironwork pillars.

**4.10.2. Smaller original 1882 lifeboat house on the Pier** – stone built building with pitched tiled roof. Unused for many years but could be repaired/restored.

**4.10.3 Concrete deck on south side of island** - added early 20<sup>th</sup> century to the complex to provide additional space for visitor attractions. A raised concrete deck (promenade platform) on the north side overlooks the North Jetty and was originally enclosed at ground level. Both these structures are in extremely poor condition with considerable deterioration of the concrete material. Some areas are dangerous due to large holes in the floor of the decks.

**4.10.4 Small brick building** – small attractive red and blue brick building attached to the west Pavilion, roof is missing but the remainder of the building remains intact.

#### **Other elements within the CPO Site**

4.11 In addition, the following features are within the CPO Site:

- Old pier master's cottage and land to the north , which is an original tea garden, access route and storage area
- Some small outbuildings mostly used for storage
- A small building known as “Pier View”, which has been used by the Birnbeck Regeneration Trust (BRT) community group as a Visitor Centre and shop. There is an informal agreement between the Owner and BRT to allow their use of the building. The building has been closed for safety reasons since 02/03/2020 due to damage caused by the February 2020 storms.
- A car park with approximately 50 spaces that forms the approach to the Pier from Birkett Road.
- A causeway is visible at low tide that extends from the base of the cliff edge at Kewstoke Road north to the landward end of the Pier.

#### **Land adjacent to the CPO Site**

4.12 Other features of the local area, outside of the CPO Site include:

- To the south are sea walls and a public promenade/coastal walkway leading away from the Pier and around the shoreline heading into the main seafront area of Weston.
- A public shelter within the promenade.
- Also to the south is the site of the former Royal Pier Hotel which was demolished following two fires in 2009 and 2010. This site was previously owned by the current Owner albeit via a separate company to that which owns the Pier. It is understood that the site is currently in the hands of Receivers)

- The surrounding housing stock is mostly late 19<sup>th</sup>/early 20<sup>th</sup> century, a mixture of individual houses and flat conversions, with some mature gardens and street trees.
- In terms of road access, Birkett Road runs immediately above the Pier, linking Weston with the villages of Kewstoke and Sand Bay to the east. On the other side of Birkett Road is Prince Consort Gardens, a public green space with views across the Bristol Channel, with residential properties on Upper Kewstoke Road on the rising ground above.
- Much of the steeply rising ridge above the Pier is treelined and known locally as Weston Woods. At the end of this woodland lies the Scheduled Monument Worlebury hillfort, which is a multivallate Iron Age hillfort having been constructed and used between the sixth century BC and the mid-first century AD. The large multivallate hillfort on Worlebury Hill is an outstanding example of its class. It survives well and is known from excavations to contain archaeological and environmental information relating to the monument and the landscape in which it was constructed and later reused.
- Also on Birnbeck Island but excluded from the CPO Site is the grade II listed former RNLI lifeboat house and slipway. This building and slipway is within the ownership of the RNLI.

## **Environmental designations of the CPO Site and in the surrounding area**

4.13 Part of the CPO Site is designated under a number of separate environmental designations including a Site of Special Scientific Interest (SSSI) a Special Conservation Area (SAC), a Special Protection Area (SPA) and a Ramsar site. A map of the environmental designations can be found at **Appendix F**.

### **4.13.1. Severn Estuary Site of Special Scientific Interest (SSSI)**

Part of the CPO Site is within the Severn Estuary SSSI as an estuary coastline feature. An SSSI is a UK conservation designation that denotes an area that is of particular interest to science due to wildlife, geology or landform features of special interest. The immense tidal range of the Severn Estuary is the second or third (depending on the reference source) highest in the world. The estuary's overall interest depends on its large size, and on the processes and interrelationships between the intertidal and marine habitats and its fauna, internationally important populations of waterfowl plus internationally and nationally important collections of fauna invertebrates and fish. In particular, the SSSI is of international importance for wintering and passage wading birds, with total winter populations averaging about 44,000 birds. Numbers can be considerably higher during severe winters.

#### **4.13.2 Severn Estuary/Mor Hafren Special Area of Conservation (SAC) (UK0013030)**

The CPO Site is partly within the Severn Estuary/Mor Hafren SAC. Special Areas of Conservation (SACs) are sites that have been designated under EU Habitats Directive<sup>2</sup> for the conservation of certain habitats and species of European interest. The habitats that are the primary reason for selection of the Severn Estuary/Mor Hafren SAC (Annex 1 of Designation) are –

- Estuaries
- Mudflats and sandflats not covered by seawater at low tide
- Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*)

The species that are a primary reason for selection of the Severn Estuary/Mor Hafren SAC (Annex II of Designation) are -

- Sea lamprey *Petromyzon marinus*
- River lamprey *Lampetra fluviatilis*
- Twaite shad *Alosa fallax*

#### **4.13.3 Severn Estuary Special Protection Area (SPA)(UK9015022)**

The CPO Site is partly within the Severn Estuary SPA. An SPA is a designation under the EU Birds Directive<sup>3</sup> for the conservation of wild birds.

- Article 4.1 Qualification 79/409/EEC: Over winter the area regularly supports: Bewick Swan, *Cygnus columbianus bewickii* (Western Siberia/North-eastern & North-western Europe). 3.9% of the GB population.
- Article 4.2 Qualification 79/409/EEC: Over winter the area regularly supports: Gadwall, *Anas strepera* (North-western Europe). 0.9% of the population.
- Greater White Front Goose *Anser albifrons* (North-western Siberia/North-eastern & North-western Europe). 0.4% of the population.
- Dunlin, *Calidris alpina* (Northern Siberia/Europe/Western Africa). 3.3% of the population.
- Shellduck, *Tadorna tadorna* (North-western Europe). 1.1% of the population.
- Redshank, *Tringa totanus* (Eastern Atlantic - wintering). 1.3% of the population.
- Article 4.2 Qualification 79/409/EEC - An internationally important assemblage of birds: Over winter the area regularly supports: 84317 waterfowl (5 year peak mean 1991/92-1995/96), including Bewick Swans, Shellduck, Gadwall, Dunlin and Redshank.  
(all numbers are 5 year peak means 1991/2-1995/6)

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<sup>2</sup> Council Directive 92/43/EEC Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora

<sup>3</sup> Council Directive 2009/147/EC on the Conservation of Wild Birds

#### **4.13.4 RAMSAR Designation**

The CPO Site is also partly within the **Severn Estuary Ramsar site** which is included as a designated wetland site in the Ramsar List of Wetlands of international importance which was drawn up following the UN RAMSAR Convention in 1971.

#### **4.14 The former Royal Pier Hotel site**

4.14.1 Immediately to the south of the Pier site is the site of the former Royal Pier Hotel. The hotel was built around the mid 1860's, and for much of its existence was an up-market hotel hosting famous guests including The Beatles in 1963. With the wider changes to tourism it began a slow decline from the 1970's. It was still operating as a hotel when acquired by a CNM Estates related company, Birnbeck Investments Limited (Company Reg. No. 05901444), in 2007 but closed soon after.

4.14.2 There were two major fires in the hotel buildings in 2009 and 2010. Following the 2010 fire, the buildings were considered by the Fire Authority and the Council's building inspectors to pose an imminent and serious risk to the public highway and promenade. Due to the extent of the risk and as the Owner was not able to carry out the required urgent required work in the necessary timescale, the buildings were subsequently demolished by the Council. Birnbeck Investments Limited refused to pay the Council's costs for demolition, so a charge has been put on the property to recover those costs.

4.14.3 A planning application was submitted in 2011 for redevelopment of the hotel site, into an 8 (eight) storey apartment and leisure complex. This application was approved in principle by the Council's Planning Committee subject to a Section 106 agreement. Although several attempts to agree a Section 106 agreement have been made this has not been signed and therefore formal consent was never granted.

4.14.4 Investec, the lender to Birnbeck Investments Limited, appointed CBRE as receivers in October 2017.

## Section 5. Purpose of the Order

### Background

5.1 Birnbeck Pier is a Grade II\* listed structure, with separately listed Grade II listed buildings within its curtilage, all of which are in extremely poor condition and deteriorating rapidly. The Pier is recorded in Historic England's 'Heritage at Risk' Register<sup>4</sup> as follows:

*"A nationally important structure that is Priority Level A: Immediate risk of further rapid deterioration or loss of fabric; no solution agreed. Imminent risk of being lost because of neglect, delay or inappropriate development / Condition: Very Bad. "*

5.2 The decline of the Pier has been ongoing for many years. Public access ceased in 1994 as the structure was deemed dangerous and unsafe for the public to walk on. The RNLi maintained a narrow access walkway to their station for a further 19 years, but finally left in 2014, when it was deemed unsafe for their crews to launch and recover their lifeboats from that location. This ended over 130 years of service and saving lives at this RNLi station.

5.3 The Owner has owned the Pier since 2014, after purchasing it in instalments (between 2011 and 2014) from Urban Splash, the development company that purchased the Pier in 2006. Since taking ownership there have been no deliverable proposals for repair or development to secure the future of the Pier.

5.4 On numerous occasions since 2014 the Council has brought its concern about the deteriorating condition of the Pier and its associated structures to the attention of the Owner, including formal notifications regarding the North Jetty and also regarding the danger that the deteriorating structure poses to the public who access the foreshore. Despite these attempts to engage with the Owner, no works have been undertaken by the Owner to repair the structure of the Pier or any of the buildings within its curtilage.

### Serving of Repairs Notice

5.5 Due to the increasing concerns regarding the preservation of the Pier, the Council worked with Historic England (HE) to explore options to protect the listed structure and its environs. HE provided grant funding to the Council to commission specialist engineers to undertake survey work and advise on the schedule of repair works necessary.

5.6 After sending two 'warning' letters (dated 6<sup>th</sup> and 21<sup>st</sup> August 2019) to the Owner advising it that the Council was considering serving a repairs notice (which did not result in any substantive response from the Owner), the Council, with HE's support, proceeded to issue the formal Repairs Notice on **9<sup>th</sup> September 2019**. The Repairs Notice and the Schedule of Repairs attached to the Notice are provided in **Appendix E**.

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<sup>4</sup> [Historic England Heritage At Risk Register/](#)



## **Current position**

5.7 From observation, no significant maintenance of the structure is being carried out by the Owner. The Repairs Notice served in September 2019, stated that a minimum of 2 months from the date of the Repairs Notice is required under the 1990 Act before a CPO can be made in order to give the Owner sufficient opportunity to bring forward a plan of action to undertake the repairs to secure the preservation of the Pier. A year has now elapsed since the Repairs Notice was served.

5.8 The serving of the statutory Repairs Notice and the public intention of the Council to proceed with a CPO has led to some further dialogue with the Owner, who appointed a new team of external consultants. The Owner's consultants first contacted the Council on 1 June 2020. More recently, the Owner's consultants have suggested that they are intending to work up proposals to address 4 of the 25 items listed in the Repairs Notice Schedule, and have applied for Listed Building Consent (LBC). These four items constitute demolition and stabilisation works only. Officers, after consultation with Historic England, have advised the Owner's consultants that in order to preserve and safeguard the Pier structure, the 4 items proposed should not be carried out in isolation but should instead form part of a detailed and comprehensive proposal to address all 25 items scheduled in the Repairs Notice.

5.9 A virtual meeting took place on 3 July 2020 at which the Owner's consultant team and representatives from the Council, Historic England and the Owner were present. Once again, the Council and HE advised the Owner that detailed proposals for all 25 items listed in the Repairs Notice Schedule, together with confirmation of the proposed programme of works and confirmation of funding, will be required to demonstrate compliance with the Repairs Notice. A further virtual meeting took place with the same participants on 20 August 2020, following the submission of an application for LBC on 30 July 2020. The Council confirmed receipt of the application and advised that this was a separate process from the CPO. The LBC would be processed in accordance with the Council's normal planning procedures and was being dealt with by the Council's Conservation Officer.

5.10 In addition, the Owner has telephoned the Council directly a number of times to discuss the potential for development on the Royal Pier Hotel site as enabling development to provide funding for the required repairs to the Pier. On each occasion, the Council has made clear that proposals on the scale suggested by the Owner would be contrary to planning policy and therefore planning permission for such proposals is unlikely to be granted. In any event urgent works are required to the Pier itself now and the time that would be taken to realise profit from the Royal Pier Hotel site would mean that development proposals for that site could not serve as enabling development for the Pier.

5.11 Following the decision of the Council on 14 July 2020 to make a CPO, the Council wrote to the Owner on 15 July 2020, offering to enter into an agreement to purchase the Pier and to cover the Owner's reasonable costs. To date there has been no formal response from the Owner, but the Owner made it clear in telephone conversations that the offer is not acceptable to the Owner.

## **The Council's Purposes**

5.12 The Council's purpose in seeking to acquire the Pier and associated relevant land included in the Order is to –

- secure the long term protection and preservation of the Pier
- secure the appropriate repair and restoration of the Pier
- facilitate the provision for the Pier of a financially sustainable future use through the back to back transfer of ownership to the RNLI who are a highly reputable and long established third party
- facilitate public access to the Pier
- Create new opportunities for residents and visitors alike to learn about the history of the Pier and its role in the development of the town of Weston
- Enable the Pier to act as a catalyst for the longer term economic and community regeneration of this part of Weston town centre, including opportunities for job creation, training and volunteering,

## **The Case for Acquisition**

### *The Compelling Case in the Public Interest - general*

5.13 It is the view of the Council and Historic England that there is a compelling case in the public interest in saving this nationally important Grade II\* listed pier and associated Grade II listed buildings and other structures of special architectural and historic interest. The historic fabric of the Pier is now deteriorating at an accelerated pace, which has increased further since the storm weather experienced during the winter of 2019/2020. The proposed intervention by the Council, with support from RNLI represents the last chance of saving the Pier and associated buildings before they are beyond repair. RNLI's proposals in supporting the Council provide a solution to ensuring a sound financial and sustainable future use for the Pier going forward.

5.14 Despite the service of the Repairs Notice in September 2019, the Owner has not taken steps to properly preserve the Pier. As far as the Council is aware, the only action that has been taken by the Owner in response to the Repairs Notice, has been to appoint consultants in July and August 2020 (see Section 5 above), and make an application for LBC (received on 30 July 2020) relating to only four out of the twenty five items from the Schedule attached to the Repairs Notice. These 4 items applied for are demolition and stabilisation works only and do not on their own constitute the kind of comprehensive programme of repair and restoration that is required to preserve and safeguard the Pier structure.

5.15 From work undertaken on behalf of the Birnbeck Regeneration Trust and Historic England, together with learning from the experience of restoration of Clevedon and other piers such as Hastings, it is clear that restoration of the Pier would be a multi-million pound capital project. There is also a considerable ongoing maintenance cost that would need to be factored in to ensure a sustainable future for the Pier. Grants toward the capital works are often available from bodies such as

the National Lottery Heritage Fund, however a clear and deliverable plan for ongoing operational and maintenance costs needs to be demonstrated for any applications for such funding to be successful. The Council has seen no evidence that the Owner has the necessary funding in place to repair and restore the Pier in the immediate future or that the Owner has a clear and deliverable plan to secure the ongoing maintenance costs of the structure in the long term. In the meantime, the Pier is in very poor condition and rapidly deteriorating.

5.16 The need for the Council to have powers confirmed for the expropriation of the CPO Site is therefore compelling and justified in the public interest for the preservation and repair of the listed Pier. Further the Council, with the proposed transfer of the Pier to RNLI, as explained more fully below, has a clear purpose and vision for the repair, restoration and long-term re-use of the Pier (the Scheme – see Section 6 below), in association with a reputable and well-funded organisation that has extensive experience in developing and managing heritage assets and property within the marine environment.

