

WARD: Lawrence Hill **CONTACT OFFICER:** Charlotte Sangway
SITE ADDRESS: 33 - 49 Victoria Street Bristol BS1 6AS

APPLICATION NO: 14/04628/X Variation/Deletion of a Condition
EXPIRY DATE: 17 November 2014

Application for variation of condition no. 7 attached to planning permission 14/01424/F (external alterations) - to remove the requirement for non-opening and fixed shut windows at first floor level of the Victoria Street elevation and all windows on the St Thomas Street elevation (i.e. only the windows at ground floor level of the Victoria Street elevation should be fixed shut and non-opening).

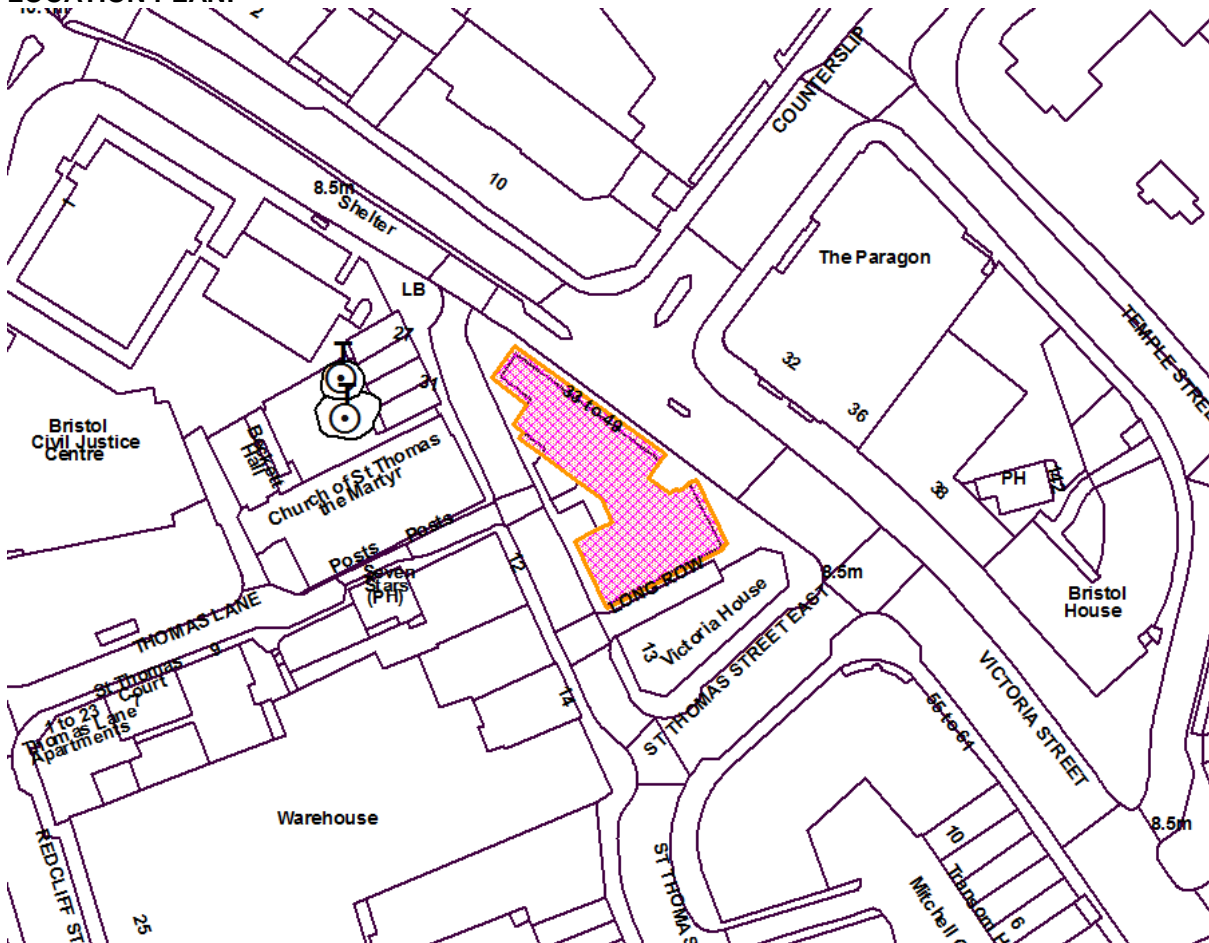
RECOMMENDATION: Refuse

AGENT: Savills (L&P) Plc
Embassy House
Queens Avenue
Bristol
BS8 1SB

APPLICANT: Edenlaw Limited C/o London & County LLP
28 Manchester Street
London
W1U 7LE

The following plan is for illustrative purposes only, and cannot be guaranteed to be up to date.