5.17 The strategy is supported by Historic England, and a letter to this effect is at **Appendix D**. In addition, the RNLI has secured internal approval for the core funding for the Scheme and the funds for the acquisition of all relevant interests in the Order. The RNLI is confident of its ability to raise the remaining funds necessary. The Scheme to restore the Pier would not usually be of itself financially viable. However, because of the sources of funding available to RNLI and RNLI's demonstrated commitment to developing a scheme to operate a modern lifeboat service from the CPO Site, the Council is confident that the transfer of ownership of the Pier to RNLI will lead to the imminent repair and restoration of the Pier and secure its future preservation.

*The expediency of preserving the Pier as part of the character of Weston*

5.18 The character of the Pier and the buildings and structures within its curtilage form an intrinsic part of not only the history of the growth and development of Weston-super-Mare, but of the lives of many generations of people in the town and the 'sense of place' for them that the Pier represents. This has been further enhanced by the presence of the RNLI on the Pier for over 130 years, and the generations of local people who have provided crew and volunteers for the lifeboats, saving countless lives.

5.19 The Council considers that it is appropriate for the continued regeneration and economic growth of this part of Weston, for public access to the Pier to be restored, as is envisaged by RNLI. The importance of the Pier as part of the story of Weston and its inhabitants cannot be overestimated – local people as well as visitors have, since the opening of the Pier, had a right of access across the bridge and out to the island. It is important that residents have this opportunity again and have the experience of getting out to the island to enjoy the views looking back to the town, and across and along the Channel.

### *Socio-economic regeneration and development of Weston-super-Mare town centre*

5.20 The Council considers that a restored and reopened Pier will significantly contribute to the regeneration of the surrounding area as part of Weston town centre. Linking in with existing initiatives including the Great Weston Heritage Action Zone, the High Street Heritage Action Zone and emerging placemaking, development and environmental strategies, it will provide a much needed catalyst to an area that has, over time, been in decline and lost its identity as the 'Hillside' quarter of the town. This part of the town centre was known for the architectural quality of its built heritage, public green spaces and woodland areas, independent local shops, cafes and restaurants and panoramic views of the Bristol Channel across to Cardiff Bay and South Wales. If the Pier is restored and reopened to the public, more residents and visitors will generate increased footfall to this part of the town centre.

### *Socio - economic regeneration and development of the wider town of Weston-super-Mare and North Somerset district*

5.21 The restored and reopened Pier will enhance both the wider offer of Weston and also contribute towards a new distinct identity focusing on the town as a good place in which to live, work and invest. The restored and reopened Pier will signal to local residents and investors that there is a confidence and willingness on the part of the Council to initiate large scale capital investment projects within the wider town, which will contribute to longer term inward investment and environmental improvements.

5.22 A fully restored and reopened Pier will also create new training, employment and volunteering opportunities for local people. It will enable voluntary organisations including the existing Birnbeck Regeneration Trust, to play a clearly defined and fully active role in the day to day life of the Pier through volunteering and educational programmes as well as fundraising and other community involvement.

### *Compelling Public Safety reasons for intervention*

5.23 As is explained in Section 6 below, RNLI's proposals for the Pier are well researched and supported by compelling public safety reasons for the repair and re-use of the Pier. RNLI is developing a strategy which will secure the significant investment the Pier requires, to enable RNLI to once again use Birnbeck Pier for life-saving purposes. These are significant and overwhelming public safety grounds for interfering with the Owner's private legal rights to allow for the restoration of the Pier as a safe and functioning means of access to the RNLI's facilities on Birnbeck Island. Without the intervention of the Council to secure the freehold of the CPO Site the investment from RNLI will not be forthcoming and the Pier will continue to deteriorate. The Scheme will allow the Council's and Historic England's desire for the restoration of the Pier to be realised and will provide a sustainable use for the Pier, allowing for the Pier to be repaired and maintained by RNLI in the long term.

### **The Extent of the CPO Site**

5.24 The Order includes the Grade II\* listed Pier and its curtilage. The Grade II\* listed Pier includes within the listing all the buildings within the curtilage of the Pier

that pre-date 1948. The curtilage of the Pier is defined by the boundary of the land holding contained within the Land Registry title ST3062SE. The extent of the additional relevant land that is to be included in the Order alongside the Grade II\* listed Pier (and the buildings and structures within its curtilage that also form part of the listing) is all the additional land within the boundary of title ST3062SE. This land holding was established on 17 July 1862 by the Weston-super-Mare Pier Act (1862), further extended on 30 July 1864 by the Weston-super-Mare (Extension) Act (1864) that allowed the building of the Pier. The holding includes the Grade II\* listed Pier, other Grade II listed buildings and structures, other unlisted built structures, a car park as well as areas of cliff, accesses and foreshore that have historically always formed part of the holding.

5.25 The Order, if confirmed, will include all the relevant land within the Pier land holding as it forms an intrinsic part of the site's character and will continue to be important to provide access and for the proper management of the site in the future.

### **Is it expedient for the Order to be Confirmed?**

#### **5.26 Section 47 (3) of the 1990 Act states:**

*The Secretary of State shall not make or confirm a compulsory purchase order for the acquisition of any building by virtue of this section unless—*

*(a) in the case of the acquisition of a building situated in England otherwise than by the Commission, he has consulted with the Commission; and*

*(b) in any case, he is satisfied that it is expedient to make provision for the preservation of the building and to authorise its compulsory acquisition for that purpose.*

5.27 It is for the Secretary of State to consult with the Commission but the support from Historic England to date, for the Scheme and the Council's actions, indicates that such consultation will not prevent the Order from being confirmed.

5.28 The question of expediency is addressed by the existence of the compelling case in the public interest explained above, as well as the following sections on funding, viability and the intentions of RNLI.

5.29 It will be clear from the sections below that RNLI has clear intentions for the Pier and is committed to its restoration and long-term preservation. Furthermore, RNLI has a real need for the restoration of the Pier in order to secure access to its former lifeboat station and the provision of a lifeboat facility on Birnbeck Island. The compelling public safety arguments for RNLI's use of the Pier following its restoration means that the Secretary of state can be satisfied that it is expedient to make provision for the preservation of the Pier. The Council believes that the Pier is capable of being restored, and that RNLI will be able to secure the necessary funding and expertise to bring about the restoration of the Pier and establish a

sustainable long-term use for the Pier structure. In addition, RNLI intends to provide visitor facilities on Birnbeck Island to facilitate public access to the restored Pier and to provide an income stream to support the cost of the future maintenance of the Pier.

## Section 6. The Scheme and Funding/Viability

### Proposed way forward

6.1 As noted in Section 5, the Owner has made a delayed and limited response to the Repairs Notice served by the Council in September 2019 in proposing to address only 4 of the 25 items listed in the Repairs Notice schedule of works. The Council has seen no evidence that the Owner has any clear or deliverable plans to preserve and safeguard the Pier.

6.2 In contrast, a highly regarded and long established third party organisation, the Royal National Lifeboat Institution (RNLI), has come forward with the Scheme (see below), which in the opinion of the Council and Historic England, is a viable and sustainable solution which secures the long term future of the Pier. The Council now proposes to acquire the CPO Site using its compulsory purchase powers, to allow a prompt transfer of the CPO Site to RNLI following the confirmation of the Order and the vesting of the CPO Site in the Council.

### The RNLI have provided the following detailed statement about the Scheme-



Royal National Lifeboat Institution

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Statement of Reasons for the Support of the Compulsory  
Purchase of Birnbeck Island and Pier

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This part of this statement demonstrates RNLI's capability and readiness to return a lifesaving service to Birnbeck, restore public access and secure a sustainable future of the Grade II\* listed Pier and the island.

### **RNLI's History at Birnbeck and Current Challenge**

6.3 The RNLI has had a Lifeboat station based on Birnbeck Island since 1882. A launch from the 1882 station in 1901 is shown below:





A second slipway Lifeboat Station was built in 1902, which the RNLI operated from up until 2007. A Slipway launch photograph from 1956 from the 1902 station is below. We still own the freehold of the 1902 station:



The RNLI installed a walkway over the existing deck in 1999, which allowed crews to remain operating there until 2014. The slipway closed in 2007 to avoid making any investment in the Lifeboat Station that would be wasted as a result of the decline of the Pier and potential loss of future access. From 2007 the crew operated out of a temporary marquee-based facility on the island. During that period from 2007 to 2014 the crew used launch and recover vehicles to access the water via the concrete ramp on the north side of the Pier.

6.4 The RNLI eventually left Birnbeck in 2014. The reason for leaving the site at that time was the risk to the crew of debris falling from the Pier. Debris posed a threat to them when passing under the Pier but also due to sharp objects being underfoot and the risk of puncturing the boat.

6.5 The gradual decline of the Pier and the sustainability of the situation at Weston has been a known risk for over 20 years and attempts to find a long-term solution have been ongoing over that period. In absence of a clear solution the temporary measures of installing a walkway, erecting a temporary station on the island and

moving to Knightstone harbour have kept the station on service but no final permanent solution has been delivered.

6.6 Sites across the Weston Bay, over approximately a 7.8km stretch of coastline, have been looked at from Brean Down in the south to an old Ministry of Defence facility in the north. The challenges associated with delivering the station in Weston derive from several main contributory factors:

- (i) Weston has one of the largest tidal ranges in the world, making the distance from land to water significant at low tides (up to 1 mile)
- (ii) The combination of wind, wave and tidal flow make conditions for operation and launch and recovery difficult
- (iii) Weston is surrounded by mudflats, large sections of which launch, and recovery equipment cannot traverse
- (iv) The mudflats have multiple protections and designations (Special Area of Conservation, Special Protection Area, RAMSAR site, Site of Special Scientific Interest)
- (v) There are a limited number of developable areas on land that have access to water and none that give sufficient access to water

There are no simple or low cost options to provide a lifesaving service in Weston.

### **Current Operations**

6.7 The station has been in temporary facilities on the edge of Knightstone Harbour since leaving Birnbeck. These facilities consist of containers on the harbour side. Our crews manage to gain access to water for their smaller D-Class inshore Lifeboat at all tidal ranges, primarily by taking a northerly route through the mud flats, back toward Birnbeck's deep water access. They have a long transit time across the mud. The B-Class lifeboat, despite being the optimal and safest asset is limited to launch 3 hours either side of high tide, because it is too heavy to traverse the mud.

6.8 The existing conditions are unsustainable as modern lifesaving facility and the launch method for both boats is unpleasant and hazardous, with equipment frequently bogging down in the mud. In addition, 42% of the station's shouts are at night. A number of safety incidents have been recorded, the most recent incident of note being in 2019 when the crew lost their D-Class 'BV' launch and recovery vehicle, which became bogged down in the mud.

6.9 The crew currently return after shouts and training, often covered in mud, to containers where the equipment is washed down. Conditions have improved to a degree by the acquisition of the Cove site, which does not provide operational facilities but provides a separate warm space for training and meetings. However, conditions remain unacceptable.

## Current Need for Weston Lifeboat Station

6.10 As part of the current drive behind the Weston project a review has taken place to ensure that the effort and potential cost associated with the project remains proportionate and justified. Work was undertaken by the RNLI's Evidence and Research team to ensure that the lifesaving need in Weston was fully understood and the substantial effort and cost associated with delivering a permanent station produced a proportionate lifesaving effect.

6.11 At the time of commissioning the work there was a line of thought that a hovercraft allocation, in conjunction with the existing D and B class Lifeboats, would be considered the optimum lifesaving combination of assets. This appears at first glance to be a logical assumption based on the presence of mudflats in Weston. However, the work concluded that the hovercraft is not an optimum additional asset for Weston for a number of reasons:

- (i) It was anticipated that it would be unsustainable for the station to keep competency across the assets;
- (ii) The station does very little mud rescue;
- (iii) The hovercraft would be off service a significant proportion of the time due to environmental conditions in Weston;
- (iv) The Inshore Lifeboats (B-Class and D-Class) are the optimum assets the vast majority of the time and the hovercraft would be the optimum asset only 10-15% of the time
- (v) There would be no additional lifesaving capacity as a result of a hovercraft; and
- (vi) The crew did not support the addition of a hovercraft, viewing it as operationally unsuitable for the environment.

6.12 In addition to the above considerations, there is no supporting infrastructure for the hovercraft, so infrastructure would need to be provided for it in addition to that required for the ILB's, at additional cost, with no increase in lifesaving capability. Some particular key points can be taken from the report and the associated discussions to support the existing lifesaving need in Weston:

- (i) A B-Class and D-Class are the optimum assets with their differing capabilities and ability to support one another. They suit the unique environmental conditions in Weston
- (ii) The B-Class is optimal in 96% of shouts and can cope with conditions that are outside of the D-Class' capability
- (iii) The station's shouts are local to Weston and have the lowest average distance to casualty of any station. Therefore, the need cannot be met by flanking stations at Burnham or Portishead
- (iv) Weston's activity is increasing, and its risk factors are increasing
- (v) Weston is 51st out of 238 RNLI stations in terms of the number of shouts
- (vi) The station is 13<sup>th</sup> of all stations in terms of the number of lives saved per shout
- (vii) The shouts occur at the full range of tidal conditions

6.13 In terms of their activity statistics. In a five-and-a-half-year period between 2014 and 2019 the station:

- launched 242 times
- assisted 72 people
- saved 26 lives

6.14 To project those figures forward to the next 25-year era of lifesaving, then the station would:

- launch 1,210 times
- assist 327 people
- save 118 peoples' lives

There is no doubt that the need for the station exists and the need cannot be fully served by a change of asset or from placing a station outside of Weston.

### **Lifesaving Effectiveness**

6.15 As part of the RNLI's ongoing search for a permanent solution, the RNLI have been investigating two options in parallel for over a year:

- The Cove restaurant on the Marine Lake; or
- A return to Birnbeck.

6.16 The use of the Cove site would involve reconstruction of a completely new dual boathouse and crew facility and the construction of a concrete rampway out into Weston Bay. That ramp would extend to over 200 metres, which would have a significant visual impact.

6.17 The conclusion of extensive and through investigations of the two sites concludes that Birnbeck remains the safest and most effective place to put a lifesaving facility in Weston by quite some margin.

6.18 A copy of the bathymetric data (information that describes the topography of the seabed) for Weston Bay is included in **Appendix K**. The key point of understanding from the bathymetry is that even with the illustrated ramp from the Cove, the boats will still be a long way from water at low tide. Birnbeck is surrounded by access to water at lower states of tide, which is represented by the blue/purple.

6.19 As opposed to the Cove site which reaches the area demarked green. If the slipway is restored to full length at Birnbeck or a move back to the launch and recovery ramp at Birnbeck is made, then access to water is extended to **near 100%**

6.20 An illustration of when the two boats (D-Class and B-Class) would be on service and off service based on *tide alone* is included in **Appendix L**.

6.21 Taking into account both tide and also weather restrictions for each site, the launch availability of the assets is as follows:

Boat Class	Location	Launch availability (%)
D-Class	The Cove	61%
B Class	The Cove	64%
D-Class	Birnbeck	86%
B-Class	Birnbeck	96%

6.22 If the crew are permitted (and able) to drive off the end of the Cove ramp, then this would raise the availability of the D-Class to 86% by tracking around the coast to enter the water near Birnbeck. However, this requires them to returning to traverse the mud and is not without other challenges.

6.23 In summary, under the Cove option the optimum asset (B-Class) is only available up to 64% and it can only do so with a significant piece of infrastructure because it is too heavy to traverse the mud. If the D-Class leaves the end of the Cove ramp and returns to tracking through the mud, then 86% can be achieved within the weather limitations of the boat.

6.24 From Birnbeck the optimum asset (B-Class) is available 96% of the time, with the D-Class available for 86%. **Birnbeck gives the optimum availability of the appropriate boats when needed to prevent loss of life.**

## Safety

6.25 All lifeboat operations contain a degree of risk. The outcome of the assessment of the options available at Weston is that none of the proposed methods of launch and recovery at the Cove or Birnbeck are so unsafe as to be completely unmitigable. However, returning to Birnbeck is the safest option for crews and casualties by some margin. The Cove option contains a lot of unknowns as to its performance and a number of higher risks in some conditions. Birnbeck remains the safest and most effective place to save lives in Weston and is also potentially the most cost effective. Therefore, subject to overcoming any obstacles to delivery of the project, a return to Birnbeck is the best option to fulfil the RNLI's lifesaving need.

## RNLI's Activities to Date

6.26 In relation to Birnbeck, the following activities have been undertaken:

6.26.1 Detailed analysis, laser scanning and modelling by specialist engineers at Haskoning RHDV of the Pier and its potential for repair, with corresponding feasibility reports –

- (i) Concept designs for the Lifeboat Station and associated slipway or ramp infrastructure

- (ii) Contractor and Quantity Surveyor costings of repairs to the Pier, a new lifeboat facility, repair of the buildings at Birnbeck island, demolition of derelict structures and making safe the remainder of Birnbeck Island
- (iii) Analysis of the launch and recovery capability and safety, including bathymetric surveys

6.26.2 Consultations with North Somerset Council and Historic England

6.26.3 Conversations with the National Lottery Heritage Fund

6.26.4 Pre-application meetings with Historic England and North Somerset Council

6.26.5 Discussions with the Birnbeck Regeneration Trust

6.26.6 In addition, RNLI has engaged in discussions with the Owner.

6.27 The concept designs for a ramp/slipway and lifeboat station facility are in **Appendix M** and **Appendix N**. These have been shared with the Council and are being used as the basis for ongoing work leading to applications for planning permission and listed building consent as well as any required marine licences. The evolving proposals will be subject to both environmental assessment and Habitats Regulations Assessment.

### **Cost and Scope**

6.28 RNLI believes a return to Birnbeck Pier can be achieved for the equivalent or less than the cost of the above mentioned Cove option. This would deliver in scope:

- a) A modern lifesaving facility with the operational capability to provide safe access to water 24/7
- b) A repair of the Grade II\* listed Pier and the return of public access
- c) Demolition of unsafe structures, but repair and re-use of the lifeboat stations and landside buildings
- d) Long term sustainable reuse of the island and Pier
- e) Reuse of the island and Pier as a heritage offering with a café; and
- f) A place for the community and visitors to visit to celebrate the RNLI's 200 years of lifesaving history and to honour RNLI's lifesavers

6.29 It is estimated that the Pier will cost around £100,000 per annum to maintain and repair after initial repair and that this cost can be met by Pier revenue and income earned from the site.

6.30 The target date for completion of the project, based on RNLI's project plan, would be early 2024.



## **Compulsory Purchase and acquisition by agreement**

6.31 The RNLI is open to the possibility of a voluntary acquisition of the Pier and island from the Owner but at this time it is understood the RNLI has not been able to secure a voluntary acquisition of the Pier on appropriate terms and sees no reasonable prospect of being able to do so. The RNLI trustees have approved the project to return to Birnbeck Island as the primary option for the lifesaving service at Weston:

- a) subject to detailed review of the Scheme at each stage and specifically on completion of the site investigations; and
- b) provided that the cost to return remains within the projected costs that have been ascertained through the surveying and due diligence work already undertaken.

The Scheme will be robustly managed to ensure that both the cost and risks of the Scheme failing are minimised.

6.32 RNLI have now undertaken environmental ground surveys, which have not revealed any major issues that would be an impediment to its proposals. RNLI's consultants are engaged to start the formal consenting process including looking at a Heritage Partnership Agreement once the RNLI have completed the next stage investigations. There are no obvious consenting challenges at this moment in time. The RNLI's next steps are to:

- a) Undertake detailed investigations of the Pier legs and substructure to validate their assumptions and inspections to date. Since the RNLI undertook environmental surveys in July 2020 it has appointed contractors to undertake the structural investigations. Provided the appropriate statutory consents can be obtained, these investigations will take place in September 2020;
- b) Form the investigations that will be carried out, evaluate the specific condition of, and methodology for repair of the Pier; and
- c) Continue design work ahead of applications for listed building consent, planning permission and marine licences.

6.33 Birnbeck remains the most effective and safest place for RNLI crews to save lives in Weston. The RNLI are specialists at marine projects and are capable of delivering a project of this size, having undertaken multiple marine projects previously including slipways, marine walkways, ramps and Pier repair.

6.34 Delivery of this Scheme fulfils the RNLI's lifesaving aims, its heritage objects and provides RNLI crews with a safe, modern, permanent facility. RNLI is willing to support the compulsory purchase process to return its service to Birnbeck.



## **Funding and Viability**

6.35 The Scheme is not one that would usually be financially viable but because of the sources of funding available to RNLI and RNLI's demonstrated commitment to developing a scheme to operate a modern lifeboat service from the Pier, the Council is confident that ownership of the Pier by RNLI will lead to the imminent repair and future preservation of the Pier. The RNLI has investigated sources of funding including Historic England and the National Lottery Heritage Fund and has been advised that such funding is likely to be available for the Scheme. The RNLI itself also has significant assets and has secured internal approval for the core funding for the Scheme and the funds for the acquisition of all relevant interests in the Order. The RNLI is confident of its ability to raise the remaining funds necessary.

6.36 The RNLI has carried out a detailed viability assessment and has concluded from this study that on the information currently available, the Scheme is likely to be financially viable with a combination of heritage funding and RNLI's own resources. The clear justifications for RNLI wishing to re-establish its use of Birnbeck Island means that a compelling case remains notwithstanding the Scheme not being independently viable without additional heritage grant funding. In practical terms, the Scheme represents the most viable option for securing the long term preservation of the Pier. Once restored by RNLI, the income generating activities associated with the re-opened RNLI station will assist with providing funds for the ongoing maintenance of the listed Pier.

6.37 The Council is satisfied that, through the support of RNLI, it will have sufficient resources to meet the compensation liabilities that will be occasioned by exercising compulsory acquisition powers. The value of the CPO Site is not anticipated to be significant because of the liabilities that attach to the Pier and, though the agreement with RNLI that has been entered in to as the precondition to this Order being made, the Council is confident that RNLI will provide the required financial support for land assembly and other costs that may be incurred under the compensation code. The Council's valuer has indicated the likely maximum compensation liabilities and costs due if the CPO Site is compulsorily acquired in a letter, which is provided at **Appendix C**.

### **Statement as to the extent of the Scheme**

6.38 The extent of the Scheme that is to be disregarded for the purposes of assessing compensation in the 'no-scheme world' as referred to in section 6A -6E of the Land Compensation Act 1961 is the scheme for the repair, preservation and improvement of the Pier in accordance with the principles for development established by The RNLI and the Council and illustrated in **Appendices M and N**.

## **Section 7. Planning and Listed Building Policy Context**

Links to all relevant documents are contained in **Appendix B**.

### **Planning Policy**

7.1 The relevant planning policies are the key extracts from the National Planning Policy Framework 2019 (NPPF), the North Somerset Core Strategy (2017) the North Somerset Sites and Policies Part 1 Development Management (2016) and Part 2 The Sites allocation Document. The Weston-super-Mare Town Centre Regeneration Supplementary Planning Document and Great Weston Conservation Area Appraisal and Management Plan are also relevant.

### **National Planning Policy Framework 2019**

7.2. In Chapter 16 - Conserving and enhancing the historic environment - para 184 states that heritage assets are "an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations".

7.3 Para 192 (a) states that in determining applications, local authorities should have regard to "the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation..."

### **North Somerset Council Core Strategy (2017)**

#### **(a) Policy CS5- Landscape and the historic environment Historic environment**

7.4 This policy states the council will conserve the historic environment of North Somerset, having regard to the significance of heritage assets such as conservation areas, listed buildings, buildings of local significance, scheduled monuments, other archaeological sites, registered and other historic parks and gardens. Particular attention will be given to aspects of the historic environment which contribute to the distinctive character of North Somerset, such as the Victorian townscapes and seafronts in Weston and Clevedon.

#### **(b) Area Policy CS29 Weston-super-Mare Town Centre**

7.5 This policy indicates as background that Weston's town centre has suffered from a lack of major investment over the last thirty years. The town centre is perceived to be uncompetitive with other centres in the sub-region because of access constraints and its relatively poor retail offer. Due to its coastal location Weston's town centre is, to a certain extent, constrained in terms of expansion. However, this coastal setting is also the town's main asset. The planned expansion to Weston over the next twenty years through the development of the Weston Villages totalling 6,500 new homes balanced with significant employment growth, will

see an increase in demand for shops, services and leisure facilities. Weston's town centre needs to meet this demand in order to secure future self-containment of the town and to fulfil its role within the district and the sub-region.

7.6 Tourism and leisure activities have traditionally played an important role in Weston's economy. The council recognises that tourism is an important part of the town's economy, but also recognises that Weston currently caters for a relatively small section of the tourist market. In order to retain its role as a tourist destination Weston needs to broaden its appeal and tap into the wider tourist market offering attractions, events and accommodation which will attract a varied range of visitors.

7.7 The strengthened role of Weston town centre needs to include an expansion of employment opportunities. The economic regeneration of Weston - super-Mare is a key strategic aim of the Council. This is to be achieved through the promotion of a more sustainable balance between employment and housing. Traditionally the lack of employment opportunities in Weston-super-Mare has resulted in significant out-commuting. Increasing local employment opportunities will assist in minimising the number of residents who commute to work at destinations outside the town, increase the self-containment level of Weston and result in a larger labour force which will support and sustain the services and facilities in the town centre.

7.8 In the key policy relating to Birnbeck Pier, it is stated that priority will be given to regeneration of key redevelopment sites such as the Tropicana and Birnbeck Island. Development proposals in this area should-

- Have consideration for the sequential approach to development based on the National Planning Policy Framework and not prejudice the vitality and viability of the retail core, but instead should complement activities in the town centre
- Strengthen pedestrian and visual links and connections between the seafront and the retail core
- Be of the highest quality design which will enhance the visual appearance of the seafront and promenade.

### **Development management policies: Sites and Policies Plan Part 1**

7.9 This document states that heritage assets are a finite and irreplaceable resource. They are a highly valued and essential part of North Somerset's cultural and local distinctiveness, and often promote community cohesion and identity through a legacy of having created a unique sense of place. When in active viable uses they help to promote economic vitality including tourism. North Somerset's heritage policies are designed as a strategic framework to guide the protection and enhancement of its heritage assets whether or not formally designated. Subject to the availability of resources the Council will seek to formulate a comprehensive heritage management strategy engaging with local communities to promote the value of their heritage, and where necessary develop further measures to manage, protect and enhance it for the benefit of future generations.

7.10 Numerous policies are applicable to Birnbeck Pier:

**(a) DM3 – Conservation Areas**

Policy Aim – To conserve and wherever possible enhance North Somerset’s conservation areas

**(b) DM4- Listed Buildings**

Policy Aim – To safeguard the special architectural and historic interest of North Somerset listed buildings, their features inside and out, as well as their settings.

**(c) DM5- Historic Parks and Gardens**

Policy Aim - To safeguard the rich and varied built, historic and natural heritage of North Somerset.

**(d) DM6 – Archaeology**

Policy Aim – To safeguard as yet unidentified heritage assets.

**(e) DM7- Non-designated Heritage Assets**

Policy Aim- To safeguard as yet unidentified heritage assets

**Weston-super-Mare Town Centre Regeneration – Supplementary Planning Document (SPD)**

7.11 The area within which the SPD will apply is the town centre regeneration area as set out in the Site Allocations Plan Consultation Draft (March 2016). Whilst the guidance set out in the SPD applies within the designated area, regeneration and restoration is not limited to this. The renaissance of the Tropicana and potential restoration of **Birnbeck Pier** will contribute to the overall regeneration aims. Links with the area beyond the town centre by promoting access to the wider landscape are required as well as measures aimed at encouraging residents living in the suburbs and further away to use the town centre.

**The Bay – Key Existing Characteristics**..... Numerous listed buildings including the Royal Crescent, Royal Hotel and Claremont Crescent. Grade II\* listed **Birnbeck Pier** and Holy Trinity Church provide individual points of architectural interest in the wider bay context. Buildings are predominantly three to four storey painted render or stone Victorian and Edwardian villas and terraces, some with generous setbacks from the road, interspersed by areas of private open space and car parking.

**Seafront Character Area of the Great Weston Conservation Area Appraisal and Management Plan**

7.12 The seafront is characterised by the long sweep of Weston Bay, with hotels, institutions and blocks of flats on Beach Road facing the Bristol Channel across the expanse of lawns. From Marine Parade there are long views north, west and south. Moving north beyond the Grand Pier the scale reduces, with smaller buildings and terraces coming closer to the Esplanade and providing some containment. Knightstone Island provides a vantage point across the bay to the town centre. The headland at Birnbeck Pier is craggier, less formal, with sinuous terraces responding to the topography. From their raised position, Prince Consort Gardens offer views

across the bay and to the islands and the South Wales coast. The Birnbeck area includes some of the town's earliest seaside developments. Both piers are important in the townscape, affording long views across the town. Birnbeck is notable for its famous designer, the pier engineer Eugenius Birch and its historical associations with the former steamer services. At the southern end of the character area the expansive Beach Lawns create a formal character with long views. This space is edged by large hotels, B&Bs and Victorian houses looking across the bay. New flood and tidal defence scheme in 2007-10 enabled the widening of the promenade, with new paving, lighting, seating and art works.

7.13 Views of the sea and across the bay can be experienced not only from the seafront, but also from glimpses down roads and between buildings in adjacent parts of the conservation area. Further north, the Prince Consort Gardens gives panoramic views of the Severn Estuary, as well as Birnbeck Pier. The entire conservation area can be viewed from Knightstone Island, looking north towards Worlebury Hill / Weston Woods, east towards the Town Centre and south along Beach Lawns. Beach Lawns can be seen in southern views from Royal Parade. Birnbeck Pier, whilst no longer publicly accessible, once afforded fine views towards the town and across the bay.

7.14 For the Birnbeck Road area the document refers to:

- Rising slope towards Birnbeck Pier which is less formal, with terraces curving in response to the topography
- Prince Consort Gardens offering views across the bay and gives an open setting for the Gothic villas at Westcliff
- The stretch of Birnbeck Road with Claremont Crescent has an enclosed and winding character, with glimpses of the sea along alleyways down to Anchor Head
- Birnbeck Pier is Grade II\* listed, built in 1867, the dominant feature in the sub-area
- Strong group value of the terraces.

## **North Somerset Council Corporate Plan 2020/2024**

7.15 Relevant core policies relating to Birnbeck Pier from the Plan are –

### A thriving and sustainable place

- A great place for people to live, work and visit
- An attractive and vibrant place for business investment and sustainable growth

### A council which empowers and cares about people

- Partnerships which enhance skills, learning and employment opportunities

### An open and enabling organisation

- Engage with and empower our communities
- Collaborate with partners to deliver the best outcomes

## **NSC emerging Placemaking Strategy for Weston-super-Mare**

7.16 The Council is developing a ten-year vision for Weston-super-Mare, following extensive consultation with thousands of businesses, visitors and residents. The strategy aims to reposition Weston, addressing the challenges of the long term decline in the traditional retail led High Street and changes to visitor patterns. The document has recently been published and is included in **Appendix B**.