LOCATION PLAN:



comtop
v4.0408

Development Control Committee A – 22 October 2014
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SUMMARY

The application is for the variation of Condition 7 attached to consent 14/01424/F granted by Committee A (subject to conditions) on 30 July 2014.

Condition 7 relates to a requirement for the windows on certain elevations and at certain levels to be fixed shut and non-opening. The wording of the condition was discussed in detail by Committee and amended by Members as set out below to also require windows on St Thomas Street (opposite The Fleece music venue) to be fixed shut in addition to those recommended by officers. The reasons for the condition are air quality and noise considerations.

The application proposes the amendment of the condition so that only the windows on the Victoria Street elevation at the ground floor level would be required to be fixed shut and those rooms mechanically ventilated for air quality reasons. Further detail has been submitted in terms of air quality levels, noise assessments and the ventilation strategy for the development to justify the variation of the condition.

The publicity and consultation process for this application is ongoing and the deadline for comments to be submitted is 29 October 2014. However the application is for the variation of a condition only and the issues raised by this change in terms of air quality and noise impacts have already been consulted upon as part of the previous application. Officers are therefore bringing this application before Committee to seek a resolution from Members as to whether to grant or refuse the application subject to no new issues then arising from the public consultation process following the expiry of the consultation deadlines.

This approach is recommended on the basis of the simple nature of the variation being proposed, that the issues involved have previously been considered and consulted upon and in order to allow the Committee (A) that determined the original application to determine this current application within the target deadline for determination. All parties that commented in relation to the original application 14/01424/F have been notified of the Committee meeting in order to be given the opportunity to contribute a statement and/ or to speak at the meeting.

The key issues are the air quality and noise implications of varying the condition. In summary, officers are satisfied that the air quality concerns have been addressed. However, there is information outstanding regarding internal noise levels within the rooms with the windows open and the exact ventilation strategy proposed. This information has been requested from the applicant and an update will be provided via the amendment sheet.

In conclusion, based on the information submitted to date officers are recommending refusal of the variation of the condition as sought.

SITE DESCRIPTION

The application relates to an existing commercial property in Redcliffe. The site is designated within the Bristol Local Plan as a site for industrial and warehousing uses and a secondary shopping frontage along Victoria Street. The site is proposed as a Site Allocation within the draft Bristol Central Area Plan (BCAP) for the suggested uses of offices and leisure. The building has recently received Prior Approval for use as a residential use under the Government's change to permitted development rights in May 2013 (reference 13/04116/COU).

The building dates to the 1970s and is six storeys with an additional lower ground floor car park, accessed from St Thomas Street. The property has three frontages onto Victoria Street, St Thomas

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Street and Long Row and the main pedestrian entrance is on Victoria Street. The building is of brick construction.

The site is within the Redcliffe Conservation Area and neighbours several listed buildings including The Fleece & Firkin (the former Wool Hall) (Grade II listed), The Seven Stars Public House (Grade II) The Church of St Thomas The Martyr (Grade II*), 25-31 Victoria Street (Grade II*) and 4-16 Victoria Street (Grade II listed).

RELEVANT HISTORY

14/01424/F- Planning application for external alterations to the building. GRANTED subject to conditions 19.08.2014 (Committee decision 30 July 2014).

13/04116/COU- Prior approval for the change of use from office floor space within class B1 (a) to residential accommodation falling within Class C3 (dwellings). PRIOR APPROVAL GIVEN 01.11.2013

NB The Prior Approval process is a streamlined application process introduced recently that states that such prior approval applications shall be assessed only against the following three issues: ground contamination, flood risk and highways safety. 13/04116/COU was found to be acceptable on all three grounds.