The new vision has a set of themes and ambitions for the town, focused around wellbeing and recreation, being green and low carbon, a great place to live, work and study, and critically helping the visitor economy and the town centre adjust to fundamental changes accelerated by coronavirus.

It sets out a series of interventions and projects to reinvigorate the town by attracting new businesses, residents and visitors and provide better opportunities for the community. One of the key projects included in the document is the restoration of Birnbeck Pier, not only saving this Grade II\* historic structure but enabling the RNLI to return to their base and public access once again to the Pier and Birnbeck Island. The restoration of the Pier will also be key to attracting visitors and the regeneration of this area of the town.

### **Listed Building position**

7.17 The Pier is a Grade II\* listed structure which comprises the main Eugenius Birch designed pier bridge together with the buildings and structures within the curtilage of the Pier that were built before 1948. These 'curtilage-listed' buildings include several buildings on the island and the foreshore, some of which were designed by Hans Price and several concrete structures built at the time the Pier was 'HMS Birnbeck' in WWII. There are also several Grade II listed structures, which although they lie within the curtilage of the listed Pier, are also listed in their own right; these are the North Jetty, the Clock Tower, the Toll House and the Entrance Gates and Turnstiles. All these elements are protected under Section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 1990 Act).

7.18 As a result, any works for the demolition, or the alteration or extension of any of these elements require listed building consent under Section 7 of the 1990 Act. This is to ensure that any works to the listed elements are carried out in a manner which aims to protect their character and special architectural or historic interest. This also reflects the aims which are in the Council's local policies CS5, DM3 and DM4 as set out above.

7.19 The Pier also lies within the Seafront Character Area of the Great Weston Conservation Area which is protected under Section 72 of the 1990 Act. Any proposals within this designated area should preserve or enhance the conservation area. The Pier is a local landmark building and a key character element to this

conservation area. As a result, and under Section 71 of the 1990 Act, the Council produced the Conservation Area Appraisals and Management Plan for the Great Weston Conservation Area, within the Management Plan, which was adopted on 4<sup>th</sup> December 2018. The Pier is a priority action for the Council stating - *Review rescue and reuse plans for Birnbeck Pier*. Priority timescale within the action plan is short to medium term (i.e. 1 – 5 years).

7.20 After the collapse of the North Jetty due to long-time neglect and storm damage the Council served a dangerous structure notice under Section 77 of the Building Act 1984 on the Owner. As a result, the Owner applied for Listed Building Consent to demolish this element of the CPO Site. This was granted in October 2016 due to the deteriorated state of the Jetty and the danger it presented to the public. Please note this consent has not been implemented and expired in October 2019. A timeline relating to the service of this notice is included at **Appendix I**.

7.21 Further to the adoption of the Great Weston Conservation Area Management Plan, the rapidly deteriorating state of the Pier, the collapse of the North Jetty and the lost section of the ornate seating and railings on the main bridge, the Council served a Repairs Notice under Section 48 of the 1990 Act to prevent the total loss of this highly important structure, not only to Weston's history but the history of pier development and legacy of Eugenius Birch nationally. Recent communications from the Owner regarding some selected items from the Repairs Notice schedule of works have been received but these are not comprehensive proposals for full compliance with the Repairs Notice.

7.22 Earlier this year another substantial piece of the ornate seating and railings of the main Grade II\* Eugenius Birch designed Pier has been lost. As a result, the Council takes the view that it has no choice but to proceed with the Order under Part I, Chapter V, Section 47 of the 1990 Act in order to secure the preservation of the Pier.

7.23 The compulsory purchase of the Pier by the Council will result in the enhancement of the Pier through working with a reputable and experienced third-party partner to give the Pier a realistic and viable future. Protecting its character, architecture and historic significance as well as enhancing this part of the conservation area, will significantly contribute to restoring and regenerating this part of the town as a vibrant and celebrated area of Weston for future generations.

## **Historic England - relevant guidance**

### **Compulsory Acquisition of Listed Buildings**

7.23 The Council has had full regard to Historic England's guidance on Compulsory purchase powers together with "Stopping the Rot - A guide to enforcement action to save historic buildings", Published by Historic England on 15 April 2016. The Council believes its actions fully comply with the guidance provided and the Council has the support of Historic England.



7.24 The Council notes the Secretary of State will only confirm the Order if satisfied that:

- Reasonable steps are not being taken to preserve the building
- That it is expedient that the building should be preserved
- That it should be compulsorily purchased to ensure its preservation

In other words, it is not sufficient that the owner is neglecting the building. There has to be a credible plan in place to secure the building's future. That plan may include a proposal to immediately transfer the property to a building preservation trust upon acquisition.

7.25 The Council believes that RNLI's plans for:

- (a) restoring the Pier to re-provide access suitable to support the re-opened lifeboat station; and
- (b) seeking to facilitate public access to the Pier to assist in providing a sustainable income stream to support the maintenance of the Pier

fully justify the Secretary of State confirming the Order.

### **Planning permission and other consents needed**

7.26 Planning permission, listed building consent, habitats approval from Natural England are required for RNLI's scheme to proceed as well as consent from the Marine Management Organisation. RNLI is in the process of pre-application discussions with the relevant organisations as well as the Crown Estate. Historic England is supportive of the concept designs for the Scheme in principle (see paragraph 6.27 above). The Council and RNLI are not aware of any reason why the required consents, Habitats Regulations approvals and marine licenses would not be forthcoming, following applications to the relevant statutory authorities.

7.27 Whilst the relevant consents are not yet available to RNLI, the Council believes it would not be expedient to delay seeking compulsory powers until such time as all relevant consents have been secured. To do so would give rise to further risk that the Pier will deteriorate and not be capable of economic repair. The support of Historic England, the expertise of RNLI and the sympathetic nature of RNLI's emerging proposals fully justify the approach of compulsory powers being sought in parallel with RNLI's processes for securing the required consents for the restoration of the Pier.

## **Section 8. The Detailed Justification for the Order**

### **Preservation of the Pier**

8.1 Preservation of the Pier is the primary justification for the Order. If the Order is not confirmed it is likely that the structure will deteriorate further and eventually be lost. Preservation of this very important historic structure is of itself a compelling reason for the Order to be confirmed. The Owner has not come forward with any realistic scheme to secure the long term preservation of the Pier. The Council, through its powers, the resources available to it and the Scheme being brought forward by RNLi has a clear way forward for securing the repair, preservation and enhancement of the Pier.

### **Statutory, legal and regulatory compliance**

8.2 In the preparation of this Order, all necessary legal steps have been taken, together with appropriate legal and valuation specialist advice -

- Specialist legal advice retained
- Independent valuer retained
- Specialist land referencing searches and Requests for Information undertaken and submitted
- Engagement or an offer to engage with all parties with an interest in Birnbeck Pier with a view to securing agreement for the preservation and repair of the Pier
- Engagement with Historic England to explore options for securing the repair and preservation of Birnbeck Pier, including a CPO
- All relevant human rights protection legislation relating to the Owner
- Requisitions for information have been served on all persons identified as being likely to hold an interest in land likely to be included in the Order
- All steps taken with interested parties to seek to acquire the necessary interests in land by agreement including negotiation of headline terms, agreements, undertakings, transfers and any new rights required
- Preparation of all necessary documentation for the Order for submission to the Secretary of State.

### **Human rights considerations in respect of the Owner**

8.3 Section 6(1) of the Human Rights Act 1998 renders it unlawful for a “public authority” to “act in a way which is incompatible with a Convention right”. Section 6(3) defines public authority as “any person certain of whose functions are functions of a public nature”. A local authority exercising its statutory powers by making a CPO is exercising a function of a public nature but is doing so in accordance with law and subject to the provisions of Article 6 of the Convention and Article 1 of Protocol 1. The Council has carefully considered the rights of the Owner most likely to be relevant to the matters relating to the compulsory purchase of Birnbeck Pier. These are

- Protocol 1, Article 1 – Protection of property
- Article 6 – The right to a fair trial

Certain interferences with these rights may be justified, provided that the interference:

- Is lawful
- Pursues a legitimate aim
- Does not involve discrimination infringing Article 14 (right to non-discrimination)

**(a) Protocol 1, Article 1: Protection of property**

Public authorities cannot usually interfere with a person's property or possessions or the way that they use them, including taking away what somebody owns, except in specified limited circumstances.

The Article requires public authorities to strike a fair balance between the general interest and the rights of individual property owners., and the protection extends to businesses as well as to individuals.

A public authority **will not** breach this right if a law says that it can interfere with, deprive, or restrict the use of a person's possessions, and it is necessary for it to do so in the public interest. An interference with a person's peaceful enjoyment of property may be necessary in the public interest – for example, a compulsory purchase of a person's property.

Where this is unavoidable, then the interference must be lawful and necessary in the public interest. If a public authority does decide that it is necessary to interfere with someone's possessions, there must be an objective and reasonable justification for that, and the public authority may be asked to produce reasons for its decisions.

In pursuing this Order, the Council has carefully considered the balance to be struck between the effect of acquisition on individual rights and the wider public interest. Interference with Convention rights is considered by the Council to be justified here in order to secure the protection of the listed buildings and structures, economic regeneration, community development, protection of the natural environmental and wider public benefits which the proposed restoration and regeneration scheme will bring. Furthermore, the Council is satisfied that the proposals will have a positive impact on the social, environmental and economic well-being of the town of Weston and contribute to the overall quality of life for all those who live work and visit the town.

The Council believes that there is proportionality between the private rights of the Owner/any other person with an interest in the site interfered with and the justification for the interference. Consideration has been given to striking a fair balance between the wider public interest and the Owner/any other person with an interest in the site personal rights in respect to protection of their property/rights. In justifying such an interference, the Council is satisfied that the course of action described in this Statement of Reasons is in respect to the Owner/any other person with an interest in the site -

- Not arbitrary or unfair
- Based only on relevant considerations
- Capable of achieving the objectives set out

The Council has consistently -

- Acted in accordance with their policies
- Taken the appropriate steps to achieve the objectives in this document.
- Balanced the public interest with the rights (personal and protection of property) of the Owner and other people with a legal interest in the site

### **(b) Article 6(1) – the right to a fair trial**

In the determination of his civil rights and obligations..... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

Once an acquiring authority (in this case the Council) has made a CPO, it must be submitted to the confirming authority for authorisation. Where there are statutory objections to the CPO, an independent Inspector is appointed to consider those objections. The Inspector may consider the case through written representations or alternatively hold a fair and public hearing known as a public inquiry. The Inspector then submits a report and recommendation to the relevant Secretary of State who decides whether or not to confirm the CPO.

It is the view of the Council that the Owner has been given full notice of the Order proceedings relating to Birnbeck Pier. The Council submits that these actions demonstrate full compliance with Article 6(1).

### **The Equalities Act 2010**

8.4 In addition to the Human Rights Act, the Council and Secretary of State are required to comply with the Equalities Act 2010. The Council has considered the impact of the Scheme upon key equalities protected characteristics. Overall, it is considered that the determination of the application and consequently the pursuit of CPO powers by the Council would not have any significant adverse impact on different groups or implications for the Equalities Act 2010.

## **Section 9. Third Party Interests in and Rights over the CPO Site**

9.1 This section details all consultations that have taken place to date. If the Order is successful, a wider programme of consultation across residents, other interested parties and community groups and organisations will be developed and implemented. It is anticipated that the Birnbeck Regeneration Trust will have an interest in leading some of this work.

9.2 As of August 2020, consultation details are -

### **(a) North Somerset Council**

At this time, consultation in respect of authority to proceed with the Order has been undertaken with the Leader of the Council, local Ward Members, the Chair of the Scrutiny Panel for Planning, Economic Development and Regeneration, the Heritage Champion, the Chief Executive and the Director of Development & Environment.

The Councils Executive meeting on 5 February 2020 instructed officers to proceed with work to bring forward a CPO ([Birnbeck Pier report to NSC Executive 05/02/2020](#)).

At the Full Council meeting on 14 July 2020, the Council approved the serving of the Order ([NSC Full Council meeting 14 July 2020 - Birnbeck CPO report](#)).

### **(b) Historic England**

The Council has been in regular ongoing consultation and partnership with Historic England (HE) and its predecessor organisation, English Heritage, over many years. HE has provided grant funding for specific pieces of work including detailed investigation and trial repairs of one set of Pier legs, detailed structural and marine engineering survey, preparation and issue of a Repairs Notice and legal and other costs relating to the CPO process. Officers from The Council and HE have met regularly in respect of updates and considering options for the best way forward.

### **(c) Royal National Lifeboat Institution (RNLI)**

The RNLI owns a lifeboat station and slipway that is adjacent to the CPO Site, and the Council has been in regular ongoing consultation with the RNLI since their departure from their original location on the Pier in 2014. Officers from NSC and staff from RNLI have met regularly in respect of updates and considering options for the best way forward. The RNLI's proposal for restoring the Pier and operating a lifeboat station on the CPO Site is described in Section 6.

### **(d) The Owner**

The Council has periodically met with the Owner and its representatives since the Pier came into the ownership of his company. The Owner and its representatives have at all times been encouraged to put forward proposals to safeguard the CPO Site and received feedback on these. Additionally, the Council has offered, on several occasions, to facilitate meetings to discuss the range of proposals brought

forward. To date this has not resulted in any substantive proposals being put forward by the Owner.

**(e) Birnbeck Regeneration Trust (BRT)**

The BRT was formed in 2004 and is a registered charity. The Trust members have worked to raise awareness of the history and current condition of the Pier and fundraising. They have an active Board including an elected member representative of the Council and Weston Town Council. It is anticipated by both the Council and RNLI, that the BRT can have an active role to play in the future of the Pier, especially in the realm of raising funding for and managing community projects and supporting volunteering initiatives.

**9.3 Rights in the site which will be extinguished Section 51 of the Planning (Listed Building & Conservation Area Act) 1990**

A number of historic rights have been registered over the Pier's title, many of which are vested in the Crown Estate. RNLI has spoken with the Crown Estate and it is anticipated that the consent of the Crown Estate to the acquisition of interests in the land will be forthcoming.

All other lesser interests, including charges over land will be overridden or extinguished by the Council if the Order is made and relied on by the Council. Such interests will be entitled to claim compensation in accordance with the Compensation Code.

## **Section 10 – Special Considerations**

### **10.1 The Crown Estate**

10.1.1 The Crown Estate holds historic rent charges over the title of the CPO Site and has reserved mines and minerals in part of the CPO Site. The Order has been drafted so as to exclude such interests from compulsory acquisition.

10.1.2 Discussions have taken place between the RNLi and the Crown Estate regarding the Crown Estate's consent to the inclusion of Crown interests in the Order. The Crown Estate is aware of the proposed Order and has no comments to make at the present time. The Council's solicitors have informed the Crown Estate's agent that the Order is about to be made.

10.1.3 The Council will seek to provide a letter from the Crown Estate that it is content for the Order to be confirmed.

### **10.2 The Board of Trade (and successors to)**

10.2.1 Historic rent charges over the title of the CPO Site are also registered in favour of the Board of Trade. It is not clear whether the current beneficiary is one or more of the Marine Management Organisation, The Secretary of State for Environment and Rural Affairs (DEFRA) or the current Board of Trade.

10.2.2 The Order has been drafted so as to exclude such interests from compulsory acquisition.

10.2.3 The Council will, if required, seek to provide a letter from the Board of Trade and DEFRA that each is content for the Order to be confirmed.

### **10.3 National Trust and special category land**

There is no inalienable land owned by the National Trust and no part of the CPO Site forms part of a common open space or field garden.



## **Section 11. Contacts**

Owners and all interested parties affected by the Order who wish to progress discussions for the acquisition of their interest, or any affected person wanting clarification on the procedures for the Order and any specific legal queries should contact in the first instance -

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Partner  
Womble Bond Dickinson (UK) LLP  
d: 0117 989 6877  
m: 07968 427076  
t: 0345 415 0000  
e: richard.guyatt@wbd-uk.com

Anyone wishing to discuss matters with North Somerset Council regarding its promotion of this Order, should contact in the first instance –

Rachel Lewis  
Development and Regeneration Programme Manager  
Placemaking and Growth  
North Somerset Council

d: 01934 426465  
e: rachel.lewis@n-somerset.gov.uk

Or

Christine Ward  
Principal Project Officer  
Placemaking & Growth  
North Somerset Council  
d: 01934 426193  
e: christine.ward@n-somerset.gov.uk

**APPENDIX 2 - REPAIRS NOTICE DATED 9 SEPTEMBER 2019 AND SCHEDULE  
THERETO**

## **IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY**

Planning (Listed Buildings and Conservation Areas) Act 1990, section 48

**REPAIRS NOTICE IN RESPECT OF Birnbeck Pier, Birnbeck Road, Weston-super-Mare, BS23 2BT**

ISSUED BY North Somerset Council

### **LISTED BUILDINGS REPAIRS NOTICE**

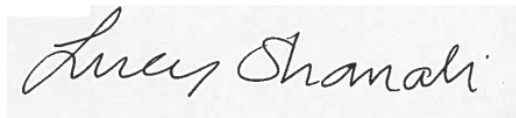
To: **The Secretary**  
**CNM Estates (Birnbeck) Ltd**  
Aissela  
46 High Street  
Esher  
Surrey  
KT10 9QY

- 1 The Site known as Birnbeck Pier ('The Site') is listed under section 1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (hereinafter known as 'the 1990 Act'). The Site is shown edged in red on the map attached to this Notice and described for identification purposes only in Schedule 1 of this Notice.
- 2 It appears to North Somerset Council ('the Local Authority') whose area includes the Site and being the Local Authority for the purposes of section 48 of the 1990 Act that the works specified within Schedule 2 ('the Works') of this Notice are reasonably necessary for the proper preservation of the Site.
- 3 NOTICE IS HEREBY GIVEN that the Local Authority considers the works specified within Schedule 2 of this Notice reasonably necessary for the proper preservation of the Site.
- 4 If after two months from the date of service of this Notice the Local Authority have not withdrawn the Notice, the Local Authority may ask the Secretary of State to authorise it to acquire compulsorily the Site and any land contiguous or adjacent to it which appears to the Secretary of State to be required for preserving the Site or its amenities, or for affording access to it, or for its proper control or management.
- 5 The Secretary of State may make or confirm an order for the compulsory purchase of the Site and any land contiguous or adjacent to it if:
  - a) it appears to him/her that reasonable steps are not being taken for the proper preservation of the Site
  - b) s/he is satisfied that it is expedient to make provision for the preservation of the Site and

- c) s/he is satisfied that it is expedient for that purpose for it to be acquired compulsorily
- 6 If compulsory purchase procedures are initiated then any person having an interest in the Site which it is proposed to acquire compulsorily may, within 28 days after the service of the Notice required under section 12 of the Acquisition of Land Act 1981, apply to a magistrates' court for an order staying the proceedings on the ground that reasonable steps have been taken to properly preserve the Site.
- 7 On compulsory purchase of the Site, it shall be assumed for the purpose of assessing compensation that listed building consent would be granted for any works:
- a) for the alteration or extension of the Site or
  - b) for the demolition of the Site for the purpose of development of any class specified in Schedule 3 to the Town and Country Planning Act 1990.
- 8 If the Secretary of State is satisfied that the Site has been deliberately allowed to fall into disrepair for the purpose of justifying its demolition and the development or re-development of the site, or any adjoining site, he/she may include in the compulsory purchase order a direction for minimum compensation.
- 9 The effect of such a direction is that for the purpose of assessing compensation that is payable for compulsory purchase it is assumed that:
- a) planning permission would not be granted for any development or re-development of the Site, and
  - b) that listed building consent would not be granted for any works, other than works necessary for restoring the Site to and maintaining it in a proper state of repair
- 10 Where such direction is included in a compulsory purchase order or draft order any person having an interest in the Site may, within 28 days after service of the Notice of minimum compensation direction, apply to a magistrates' court for an order that no such direction should be included.
- 11 If you wish to discuss this Notice or any related matter you should contact Rachel Lewis, Development & Regeneration Programme Manager, North Somerset Council ([rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk) / 01934 426465) as soon as possible.

DATED the 9<sup>th</sup> day of September 2019

Signed

A handwritten signature in black ink on a light grey rectangular background. The signature reads "Lucy Shomali" in a cursive script.

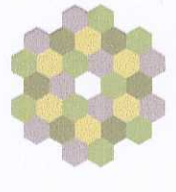
Lucy Shomali  
Director of Development & Environment

For and on behalf of North Somerset Council  
Town Hall  
Walliscote Grove Road  
Weston-super-Mare  
BS23 1UJ

## SCHEDULE 1

The listed Site to which this Notice relates - **Birnbeck Pier, Birnbeck Road, Weston-super-Mare, BS23 2BT** is shown for the purposes of identification only edged red on the attached plan.





HM Land Registry  
Official copy of  
title plan

Title number ST212047  
Ordnance Survey map reference ST3062SE  
Scale 1:1250 enlarged from 1:2500  
Administrative area North Somerset

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This official copy issued on 7 August 2019 shows the state of this title plan on 7 August 2019 at 15:20:22.  
It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002).  
This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.  
This title is dealt with by HM Land Registry, Durham Office.

For Identification Purposes Only



## **SCHEDULE 2**

### **Specification of works to be carried out**

1. Ensure that all works are undertaken in accordance with specialist advice.
2. Ensure site is safely set up for the works to be undertaken in accordance with Health and Safety requirements, including securing perimeter to site.
3. Arrange offsite facility for storage and repairs to historic fabric. Ensure that items removed from the site are recorded and stored safely.
4. Ensure appropriate surveys and inspections are undertaken, including laser scanning of the pier to assist with recording and development of repairs details.
5. Allow for marine vehicle and access provision, including all terrain access platforms, jack-up barges and associated plant and equipment.
6. Ensure all works comply with the Construction (Design and Management) Regulations 2015.
7. Arrange for temporary bracing frames to be secured to trestle legs to provide additional stability to trestle legs during repairs. This may include scaffolding construction for temporary bracing frames, subject to contractor design, or fabrication of bespoke temporary bracing frames that can be more readily moved between frames as repairs progress.
8. Remove deck boards, cast iron seat components, lamp posts and all associated materials. Arrange for these to be transported to an offsite facility for logging, assessment, and repair or reconstruction depending upon condition.
9. Remove the deck transverse structure and high level spider bracing. Record all timber and steelwork that remains and transport to an offsite facility for repair and reconstruction.
10. Remove the principal deck level knee bracing to the head of each trestle. Angle bracing with associated fixing plates and collars to link trestle to longitudinal girder.
11. Remove the principal deck level spider bracing. This refers to the bracing at the head of each trestle and at intermediate positions along the length of the deck to include fixings to the repaired and/or reinstated longitudinal girders.
12. Remove the principal longitudinal girders. The pairs of lattice girders should be removed in sections and transported to offsite facility for repair or reconstruction.
13. Remove the trestle perimeter and internal bracing member. All trestle bracing should be removed and transported to offsite facility for repair or reconstruction.
14. Splint repairs to be made to trestle legs where appropriate after inspection. New steel plated bolted collars similar to existing splint clamp repairs to be fitted.
15. Repair intermediate deck support frames. The extent of corrosion should be reviewed and, where corrosion decay is compromising the integrity of the structure, plate repairs or replacement of steel sections should be undertaken. Allow for 20mm Grade S355-J2 structural

steelwork in situ plated repairs and for site preparation and painting to main paint specification below at paragraph 24 of this Schedule.

16. Replace legs using tubular steel section to match existing structure.  
Allow for 273x20 CHS Grade S355-J2 structural steelwork.

17. Undertake leg splint repairs. Arrange for steel collars to be used of detail similar to existing cast iron splint collars. These should suit the 300mm diameter of the existing cast iron legs.

18. Reinstate trestle bracing. This may be done by way of repair or by reconstruction of new bracing to replace areas lost or failed beyond repair.  
Allow for 100x100x15 'L' members to perimeter lattice bracing with 50x16mm internal diagonal bracing. Spider bracing allow 100x100x15 'L' minimum section to match existing. 25mm diameter elevation bracing rods to match existing. All end plates to be adapted to enable retro fitting.

19. Repair and reinstate pair of principal longitudinal deck girders. This may include reconstruction of new lattice girder to replace areas lost or failed beyond repair.  
Reform lattice girder with composite top and bottom members with back to back 200x100x15 angles and 15mm cap and base plates 100x15 diagonal bracing and pairs of back to back 100x100x15 'L' vertical members to longitudinal girders. All section sizes to match existing where possible or allowance within +10% where standard section sizes available. Unless noted otherwise material to be grade S355-J2 steelwork. Optional splice joints to be added to aid reassembly subject to approval by Historic England.

20. Repair and reinstate principal deck members. This may include fabrication of new members to replace units lost or failed beyond repair.  
Allow for 203x203x46 kg/m transverse structural steelwork at approximately 1.5m centres with new 225x75mm thick unwrot treated steelwork bearing plates secured to top face of UC using pairs M16 s/s bolts at 900mm centres to facilitate fixing of repaired/replacement deck boards. Unless noted otherwise material to be grade S355-J2 steelwork with marine spec mastic used to seal all metal-metal contact joints to aid corrosion prevention.

21. Repair and reinstate deck.  
225x75 Iroko timber decking boards in approximately 3.5m length to match existing, secured with M10 stainless steel coach screw fixings and pegged/sanded to flush finish. Allow for decking board lengths as required to extend into total 8 number projecting balconies. Perimeter timber beam 115x325 wrot treated and painted Douglas fir with one rounded edge, all to match existing.

22. Repair and reinstate deck benches and handrail.  
To include repair of existing cast iron seat brackets/frames at approximately 1.5m centres, and provide new timber slats to match existing where missing or damaged. Seat timbers to be 175x75 wrot treated painted Douglas fir with one rounded edge and 225x75 wrot treated and painted Douglas fir to seat and 225x30 wrot t&g painted treated steelwork and 150x30 wrot t&g painted treated steelwork to seat backing all fixed to cast iron seat frames with s/s fixings. 60mm diameter steel tube handrail to be salvaged and reinstated with allowance for 50% replacement of defective.

23. Repair or recast cast iron lamp posts and deck level ironwork, to include blast cleaning and repainting.  
Total 12 number cast iron columns centred on balcony and 2 number free standing lamp posts. Allow for blast cleaning and inspection of all and repair/recasting as necessary with provisional estimate of 80% requiring repair/replacement. Allow for repainting of all prior to reinstatement.

24. Paint all steel work using suitable marine grade paint system.

Flash blast with a non-metallic abrasive (surface profile within the range of 20 - 30 microns)

Apply Leighs Paint system to all steelwork, Metagard L574 Blast primer @ 25 microns dft 2 coats Epigrip L524 Modified Epoxy Coating @ 175 microns dft / per coat.

25. Repair stonework abutment by way of consolidating and pinning stonework to stabilised landward and island bearing masonry.

Allow for resetting 16 square metres of stonework, with allowance for 2 square metres of replacement of damaged or missing stonework. All set in NHL5 lime mortar. Allow for NHL5 lime grout core void consolidation to aid bonding of adjacent stonework. Total 1 cubic metre of grout, gravity fed in approximately 100-150 litre batches. Allow for total 20 number M10 x 450 long stainless steel dowels set in Hilti HY70 resin to ensure effective tie between existing and reset/replacement stone.

**APPENDIX 3 - COMPLAINT AND SUMMONS**

NORTH SOMERSET MAGISTRATES' COURT

\_\_\_\_\_ (Date)

To the North Somerset Council of Town Hall, Walliscote Grove Road, Weston-super-Mare BS23 1UJ (the "Defendant").

You are hereby summoned to appear on \_\_\_\_\_ (date) at \_\_\_\_\_ (time) before the Magistrates' Court \_\_\_\_\_ (address) to answer the following complaint:

**MATTER OF COMPLAINT:** The Complainant is a company having a legal interest in Birnbeck Island and Grade II\* listed Birnbeck Pier, Weston Super Mare, including access way and surrounding waters and sea bed together with hardstanding, former landscaped gardens and paths, buildings, toll gates, car park off Birkett Road leading to Birnbeck Pier and other relevant land ("the Pier and Relevant Land"). The Complainant states that reasonable steps are being taken for properly preserving the Pier and Relevant Land, but that under powers in section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990 the North Somerset Council has made the North Somerset Council (Birnbeck Pier) Compulsory Purchase Order 2020 ("the Order"), which seeks authorisation from the Secretary of State for the acquisition of the Pier and Relevant Land (comprising 81380.66 square metres, as described in the Schedule to the Order and delineated and shown edged red and coloured pink, numbered 01 on a sealed map marked "Map referred to in the North Somerset Council (Birnbeck Pier) Compulsory Purchase Order 2020").

AND the Complainant now applies for an order staying all further proceedings for the compulsory acquisition of the Pier and Relevant Land on the ground that reasonable steps have been taken to properly preserve the Pier and Relevant Land, as follows:

	<b>Summary description of step taken</b>	<b>Date range</b>
1	Appointment of a highly experienced consultant team including a heritage expert and an expert in the repair of historic piers	April - June 2020
2	Ensuring that all works are undertaken in accordance with specialist advice (Item 1 in Schedule to Repairs Notice)	Throughout
3	Ensuring Site is safely set up for the works to be undertaken in accordance with Health and Safety requirements, including securing perimeter to Site (Item 2 in Schedule to Repairs Notice)	Throughout
4	Ensuring appropriate surveys and inspections are undertaken, including laser scanning of the Pier to assist with recording and development of repairs details (Item 4 in Schedule to Repairs Notice)	Throughout
5	Production of an overarching Refurbishment Strategy	May - June 2020
6	Production of an intended programme to address the Repairs Notice	May - June 2020
7	Submission of revised approach, including key dates for the immediate programme of works and an application	June/July 2020

	for listed building consent	
8	Production of an Initial Programme of Works with reference to i) team mobilisation; ii) immediate priority of work; and iii) high priority of work	June 2020
9	Submission of Method Statement for foreshore clean, so that the licence application to the Marine Management Organisation could be submitted. Subsequent revisions in response to Council comments, with the Method Statement being approved by the Council on 3 July 2020	June - July 2020
10	Submission of Full Programme of Works	June 2020
11	The preparation of a prioritisation process for the works, ranging from High - Medium - Low - Statutory Duty	July 2020
12	Submission of Listed Building Consent (Ref: 20/P/1784/LBC) application to address four items listed in the Schedule to the Repairs Notice, with further information provided in a timely fashion as required by the Council (Items 7, 8, 11 and 13 in the Schedule to the Repairs Notice)	July 2020
13	Licence for Access granted by the Council and foreshore clean undertaken on the same day	August 2020
14	Laser scan of the Site (Item 4 in Schedule to Repairs Notice)	September 2020
15	Preparation of second application for Listed Building Consent to address the next stage of works	October 2020
16	Submission of an application for the renewal of the North Jetty consent	October 2020

The complaint of: \_\_\_\_\_  
 (signature of or on behalf of complainant)

\_\_\_\_\_  
 (Address and telephone number)  
 who upon oath [or affirmation] states that the Defendant is responsible for the matter of complaint of which particulars are given above.