08/20194/REF-Appeal against refusal of application for the demolition of existing building and construction of a 10-storey building comprising 9410 sqm of B1 Office space, 2 no. units at ground floor for Use Classes A1, A3 or A4 and 1 no. unit at ground floor for Use Classes A1, A2 or A5 with basement car parking (Revised Application). ALLOWED 05.06.2009

09/20022/NONDET- Appeal against non-determination of the demolition of the existing office building. ALLOWED 05.06.2009 (five year consent).

08/04484/F- Demolition of existing building and construction of a 10-storey building comprising 9410 sqm of B1 Office space, 2 no. units at ground floor for Use Classes A1, A3 or A4 and 1 no. unit at ground floor for Use Classes A1, A2 or A5 with basement car parking. (Revised Application) REFUSED 17.12.2008 for the following reason:

1. The proposed building would by virtue of its height, scale, massing and materials be an unacceptable development which would harm the street scene and be detrimental to the character and appearance of the Redcliffe Conservation Area and fail to relate satisfactorily with nearby Listed Buildings contrary to policies B1, B2, B5, B6, B8 and B13 of the Adopted Bristol Local Plan (December 1997), guidance contained in the Council's Supplementary Planning Documents 1 'Tall Buildings' (January 2005) and 3 'Future of Redcliffe' (July 2006), guidance contained in the Council's Planning Advice Note 15 'Responding to Local Character' (1998), guidance contained in the Council's Redcliffe Conservation Area Character Appraisal (June 2008) and the provisions of PPS1 'Delivering Sustainable Development' (February 2005) and PPG 15 'Planning and the Historic Environment' (September 1994).

08/04756/LC- Demolition of existing office building. Appeal against non-determination lodged (determined 05.06.2009).

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APPLICATION

The application proposes to vary Condition 7 of consent 14/01424/F.

Condition 7 reads as follows:

Non-opening and fixed shut windows

Notwithstanding the approved plans and the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order); all windows on the St Thomas Street elevation, and all windows at ground and first floor levels within the Victoria Street elevation of the building (including the corner bay window feature at the junction of Victoria Street and Long Row) and the West elevation of the development (to Victoria Street); shall be fixed shut and non-opening and shall be permanently maintained thereafter as fixed shut and non-opening.

Reason: In order to ensure that relevant air quality standards would be met and that noise issues would be satisfactorily addressed.

Condition 7, as originally recommended by officers, was discussed specifically at the Committee meeting on 30 July 2014 and Members voted to grant permission subject to the revised wording set out above, including that all windows on the St Thomas Street elevation should be fixed shut and non-opening.

The current application proposes to vary Condition 7 to require only the ground floor windows of the Victoria Street elevation to be fixed shut and non-opening.

If granted, the effect of this change would be to re-word the condition as follows:

Non-opening and fixed shut windows

Notwithstanding the approved plans and the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order); all windows at ground floor level within the Victoria Street elevation of the building (including the corner bay window feature at the junction of Victoria Street and Long Row) and the West elevation of the development (to Victoria Street); shall be fixed shut and non-opening and shall be permanently maintained thereafter as fixed shut and non-opening.

Reason: In order to ensure that relevant air quality standards would be met and that noise issues would be satisfactorily addressed.

PRE APPLICATION COMMUNITY INVOLVEMENT

The application is a 'minor' scale application and the submission of a Community Involvement Statement (CIS) is not an application requirement.

RESPONSE TO PUBLICITY AND CONSULTATION

A site notice and press notice were posted/ published on 8 October 2014 (with a deadline for comments to be submitted of 29 October 2014).

Neighbours and parties that commented in respect of the previous application were consulted by individual letter dated 2 October 2014 (with a deadline for comments to be submitted of 23 October

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2014).

As set out under the 'Summary' section above, the deadline for comments is after the Committee meeting date (22nd October 2014) and therefore the application is being brought to Committee to undertake a resolution to either grant or refuse the proposal to vary Condition 7 subject to no further issues that would influence this decision arising from the consultation process following the Committee meeting.

2 written representations had been received at the time of writing objecting to the proposals on the following grounds:

- The windows should be fixed shut to avoid conflict with The Fleece music venue in terms of noise;
- The developers should have considered the noise implications in determining whether the scheme would be economically viable for residential use.

OTHER COMMENTS

The Air Quality Management Team has advised that they are satisfied that the further information submitted now demonstrates that the only requirement for fixed shut windows is at the ground floor level of the Victoria Street elevation and West elevation.