TAKEN [and sworn [or affirmed]] before me this \_\_\_\_\_ (date)

\_\_\_\_\_  
 (signature) Justice of the Peace [or Justices' Clerk]

**APPENDIX 4 - SECTIONS 47 – 50 OF PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990**



# Planning (Listed Buildings and Conservation Areas) Act 1990 c. 9

## s. 47 Compulsory acquisition of listed building in need of repair.



Law In Force

Version 4 of 4

7 June 2006 - Present

### Subjects

Planning

### Keywords

Appeals; Compulsory purchase; Consultation; Crown Court; Judgments and orders; Listed buildings; Magistrates' courts; Ministers' powers and duties; Repairs

### 47.— Compulsory acquisition of listed building in need of repair.

- (1) If it appears to the Secretary of State that reasonable steps are not being taken for properly preserving a listed building he—
- (a) may authorise the appropriate authority to acquire compulsorily under this section the building and any relevant land; or
  - (b) may himself compulsorily acquire them under this section.
- (2) The [Acquisition of Land Act 1981](#) shall apply to compulsory acquisition under this section.
- (3) The Secretary of State shall not make or confirm a compulsory purchase order for the acquisition of any building by virtue of this section unless—
- (a) in the case of the acquisition of a building situated in England otherwise than by the Commission, he has consulted with the Commission; and
  - (b) in any case, he is satisfied that it is expedient to make provision for the preservation of the building and to authorise its compulsory acquisition for that purpose.
- (4) Any person having an interest in a building which it is proposed to acquire compulsorily under this section may, within 28 days after the service of the notice required by [section 12](#) of that Act of 1981 or, as the case may be, [paragraph 3\(1\) of Schedule 1](#) to that Act, apply to a magistrates' court [...] <sup>1</sup> for an order staying further proceedings on the compulsory purchase order.
- (5) If on an application under subsection (4) the court is satisfied that reasonable steps have been taken for properly preserving the building, the court shall make an order accordingly.
- (6) Any person aggrieved by the decision of a magistrates' court on an application under subsection (4) may appeal against the decision to the Crown Court.

[

- (6A) This section does not permit the acquisition of any interest in Crown land unless—

- (a) it is an interest which is for the time being held otherwise than by or on behalf of the Crown, and
- (b) the appropriate authority (within the meaning of [section 82C](#)) consents to the acquisition.

]<sup>2</sup>

(7) In this section—

“*the appropriate authority*” means —

- (a) the council of the county [,county borough]<sup>3</sup> or district in which the building is situated, or
- (b) in the case of a building situated in Greater London, the Commission or the council of the London borough in which the building is situated, or
- (c) in the case of a building situated outside Greater London, the joint planning board for the area in which the building is situated; or
- (d) in the case of a building situated within the Broads, the Broads Authority;

“*relevant land*” , in relation to any building, means the land comprising or contiguous or adjacent to it which appears to the Secretary of State to be required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.

## Notes

- 1 Words repealed by Courts Act 2003 c. 39 [Sch.10 para.1](#) (April 1, 2005 as SI 2005/910)
- 2 Added by Planning and Compulsory Purchase Act 2004 c. 5 [Sch.3 para.5\(2\)](#) (June 7, 2006)
- 3 Words inserted within definition by Local Government (Wales) Act 1994 c. 19 [Sch.6\(II\) para.25\(6\)](#) (April 1, 1996)

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# Planning (Listed Buildings and Conservation Areas) Act 1990 c. 9

## s. 48 Repairs notice as preliminary to acquisition under s. 47.



Law In Force

Version 1 of 1

24 August 1990 - Present

### Subjects

Planning

### Keywords

Compulsory purchase; Consultation; Demolition; Listed buildings; Ministers' powers and duties; Purchase notices; Repairs notices

### 48.— Repairs notice as preliminary to acquisition under s. 47.

(1) The compulsory purchase of a building under [section 47](#) shall not be started by the appropriate authority or by the Secretary of State unless at least two months previously the authority or, as the case may be, the Secretary of State has served on the owner of the building a notice under this section (in this section referred to as a “repairs notice”)—

(a) specifying the works which the appropriate authority or, as the case may be, the Secretary of State considers reasonably necessary for the proper preservation of the building; and

(b) explaining the effect of [sections 47 to 50](#),

and the repairs notice has not been withdrawn.

(2) Where—

(a) a building is demolished after a repairs notice has been served in respect of it by an appropriate authority or the Secretary of State, but

(b) the Secretary of State is satisfied that he would have confirmed or, as the case may be, would have made a compulsory purchase order in respect of the building had it not been demolished,

the demolition of the building shall not prevent the authority or the Secretary of State from being authorised under [section 47](#) to acquire compulsorily the site of the building.

(3) An appropriate authority or the Secretary of State may at any time withdraw a repairs notice served by them on any person; and if they do so, they shall immediately give him notice of the withdrawal.

(4) The Secretary of State shall consult with the Commission before he serves or withdraws a repairs notice in relation to a building situated in England.

(5) Where a repairs notice has been served on a person in respect of a building, he shall not be entitled to serve a listed building purchase notice in respect of it—

- (a) until the expiration of three months beginning with the date of the service of the repairs notice; or
  - (b) if during that period the compulsory acquisition of the building is begun under section 47, unless and until the compulsory acquisition is discontinued.
- (6) For the purposes of this section a compulsory acquisition—
- (a) is started when the notice required by [section 12](#) of the [Acquisition of Land Act 1981](#) or, as the case may be, [paragraph 3\(1\) of Schedule 1](#) to that Act is served; and
  - (b) is discontinued—
    - (i) in the case of acquisition by the Secretary of State, when he decides not to make the compulsory purchase order; and
    - (ii) in any other case, when the order is withdrawn or the Secretary of State decides not to confirm it.
- (7) In this section “*appropriate authority*” has the same meaning as in [section 47](#).

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## Notes

- 1 Act modified by Planning (Consequential Provisions) Act 1990 (c.11), s. 5, Sch. 3 paras. 13, 14, and Town and Country Planning Act 1990 (c.8), ss. 28, 54, 173(8), Sch. 2 Pt. III para. 3(a), Act amended by Town and Country Planning Act 1990 (c.8), s. 336(9), Town and Country Planning Act 1990 (c.8), s. 1(1)(3)(5) Power to modify Act conferred by Town and Country Planning Act 1990 (c.8), s. 6(5) and Town and Country Planning Act 1990 (c.8), ss. 314–319, Sch. 16
- 2 S. 48 power to apply conferred by Town and Country Planning Act 1990 (c.8), s. 243(3)(b), modified by S.I. 1990/1519, reg. 13(1)

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# Planning (Listed Buildings and Conservation Areas) Act 1990 c. 9

## s. 49 Compensation on compulsory acquisition of listed building.



Law In Force

Version 2 of 2

25 September 1991 - Present

### Subjects

Planning

### Keywords

Alterations; Compensation; Compulsory purchase; Demolition; Listed building consent; Listed buildings

### 49. Compensation on compulsory acquisition of listed building.

Subject to [section 50](#), for the purpose of assessing compensation in respect of any compulsory acquisition of land including a building which immediately before the date of the compulsory purchase order was listed, it shall be assumed that listed building consent would be granted for any works—

- (a) for the alteration or extension of the building; or
- (b) for the demolition of the building for the purpose of development of any class specified in [Schedule 3](#) to the principal Act (development not constituting new development),

[...]<sup>1</sup>

### Notes

<sup>1</sup> Word repealed by Planning and Compensation Act 1991 c. 34 [Sch.19\(II\) para.1](#) (September 25, 1991 as SI 1991/2067)

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# Planning (Listed Buildings and Conservation Areas) Act 1990 c. 9

## s. 50 Minimum compensation in case of listed building deliberately left derelict.



Law In Force

Version 2 of 2

1 April 2005 - Present

### Subjects

Planning

### Keywords

Compensation; Compulsory purchase; Compulsory purchase orders; Directions; Listed building consent; Listed buildings; Ministers' powers and duties

### 50.— Minimum compensation in case of listed building deliberately left derelict.

(1) Where the appropriate authority within the meaning of [section 47](#)—

(a) propose to acquire a building compulsorily under that section; and

(b) are satisfied that the building has been deliberately allowed to fall into disrepair for the purpose of justifying its demolition and the development or redevelopment of the site or any adjoining site,

they may include in the compulsory purchase order as submitted to the Secretary of State for confirmation a direction for minimum compensation.

(2) Subject to the provisions of this section, where the Secretary of State acquires a building compulsorily under [section 47](#), he may, if he is satisfied as mentioned in subsection (1)(b), include a direction for minimum compensation in the compulsory purchase order.

(3) Without prejudice to so much of [section 12](#) of the [Acquisition of Land Act 1981](#) or, as the case may be, [paragraph 3\(1\) of Schedule 1](#) to that Act (notices stating effect of compulsory purchase order or, as the case may be, draft order) as requires the notice to state the effect of the order, the notice required to be served in accordance with that provision shall—

(a) include a statement that a direction for minimum compensation has been included in the order or, as the case may be, in the draft order prepared by the Secretary of State in accordance with [Schedule 1](#) to that Act; and

(b) explain the meaning of the expression “direction for minimum compensation”.

(4) A direction for minimum compensation, in relation to a building compulsorily acquired, is a direction that for the purpose of assessing compensation it is to be assumed, notwithstanding anything to the contrary in the [Land Compensation Act 1961](#), the principal Act, or this Act—

(a) that planning permission would not be granted for any development or re-development of the site of the building; and

- (b) that listed building consent would not be granted for any works for the demolition, alteration or extension of the building other than development or works necessary for restoring it to and maintaining it in a proper state of repair.
- (5) If a compulsory purchase order is confirmed or made with the inclusion of a direction for minimum compensation, the compensation in respect of the compulsory acquisition shall be assessed in accordance with the direction.
- (6) Where such a direction is included in a compulsory purchase order or, as the case may be, in a draft order prepared by the Secretary of State, any person having an interest in the building may, within 28 days after the service of the notice mentioned in subsection (3), apply to a magistrates' court [...] <sup>1</sup> for an order that no such direction be included in the compulsory purchase order as confirmed or made by the Secretary of State.
- (7) If the court to which an application is made under subsection (6) is satisfied that the building in respect of which the application is made has not been deliberately allowed to fall into disrepair for the purpose mentioned in subsection (1)(b) the court shall make the order applied for.
- (8) A person aggrieved by the decision of a magistrates' court on an application under subsection (6) may appeal against the decision to the Crown Court.
- (9) The rights conferred by subsections (6) and (8) shall not prejudice those conferred by [section 47\(4\)](#) and (6).

## Notes

<sup>1</sup> Words repealed by Courts Act 2003 c. 39 [Sch.10 para.1](#) (April 1, 2005 as SI 2005/910)

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## NOTICE OF DECISION

Planning (Listed Building and Conservation Areas Act) 1990



Mr K Hunt  
JLL  
JLL  
31 Great George Street  
Bristol  
BS1 5QD

Application Number: 20/P/2546/LBC

Category: Listed Building Consent

**Application No:** 20/P/2546/LBC  
**Applicant:** CNM Estates (Birnebeck) Limited  
**Site:** North Jetty, Birnebeck Pier, Birnebeck Island, Birnebeck Road  
**Description:** Partial demolition of the North Jetty to remove walkway and 5no. trestle piers

North Somerset District Council in pursuance of powers under the above mentioned Act hereby **GRANTS CONSENT** for the above development in accordance with the plans and particulars received and subject to the following conditions:

- 1 The demolition hereby permitted shall be begun before the expiry of three years from the date of this permission.

Reason: In accordance with the provisions of Section 18 of the Town and Country (Listed Building and Conservation Areas) Act 1990.

- 2 The demolition hereby permitted shall be carried out in accordance with the approved plans and documents.  
Birnebeck Pier- Site location Plan received 19/10/20  
Heritage, Design and access statement received 19/10/20  
HRA Screening Matrices v2.0 received 03/03/20  
Demolition Method Statement 001 rev G received 02/03/20  
Structural Inspection - Part 1 received 19/10/20  
Structural Inspection - Part 2 received 19/10/20  
Structural Inspection - Part 3 received 19/10/20  
North Jetty Structural Inspection -Addendum Dec 2020 received 11/12/20

Reason: For the avoidance of doubt and in the interest of proper planning

- 3 Prior to and during demolition, a photographic, written, and drawn record of the structure shall be carried in accordance with Historic England's Building Recording level 4 and submitted to the Local Planning Authority within 2 months of the commencement of demolition works.

Reasons: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1). The details must be agreed prior to commencement in order to safeguard the architectural and historic interest of the Listed Building.

- 4 Prior to the commencement of demolition details of how the pockets are to be retained following the removal of the jetty deck from the island shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reasons: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1). The details must be agreed prior to commencement in order to safeguard the architectural and historic interest of the Listed Building.

- 5 Prior to the commencement of demolition, a method statement providing details of the proposed procedure and manner of removal of the bolts connecting the deck to the island and landing stage shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved method statement.

Reasons: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1). The details must be agreed prior to commencement in order to safeguard the architectural and historic interest of the Listed Building.

- 6 Prior to the commencement of demolition, a method statement providing details of how the remaining post of the original wooden jetty and the remains of the original splash pool are to be protected shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved method statement.

Reasons: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1). The details must be agreed prior to commencement in order to safeguard the architectural and historic interest of the Listed Building

- 7 No demolition work hereby approved is to be undertaken between 01 October and 31

March.

Reason: To reduce disturbance to the overwintering birds, features of the SPA, which use the adjacent mudflats/sandflats for important feeding and roosting grounds and ensure compliance with the Conservation of Habitats and Species Regulations 2017/the Wildlife and Countryside Act 1981 (as amended)/The Natural Environment and Rural Communities (NERC) Act 2006, policy CS4 of the North Somerset Core Strategy and policy DM8 of the North Somerset Sites and Policies Plan (Part 1)

- 8 Prior to the commencement of works hereby permitted a Sabellaria alveolata reef walkover survey is to be completed in order to establish reef locations around the northern jetty, and thereafter used to inform appropriate avoidance mitigation measures as stated in the proposal.

Reason: To avoid any damage to Sabellaria alveolata reefs, a protected SAC feature, during the completion of the works and ensure compliance with the Conservation of Habitats and Species Regulations 2017/the Wildlife and Countryside Act 1981 (as amended)/The Natural Environment and Rural Communities (NERC) Act 2006, policy CS4 of the North Somerset Core Strategy and policy DM8 of the North Somerset Sites and Policies Plan (Part 1)

- 9 The use of sled ramps shall be used for the removal of machinery from the multicat vessel onto the island.

Reason: To avoid damage to the intertidal habitats within the SAC and ensure compliance with the Conservation of Habitats and Species Regulations 2017/the Wildlife and Countryside Act 1981 (as amended)/The Natural Environment and Rural Communities (NERC) Act 2006, policy CS4 of the North Somerset Core Strategy and policy DM8 of the North Somerset Sites and Policies Plan (Part 1)

**Advice Notes:**

- 1 Positive and proactive statement: In dealing with the application we have worked with the applicant in a positive and proactive manner and have implemented the requirement in section 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, by publishing local planning guidance on the council's website, offering pre-application written advice and publishing statutory consultee and neighbour comments on the council's website.