The Pollution Control Team has raised concerns that insufficient detail has been submitted to demonstrate that a satisfactory system of mechanical ventilation would be provided to allow future residents to close their windows at times when the outside noise levels would be greatest and higher than the guidelines for habitable rooms.

The Building Regulations Team has advised that the details submitted of the ventilation system proposed is insufficient to explain exactly what ventilation system is being proposed, as there are a number of possible options that would meet Part F of Building Regulations.

RELEVANT POLICIES

National Planning Policy Framework – March 2012

Bristol Core Strategy (Adopted June 2011)

BCS2	Bristol City Centre
BCS9	Green Infrastructure
BCS21	Quality Urban Design
BCS22	Conservation and the Historic Environment
BCS23	Pollution

Bristol Site Allocations and Development Management Policies (Adopted July 2014)

DM1	Presumption in favour of sustainable development
DM14	The health impacts of development
DM17	Development involving existing green infrastructure
DM26	Local character and distinctiveness
DM28	Public realm
DM30	Alterations to existing buildings
DM31	Heritage assets
DM33	Pollution control, air quality and water quality
DM35	Noise mitigation

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Bristol Central Area Plan (emerging)

BCAP47 The approach to Redcliffe
BCAP SA 6 Site allocations in Redcliffe

Supplementary Planning Documents

SPD3 Future of Redcliffe (July 2006)

Supplementary Planning Guidance

Redcliffe Conservation Area Character Appraisal

KEY ISSUES

(A) IS THE VARIATION OF CONDITION 7 ACCEPTABLE IN PLANNING TERMS?

Condition 7 was applied originally in order to ensure that relevant air quality standards would be met and that noise issues would be satisfactorily addressed.

These matters are addressed in turn below:

Air Quality

The applicant has carried out further modelling and provided an updated report regarding this matter.

The Air Quality Management Team has confirmed that they are satisfied that the air quality standards would only be exceeded at the ground floor level on Victoria Street and the West elevation (to Victoria Street) and that it is only at this level that they would seek for windows to be fixed shut and mechanical ventilation provided.

It is the advice of your officers that the reference within Condition 7 to the first floor level windows to Victoria Street and the West elevation can be deleted on this basis.

Noise Issues

The key issue with this application is the impact of noise from The Fleece music venue situated opposite the site.

An amended Noise Assessment has been submitted. The Pollution Control Team is satisfied that this demonstrates that the noise environment within the dwellings would be acceptable when windows are closed based on the level of noise insulation proposed.

No details have been submitted to demonstrate the internal noise levels with the windows open, however based on the noise assessment of background noise levels; the Pollution Control Team has advised that the noise levels would very likely exceed the recommended standards for internal living areas. This information has been requested from the applicant and an update will be provided via the amendment sheet regarding this matter.

The Pollution Control Team do not object to the windows to St Thomas Street being openable (as this would give the occupants the option of improved ventilation and comfort during quieter periods), provided that a satisfactory scheme of ventilation and cooling would be ensured so that residents could close windows during the noisiest periods of operation of The Fleece without experiencing discomfort and loss of amenity due to poor ventilation and overheating.

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However, it should be noted that Members took the view at the 30th July 2014 Committee (A) meeting for the determination of application 14/01424/F that all of the windows on the St Thomas Street elevation should be fixed shut to prevent a conflict between protection of the amenity of future occupiers and The Fleece's operations.

Ventilation

The applicant has submitted details of the proposed ventilation system currently proposed for the building based on the scenario that the variation of the condition is successful (i.e. the ventilation system has been designed on the basis of opening windows to St Thomas Street being allowed with fixed shut windows only to the ground floor level on the Victoria Street and West elevation (to Victoria Street)).

These details set out that the ventilation system would comprise two aspects:

- a) A 'whole house' mechanical ventilation and heat recovery system (MVHR) to each apartment with fresh air and exhaust air ducted from roof level or building facades. It is stated that this would enable adequate ventilation for normal occupation with closed windows.
- b) Purge ventilation i.e. openable windows. It is stated that this would meet Part L Building Regulations requirements, including in terms of overheating considerations.

The detail submitted states that openable windows are a Building Regulations Part F requirement with this mechanical ventilation system. However, the details supplied are limited and it is not clear exactly the detail of the system being proposed and its specifications.