**For advice about how to comply with the conditions above visit [www.n-somerset.gov.uk/planningconditions](http://www.n-somerset.gov.uk/planningconditions)**

Date: 8 April 2021  
Signed: Richard Kent  
Head of Development Management

Please use our [online contact form](#) on our website at [www.n-somerset.gov.uk/contactplanning](http://www.n-somerset.gov.uk/contactplanning) if you require further information on this decision.

**IT IS IMPORTANT THAT YOU SHOULD READ THE NOTES ACCOMPANYING THIS NOTICE**

## NOTES RELATING TO A DECISION TO GRANT CONSENT

These notes are intended as helpful advice. PLEASE READ THEM CAREFULLY. Make sure everyone has a copy that needs it, including your builder or contractor.

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### Scope of this decision notice

This decision notice grants Listed Building Consent only. It should not be taken to imply that the scheme meets the requirements of any other agency that may be involved. Please make sure that you have obtained all the approvals you need before starting work. If you are in any doubt you should obtain professional advice.

### Building Regulations

Before you start construction work you need to obtain separate approval under Building Regulations. You can contact the team on 01275 884550 or submit your application on our [website](#).

### Conditions

This approval is subject to conditions. They are an integral part of the decision and are important because they describe how the council requires you to carry out the approved work or operate the premises. It is your responsibility to comply fully with them.

Please pay particular attention to those conditions that have to be met before work commences. There is a fee for requests for written confirmation that conditions have been complied with. Details of these fees can be found on our website at [www.n-somerset.gov.uk/planningconditions](http://www.n-somerset.gov.uk/planningconditions). When sending us information please include the decision reference number and relevant condition number. Depending on the complexity of the issues involved it can take up to 12 weeks for conditions to be discharged. It is therefore important that you submit any required details to us early.

Applications to discharge planning conditions received from 1st January 2021 will be made available on our website for public inspection. This includes the name, address and contact details of the applicant and their agent. When applying to discharge a planning condition, you should consider very carefully what information about yourself and others you send us. If you do not want information or documents in your application to be shown on our website, please contact us directly when you make your submission so that we can consider your request. The default position is however to make the information public and an exception to this will not normally be agreed.

### Appeals

If you are aggrieved by our decision to impose any of the conditions, then you can appeal to the Secretary of State for the Environment in accordance with the provisions of Town and Country Planning Act 1990. If you want to appeal against our decision then you must do so within 6 months [12 weeks if this is a decision to refuse planning permission for a shopfront proposal or a minor commercial application] of the date of this notice .

Appeals must be made using a form, which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. Alternatively, your appeal can be submitted electronically using the Planning Portal at [www.gov.uk/appeal-planning-inspectorate](http://www.gov.uk/appeal-planning-inspectorate).

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances that excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions imposed, having regard to the statutory requirements, to the provisions of a Development Order or to directions given under it. In

practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

### **Protected species**

The Wildlife and Countryside Act 1981 (as amended) makes it an offence to intentionally or recklessly disturb a protected species while it is occupying a place which it uses for shelter or protection. This includes, for example, bats or birds in roof spaces or cavities. Obtaining planning permission does not grant permission to disturb protected species. Licences can, however, be issued to allow construction works that would otherwise be prohibited. Applications for licences should be made to Natural England before any construction works commence on site.

### **Prepare for floods**

If the scheme to which this approval relates is at risk of flooding you should prepare a flood plan to help keep people safe and protect your property. You can find out if your property is at risk of flooding and how to prepare a flood plan on the [Government's website](#). You should also sign up for [flood warnings](#).

### **Works which affect a Public Highway**

Any works/events carried out by or for a developer which affects the public highway in any way must be co-ordinated in accordance with the New Roads and Street Works Act 1991 and the Traffic management Act 2004 to minimize disruption to users. Developers are required to inform undertakers of their proposed works, to jointly identify any affected apparatus, and to agree diversion or protection measures and corresponding payment.

Developers are also required to liaise/seek permission of North Somerset Council's Street Works Section (01934 888802 or [streetworks@n-somerset.gov.uk](mailto:streetworks@n-somerset.gov.uk)) at least one month in advance of the works and this must be in line with the requirements of the NRSWA 1991 and TMA 2004. The developer must endeavor to ensure that undertaker connections/supplies are coordinated to take place whenever possible at the same times using the same traffic management. It should be noted that where road closures or formal restrictions are required to undertake works, a minimum of three months' notice will be required.

### **Public Rights of Way**

The grant of planning permission does not entitle developers to interfere or obstruct any public right of way (PROW). The obstruction of a PROW is an offence. If required an application can be made to North Somerset Council to divert the PROW and should be made well ahead of any development.

It is also an offence to drive a mechanically propelled vehicle without lawful authority on any PROW. The grant of planning permission should not be treated as a grant of lawful authority. Please contact the PROW Team for further advice on 01934 888802.

### **Changes to Plans**

Should you wish to change your plans for any reason, including the need to meet the requirements of other legislation (for example Building Regulations) it is important that you notify us (i.e. 'the planners') before carrying on with work. Amendments to your approved plans may require a fresh application and could even prove to be unacceptable. Details of how to seek formal approval of amendments to a planning approval can be found on our [website](#) or by visiting the planning portal.

### **Enforcement**

The council has powers to enforce compliance with planning permission and there are penalties for failure to comply. In cases where terms and conditions of planning permission are not adhered to and the Council finds it necessary to take enforcement action, it almost invariably results in delay

and additional expense to the applicant. In extreme cases, it can mean that newly erected buildings have to be demolished.

If the applicant was the Local Authority and the application was made under regulation 3 of the Town and Country Planning General Regulations 1992 (as amended) then this permission enures only for the benefit of the Local Authority and such other person as was specified in the application.

### **Street Naming**

When you receive consent for the building of new a development(s)/property or creating additional flats/units within an existing dwelling, for reasons of public safety and for the allocation of an official postal address, please contact the Street Naming and Property Numbering Section, Town Hall, Weston-super-Mare, BS23 1UJ; Tel: 01275 888761; email: [strnames@n-somerset.gov.uk](mailto:strnames@n-somerset.gov.uk). Learn more on our [website](#).

### **Access to further information**

Further guidance on Planning and Building regulation information and services can be accessed on our website and on the Planning Portal at [www.planningportal.co.uk](http://www.planningportal.co.uk).



## Andrew Westbrook

---

**From:** Nick Siangolis <nick.siangolis@gmail.com>  
**Sent:** 22 January 2021 10:05  
**To:** Rachel Lewis  
**Cc:** 'Kamran Rahmat'; 'Wahid Samady'  
**Subject:** RE: Birnbeck Pier



Good morning Rachel,

Thank you for your quick response, and I totally appreciate the interest by all, me being one of them.

Again, any issues please feel free to contact me.

Kind regards

Nick

---

**From:** Rachel Lewis <rachel.lewis@n-somerset.gov.uk>  
**Sent:** 22 January 2021 09:38  
**To:** Nick Siangolis <nick.siangolis@gmail.com>  
**Cc:** Kamran Rahmat <kamran.rahmat@cnmestates.com>; Wahid Samady <wahid.samady@cnmestates.com>  
**Subject:** RE: Birnbeck Pier

Good morning Nick,

Many thanks for making contact.

As you will be aware there is a lot of public interest in this site. Most of this is positive but there are a number of rather foolish people who try to visit the site or even try to break in. I regularly get contacted by local residents concerned to see people accessing the Pier and island, so will let you know next time I am made aware of something like this.

Regards

Rachel Lewis  
Development and Regeneration Programme Manager  
Placemaking and Growth  
North Somerset Council

**Tel:** 01934 426465

**E-Mail:** [rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)

**Post:** Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

**Web:** [www.n-somerset.gov.uk](http://www.n-somerset.gov.uk)

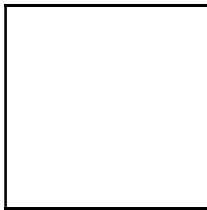


Stay home

Protect the NHS

Save

**From:** Nick Siangolis <nick.siangolis@gmail.com>  
**Sent:** Friday, January 22, 2021 9:17 AM  
**To:** Rachel Lewis <rachel.lewis@n-somerset.gov.uk>  
**Cc:** Kamran Rahmat <kamran.rahmat@cnmestates.com>; Wahid Samady <wahid.samady@cnmestates.com>  
**Subject:** Birnbeck Pier



Dear Rachel,

Please let me introduce myself, my name is Nick Siangolis, I live locally in Elborough Village and I'm currently assisting CNM Estates with the activities currently on-going with Birnbeck Pier. In addition, I will do my best endeavour to keep the site as secure as possible, please note that we will only be looking at the perimeter. Should I feel or notice anything that needs any serious attention, I will be instructing CNM Estates immediately. I have already been down to the site and made a few temporary fixes, I'm now just waiting for the key from the Birnbeck Regeneration Trust to store some materials within the compound. Myself and one or two others will be present in the coming weeks, subject to weather conditions, in case you hear of any reports.

If you need anything or have any concerns, please feel free to contact me.

Kind regards

Nick

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## Andrew Westbrook

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**From:** Nick Siangolis <nick.siangolis@cnmestates.com>  
**Sent:** 15 March 2021 12:50  
**To:** Rachel Lewis  
**Subject:** RE: trespassers at Birnbeck



Hi Rachel,

Thank you for your response and contact details.

I will make Kate aware of the issue and take the necessary actions.

Thank you again,

Kind regards

Nick

---

**From:** Rachel Lewis <rachel.lewis@n-somerset.gov.uk>  
**Sent:** 15 March 2021 12:44  
**To:** Nick Siangolis <nick.siangolis@cnmestates.com>  
**Subject:** RE: trespassers at Birnbeck

Hello Nick,

I presume you mean Pier View?

I am not aware that the Council had anything to do with it being closed – my understanding is that it was the Trust that decided that the floor was unsafe and therefore it couldn't be used.

Depending on the repair works you wish to undertake you may well require Listed Building Consent. So when you have a better idea of what will be required I suggest you contact the Councils Conservation Officer Dr Hudson-McAuley [Kate.Hudson-McAulay@n-somerset.gov.uk](mailto:Kate.Hudson-McAulay@n-somerset.gov.uk)

Kind regards

Rachel Lewis  
Development and Regeneration Programme Manager  
Placemaking and Growth  
North Somerset Council

**Tel:** 01934 426465

**E-Mail:** [rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)

**Post:** Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

**Web:** [www.n-somerset.gov.uk](http://www.n-somerset.gov.uk)



Stay home

Protect the NHS

Save

---

**From:** Nick Siangolis <[nick.siangolis@cnmestates.com](mailto:nick.siangolis@cnmestates.com)>

**Sent:** Monday, March 15, 2021 10:58 AM

**To:** Rachel Lewis <[rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)>

**Subject:** RE: trespassers at Birnbeck



Dear Rachel,

I trust this email finds you and I'm really sorry for bothering you.

Following on from my duties here in Weston in respect to the Old Pier, I'm currently looking at the Shop/Office (just outside the compound) which is now closed due to Birnbeck Pier Trust being told to close due to an unsafe floor. I was just wondering if you have a name/report of such closure notice so I can work with North Somerset to get the property fixed, safe and opened again. Any help in this matter would be appreciated.

Thank you in advance.

Kind regards

Nick

---

**From:** Rachel Lewis <[rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)>

**Sent:** 12 January 2021 08:06

**To:** Wahid Samady <[wahid.samady@cnmestates.com](mailto:wahid.samady@cnmestates.com)>

**Cc:** Crisp, Paul <[Paul.Crisp@eu.jll.com](mailto:Paul.Crisp@eu.jll.com)>; Kamran Rahmat <[kamran.rahmat@cnmestates.com](mailto:kamran.rahmat@cnmestates.com)>; Nick Siangolis <[nick.siangolis@cnmestates.com](mailto:nick.siangolis@cnmestates.com)>

**Subject:** RE: trespassers at Birnbeck

Many thanks

Rachel Lewis

Development and Regeneration Programme Manager

Placemaking and Growth

North Somerset Council

**Tel:** 01934 426465

**E-Mail:** [rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)

**Post:** Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

**Web:** [www.n-somerset.gov.uk](http://www.n-somerset.gov.uk)



---

**From:** Wahid Samady <[wahid.samady@cnmestates.com](mailto:wahid.samady@cnmestates.com)>

**Sent:** Monday, January 11, 2021 6:09 PM

**To:** Rachel Lewis <[rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)>

**Cc:** Crisp, Paul <[Paul.Crisp@eu.jll.com](mailto:Paul.Crisp@eu.jll.com)>; Kamran Rahmat <[kamran.rahmat@cnmestates.com](mailto:kamran.rahmat@cnmestates.com)>; Nick Siangolis <[nick.siangolis@cnmestates.com](mailto:nick.siangolis@cnmestates.com)>

**Subject:** RE: trespassers at Birnbeck



Dear Rachel, In addition to Paul and Kam, Nick Saingolis has joined the team. Nick is based and Weston and will be the local project manager. I have informed him re the security issue and he is looking at it.

Regards

Wahid Samady  
Director, CNM Estates  
T: +44(0) 208 3909265  
M: +44(0) 7710 392393

St Georges Court, 1<sup>st</sup> Floor, St Georges Square,  
New Malden, Surrey, KT3 4HG  
[www.cnmestates.com](http://www.cnmestates.com)

---

**From:** Rachel Lewis <[rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)>

**Sent:** 08 January 2021 16:40

**To:** Wahid Samady <[wahid.samady@cnmestates.com](mailto:wahid.samady@cnmestates.com)>

**Cc:** Crisp, Paul <[Paul.Crisp@eu.jll.com](mailto:Paul.Crisp@eu.jll.com)>; Kamran Rahmat <[kamran.rahmat@cnmestates.com](mailto:kamran.rahmat@cnmestates.com)>

**Subject:** RE: trespassers at Birnbeck

Thank you, could I have his contact details once he is in post?

Regards

Rachel Lewis  
Development and Regeneration Programme Manager  
Placemaking and Growth  
North Somerset Council

**Tel:** 01934 426465

**E-Mail:** [rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)

**Post:** Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

**Web:** [www.n-somerset.gov.uk](http://www.n-somerset.gov.uk)



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**From:** Wahid Samady <[wahid.samady@cnmestates.com](mailto:wahid.samady@cnmestates.com)>  
**Sent:** Friday, January 8, 2021 4:37 PM  
**To:** Rachel Lewis <[rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)>  
**Cc:** Crisp, Paul <[Paul.Crisp@eu.jll.com](mailto:Paul.Crisp@eu.jll.com)>; Kamran Rahmat <[kamran.rahmat@cnmestates.com](mailto:kamran.rahmat@cnmestates.com)>  
**Subject:** RE: trespassers at Birnbeck



Rachel thank you we will action. We have recruited a project manager to work on RPH and the refurbishment of the Pier, who lives in Weston has good contacts with local contractors he will start on Monday, site security etc is first job.

Regards

Wahid Samady  
Director, CNM Estates  
T: +44(0) 208 3909265  
M: +44(0) 7710 392393

St Georges Court, 1<sup>st</sup> Floor, St Georges Square,  
New Malden, Surrey, KT3 4HG  
[www.cnmestates.com](http://www.cnmestates.com)



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**From:** Rachel Lewis <[rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)>  
**Sent:** 08 January 2021 16:07  
**To:** Wahid Samady <[wahid.samady@cnmestates.com](mailto:wahid.samady@cnmestates.com)>  
**Cc:** Crisp, Paul <[Paul.Crisp@eu.jll.com](mailto:Paul.Crisp@eu.jll.com)>  
**Subject:** trespassers at Birnbeck

Hello Wahid,

I just thought I ought to let you know that I have had several reports this week of trespassing at the Pier.

A man was seen walking back from the island along the pier, throwing small pieces of debris from the walkway as he went. To get out he climbed the wire fence at the end, then was let out of the compound by someone from the Trust who has a key to the gate.

The fence, on the far side of the compound has been damaged as has the padlock on the wire gates to the pier.

Given the significant public safety implications we would encourage you to take action to warn and deter trespassers from gaining access to the site.

Regards

Rachel Lewis  
Development and Regeneration Programme Manager  
Placemaking and Growth  
North Somerset Council

**Tel:** 01934 426465

**E-Mail:** [rachel.lewis@n-somerset.gov.uk](mailto:rachel.lewis@n-somerset.gov.uk)

**Post:** Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

**Web:** [www.n-somerset.gov.uk](http://www.n-somerset.gov.uk)



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## NOTICE OF DECISION

Planning (Listed Building and Conservation Areas Act) 1990



Jones Lang LaSalle Limited  
30 Warwick Street  
London  
W1B 5NH

Application Number: 20/P/1784/LBC

Category: Listed Building Consent

**Application No:** 20/P/1784/LBC  
**Applicant:** CNM Estates (Birnbeck) Limited  
**Site:** Birnbeck Pier, Birnbeck Island, Birnbeck Road, Weston-super-Mare  
**Description:** Listed Building Consent application for immediate works relating to Repairs Notice consisting of: Section 4 (part)- Ensure appropriate surveys and inspections are undertaken; Section 7 - Arrange for temporary bracing frames to be secured to trestle legs to provide additional stability to trestle legs during repairs. This may include scaffolding construction for temporary bracing frames, subject to contractor design, or fabrication of bespoke temporary bracing frames that can be more readily moved between frames as repairs progress; Section 8- Remove deck boards. Cast iron seat components, lamp posts and all associated materials. Arrange for these to be transported to an offsite facility for logging, assessment and repair, or reconstruction depending upon condition; Section 11 (part) - Remove the principal deck level spider bracing; Section 13 - Remove the trestle perimeter and internal bracing member. All trestle bracing should be removed and transported to an offsite facility for repair or reconstruction

North Somerset District Council in pursuance of powers under the above mentioned Act hereby **GRANTS CONSENT** for the above development in accordance with the plans and particulars received and subject to the following conditions:

- 1 The making safe works and recovering of elements as specified in the approved documents as set out in condition 2 hereby permitted shall be begun before the expiry of three years from the date of this permission.

Reason: In accordance with the provisions of Section 18 of the Town and Country (Listed Building and Conservation Areas) Act 1990.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans/documents:

Design and Access Statement dated 23/07/2020  
Heritage Statement (Revised) dated December 2020  
Update Habitats Regulations Assessment dated 09/2020

Revised Method Statement 002 dated 16/12/2020  
Site plan and site location plan: 13651-HOP-05-XX-DR-S-001.S2.P4  
Existing arrangements elevations and sections: 13651-HOP-05-XX-DR-S-002.S2.p4  
Existing details: 13651-HOP-05-XX-DR-S-003.S2.P3  
Existing bracing plan with schematic elevations: 13651-HOP-05-XX-DR-S-0007-S2-P1  
Existing arrangement balcony plan and section: 13651-HOP-05-XX-DR-S-004.S2.P2  
Proposed detail 1 of 2: 13651-HOP-05-XX-DR-S-005.S2.P2  
Proposed detail 2 of 2: 13651-HOP-05-XX-DR-S-S006.S2.P1  
Proposed abutment details: 13651-HOP-05-XX-DR-S-0006-S2-P2  
Proposed sequencing: 13651-HOP-05-XX-DR-S-S001.S2.P6  
Proposed approach to making safe works: 13651-HOP-05-XX-DR-S-S002.S2.P4  
Honeycomb Worm Rapid Assessment and working Method Statement, dated October 2020

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 The development shall take place in accordance with the submitted Honeycomb Worm Rapid Assessment and working Method Statement.

Reason: To ensure compliance with the Conservation of Habitats and Species Regulations 2017/the Wildlife and Countryside Act 1981 (as amended)/The Natural Environment and Rural Communities (NERC) Act 2006, policy CS4 of the North Somerset Core Strategy and policy DM8 of the North Somerset Sites and Policies Plan (Part 1)

- 4 No works shall commence until the Local Planning Authority has been given a minimum of seven days prior notice of the intention to start work.

Reason: The Local Planning Authority wishes to programme its staff resources to enable monitoring and recording of the building works and in accordance with part I of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), paragraph 199 of the National Planning Policy Framework, policy CS5 of the North Somerset Core Strategy and policy DM4 of the North Somerset Sites and Policies Plan (Part 1). Notice is required before works commence so that the Local Planning Authority may carry out any recording and monitoring from the outset.

- 5 The applicant shall give access to any Council Officer together with any consultants (which have been appointed by the Council or Historic England) or officer of Historic England which the Council considers should be given access for the purpose of recording the works or finds and advising the Council on any technical matters that relate to the historic and architectural value of the Pier and the impact of the works. If any Council Officer, consultant or Officer of Historic England requires access in accordance with this, a minimum of 24 hours notice including the nature and purpose of the visit / inspection shall be given by the Council.

Reason: The Local Planning Authority wishes to have access to the property throughout the period of building works to monitor, advise and record and in accordance with part I of the Planning (Listed Buildings and Conservation Areas) Act

1990 (as amended), paragraph 199 of the National Planning Policy Framework, policy CS5 of the North Somerset Core Strategy and policy DM4 of the North Somerset Sites and Policies Plan (Part 1). The notice period ensures those accessing the site can be adequately inducted on the site Health & Safety procedures.

- 6 All material removed from the pier shall be recorded and stored in accordance with the approved recording policy (set out in the Method Statement) and that record shall be submitted to and approved in writing by the Local Planning Authority. The protective measures shall be implemented and kept in place in accordance with the approved details for the duration of the development works.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1). The details must be agreed prior to commencement in order to safeguard the architectural and historic interest of the Listed Building.

- 7 No material shall be removed or disposed of from the site or the agreed secure offsite storage facility before first being inspected and agreed in writing by the Local Planning Authority.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1).

- 8 No temporary stabilisation measures shall be installed until temporary works designs and drawings at a suitable scale with details not less than 1:20 indicating the proposed stabilisation works have been submitted to and approved, in writing, by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

Should emergency measures be required (associated with management of the dangerous structure) remedial proposals shall be developed by a suitably qualified Chartered Engineer and the Local Planning Authority shall be kept informed of proposals and notified within 48 hours.

Reason: To maintain the architectural integrity of the building and the appearance of its surroundings and in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1). The details must be agreed prior to installation in order to safeguard the architectural and historic interest of the Listed Building.

- 9 No bracing shall be installed until detailed working drawings at a scale of not less than 1:20 showing the proposed bracing have been submitted to and approved, in writing, by the Local Planning Authority. Thereafter, the development shall be carried out in

accordance with the approved details.

Reason: To maintain the architectural integrity of the building and the appearance of its surroundings and in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1). The details must be agreed prior to installation in order to safeguard the architectural and historic interest of the Listed Building.

- 10 No trusses shall be installed until detailed working drawings at a suitable scale with details of not less than 1:20 showing the proposed trusses have been submitted to and approved, in writing, by the Local Planning Authority. Thereafter, the development shall not be carried out except in accordance with the approved details.

Reason: To maintain the architectural integrity of the building and the appearance of its surroundings and in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1). The details must be agreed prior to installation in order to safeguard the architectural and historic interest of the Listed Building.

- 11 Prior to the commencement of the relevant part of development, the following details, as shown on Drawing Reference: 13651-HOP-05-XX-DR-S-0005-S2-P2, shall be submitted to, and approved in writing, by the Local Planning Authority. Thereafter, the development shall be carried in accordance with the approved details.

- i). The proposed works to the spreader beam as shown in Detail G;
- ii). The works relating to Detail A;
- iii). The works relating to Detail B.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1). The details must be agreed prior to refurbishment in order to safeguard the architectural and historic interest of the Listed Building.

- 12 No stone cleaning shall take place before details of method submitted to and approved, in writing, by the Local Planning Authority.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1). The details must be agreed prior to commencement in order to safeguard the architectural and historic interest of the Listed Building.

- 13 If works are required to be carried out under stage 2a (as identified by drawing



reference 13651-HOP-05-XX-DR-S-S001-S2-P6), prior to commencement of those works, a report shall be submitted to, and approved, in writing by the Local Planning Authority documenting the site assessment of iron deck beams and trusses detailing the necessity for the removal on these together with a plan and timetable to ensure their replacement. The approved works must thereafter be carried out in full within the approved timeframe unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1).

- 14 Following completion of each bay (defined as each phase of works, as shown on Drawing No. 13651-HOP-05-XX-DR-S-S002-S2-P4 (Proposed Approach to Making Safe Works)), no further works are to take place until the Local Planning Authority and Historic England have inspected the completed works and the Local Planning Authority has provided written confirmation that works can continue.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), policies CS5 and CS12 of the North Somerset Core Strategy and policies DM4 and DM32 of the North Somerset Sites and Policies Plan (Part 1). The details must be agreed prior to commencement in order to safeguard the architectural and historic interest of the Listed Building.

#### **Advice Notes:**

- 1 Natural England Mitigation Licence: Please note that a relevant Natural England licence must be approved before works which are likely to lead to an offence under the Conservation of Habitats and Species Regulations 2017. To proceed without a licence in this case would be likely to result in a criminal offence.

**For advice about how to comply with the conditions above visit [www.n-somerset.gov.uk/planningconditions](http://www.n-somerset.gov.uk/planningconditions)**

Date: 18 February 2021  
Signed: Richard Kent  
Head of Development Management

Please use our [online contact form](http://www.n-somerset.gov.uk/contactplanning) on our website at [www.n-somerset.gov.uk/contactplanning](http://www.n-somerset.gov.uk/contactplanning) if you require further information on this decision.

**IT IS IMPORTANT THAT YOU SHOULD READ THE NOTES ACCOMPANYING THIS NOTICE**

## NOTES RELATING TO A DECISION TO GRANT CONSENT

These notes are intended as helpful advice. PLEASE READ THEM CAREFULLY. Make sure everyone has a copy that needs it, including your builder or contractor.

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### Scope of this decision notice

This decision notice grants Listed Building Consent only. It should not be taken to imply that the scheme meets the requirements of any other agency that may be involved. Please make sure that you have obtained all the approvals you need before starting work. If you are in any doubt you should obtain professional advice.

### Building Regulations

Before you start construction work you need to obtain separate approval under Building Regulations. You can contact the team on 01275 884550 or submit your application on our [website](#).

### Conditions

This approval is subject to conditions. They are an integral part of the decision and are important because they describe how the council requires you to carry out the approved work or operate the premises. It is your responsibility to comply fully with them.

Please pay particular attention to those conditions that have to be met before work commences. There is a fee for requests for written confirmation that conditions have been complied with. Details of these fees can be found on our website at [www.n-somerset.gov.uk/planningconditions](http://www.n-somerset.gov.uk/planningconditions). When sending us information please include the decision reference number and relevant condition number. Depending on the complexity of the issues involved it can take up to 12 weeks for conditions to be discharged. It is therefore important that you submit any required details to us early.

Applications to discharge planning conditions received from 1st January 2021 will be made available on our website for public inspection. This includes the name, address and contact details of the applicant and their agent. When applying to discharge a planning condition, you should consider very carefully what information about yourself and others you send us. If you do not want information or documents in your application to be shown on our website, please contact us directly when you make your submission so that we can consider your request. The default position is however to make the information public and an exception to this will not normally be agreed.

### Appeals

If you are aggrieved by our decision to impose any of the conditions, then you can appeal to the Secretary of State for the Environment in accordance with the provisions of Town and Country Planning Act 1990. If you want to appeal against our decision then you must do so within 6 months [12 weeks if this is a decision to refuse planning permission for a shopfront proposal or a minor commercial application] of the date of this notice .

Appeals must be made using a form, which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. Alternatively, your appeal can be submitted electronically using the Planning Portal at [www.gov.uk/appeal-planning-inspectorate](http://www.gov.uk/appeal-planning-inspectorate).

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances that excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions imposed, having regard to the statutory requirements, to the provisions of a Development Order or to directions given under it. In

practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

### **Protected species**

The Wildlife and Countryside Act 1981 (as amended) makes it an offence to intentionally or recklessly disturb a protected species while it is occupying a place which it uses for shelter or protection. This includes, for example, bats or birds in roof spaces or cavities. Obtaining planning permission does not grant permission to disturb protected species. Licences can, however, be issued to allow construction works that would otherwise be prohibited. Applications for licences should be made to Natural England before any construction works commence on site.

### **Prepare for floods**

If the scheme to which this approval relates is at risk of flooding you should prepare a flood plan to help keep people safe and protect your property. You can find out if your property is at risk of flooding and how to prepare a flood plan on the [Government's website](#). You should also sign up for [flood warnings](#).

### **Works which affect a Public Highway**

Any works/events carried out by or for a developer which affects the public highway in any way must be co-coordinated in accordance with the New Roads and Street Works Act 1991 and the Traffic management Act 2004 to minimize disruption to users. Developers are required to inform undertakers of their proposed works, to jointly identify any affected apparatus, and to agree diversion or protection measures and corresponding payment.

Developers are also required to liaise/seek permission of North Somerset Council's Street Works Section (01934 888802 or [streetworks@n-somerset.gov.uk](mailto:streetworks@n-somerset.gov.uk)) at least one month in advance of the works and this must be in line with the requirements of the NRSWA 1991 and TMA 2004. The developer must endeavor to ensure that undertaker connections/supplies are coordinated to take place whenever possible at the same times using the same traffic management. It should be noted that where road closures or formal restrictions are required to undertake works, a minimum of three months' notice will be required.

### **Public Rights of Way**

The grant of planning permission does not entitle developers to interfere or obstruct any public right of way (PROW). The obstruction of a PROW is an offence. If required an application can be made to North Somerset Council to divert the PROW and should be made well ahead of any development.

It is also an offence to drive a mechanically propelled vehicle without lawful authority on any PROW. The grant of planning permission should not be treated as a grant of lawful authority. Please contact the PROW Team for further advice on 01934 888802.

### **Changes to Plans**

Should you wish to change your plans for any reason, including the need to meet the requirements of other legislation (for example Building Regulations) it is important that you notify us (i.e. 'the planners') before carrying on with work. Amendments to your approved plans may require a fresh application and could even prove to be unacceptable. Details of how to seek formal approval of amendments to a planning approval can be found on our [website](#) or by visiting the planning portal.

### **Enforcement**

The council has powers to enforce compliance with planning permission and there are penalties for failure to comply. In cases where terms and conditions of planning permission are not adhered to and the Council finds it necessary to take enforcement action, it almost invariably results in delay

and additional expense to the applicant. In extreme cases, it can mean that newly erected buildings have to be demolished.

If the applicant was the Local Authority and the application was made under regulation 3 of the Town and Country Planning General Regulations 1992 (as amended) then this permission enures only for the benefit of the Local Authority and such other person as was specified in the application.

### **Street Naming**

When you receive consent for the building of new a development(s)/property or creating additional flats/units within an existing dwelling, for reasons of public safety and for the allocation of an official postal address, please contact the Street Naming and Property Numbering Section, Town Hall, Weston-super-Mare, BS23 1UJ; Tel: 01275 888761; email: [strnames@n-somerset.gov.uk](mailto:strnames@n-somerset.gov.uk). Learn more on our [website](#).

### **Access to further information**

Further guidance on Planning and Building regulation information and services can be accessed on our website and on the Planning Portal at [www.planningportal.co.uk](http://www.planningportal.co.uk).