The key query is whether there would be satisfactory ventilation provided such that residents could close windows for extended periods during the highest levels of background noise (i.e. at the peak times of operation of The Fleece). As this is likely to be mainly in the evening/ at night, it should be demonstrated that residents would not need to open windows for ventilation over this period either for ventilation or cooling purposes.

Further information has therefore been sought from the applicants of the further detail of the mechanical ventilation system proposed, with the intention of providing an update to Members via the Committee amendment sheet.

Feasibility and viability

The applicant has also submitted additional information regarding the type of ventilation system that would be required if their request to vary the condition is not granted and the windows to St Thomas Street would still be required to be fixed shut.

A more comprehensive mechanical ventilation system would be required in this instance and details are provided within Savills' covering letter and the Hydrock 'Design note on HVAC proposals and overheating of apartments'. These details state that such a system would not be feasible because of the space requirements for ducting, roof mounted air handling plants and basement-located cooling equipment, which would have visual and acoustic impact of their own, would take up space to be provided for parking and may require the provision of an increased size sub-station.

It is also stated that the viability of the scheme would be threatened by the costs of these systems and the fall in sales values if windows were not openable.

The consideration of noise in the assessment of planning applications is set out within the National Planning Policy Guidance (NPPG) and provides a clear justification for Local Planning Authorities to consider such matters and to seek planning conditions to mitigate the impacts of development

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through noise such as through noise insulation. Local planning policies BCS23 of the Core Strategy and DM35 specifically require consideration of noise impacts and noise mitigation. Condition 7 is therefore clearly in accordance with the requirements for conditions in being necessary, relevant and reasonable.

The requirement for fixed shut windows or openable windows with a satisfactory ventilation system is therefore necessary to make this application acceptable in planning policy terms. Without this condition the proposal would not provide a satisfactory living environment for future occupiers of the site by reason of noise disturbance. Such a situation would lead to noise complaints against the operations of The Fleece that could threaten the continued operation of the business and would be unacceptable in policy terms.

The NPPG (Viability paragraph 001) states that where the viability of a development is in question, local planning authorities should look to be flexible in applying policy requirements wherever possible. Paragraph 019 (NPPG- Viability) states that "Assessing viability should lead to an understanding of the scale of planning obligations which are appropriate. However, the National Planning Policy Framework is clear that where safeguards are necessary to make a particular development acceptable in planning terms, and these safeguards cannot be secured, planning permission should not be granted for unacceptable development."

The nature of the requirement in this instance would lead to unacceptable harm and therefore it is the view of officers that in respect of this issue there is no flexibility in applying the relevant policy requirements (unlike other policy issues where viability is considered for example affordable housing, where no direct harm to amenity/ living conditions and business viability would occur).

The viability argument does not outweigh the harm that would be caused to residential occupiers or the viability of The Fleece's business as a result of the proposals.

Summary

In conclusion, on the basis of the information submitted it is recommended that it would not be acceptable to vary the wording of the condition without a satisfactory scheme of ventilation to be agreed by the Local Planning Authority via Condition 3. While the air quality issues are considered to have been addressed in respect of the Victoria Street elevation, in terms of the St Thomas Street windows, the applicant has clearly stated that they would not provide a full mechanical ventilation system (suitable for use without openable windows). Refusal of the requested variation is recommended.

Should the further requested information change this position and recommendation, then this would be made clear on the Committee amendment sheet.

CONCLUSION

Refusal of the application is recommended.

COMMUNITY INFRASTRUCTURE LEVY

How much Community Infrastructure Levy (CIL) will this development be required to pay?

Development of less than 100 square metres of new build that does not result in the creation of a new dwelling; development of buildings that people do not normally go into, and conversions of buildings in lawful use, are exempt from CIL. This application falls into one of these categories and therefore no CIL is payable.

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RECOMMENDED

The following reason(s) for refusal are associated with this decision:

Reason(s)

1. The proposed variation of the condition would be unacceptable as insufficient detail has been submitted to demonstrate that a satisfactory scheme of ventilation would be installed to the residential properties with windows in a closed position for use at times when noise levels would cause unacceptable harm to residential amenity with the windows open.

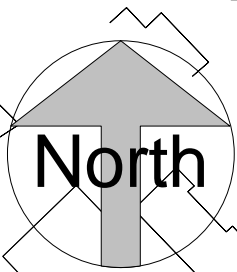
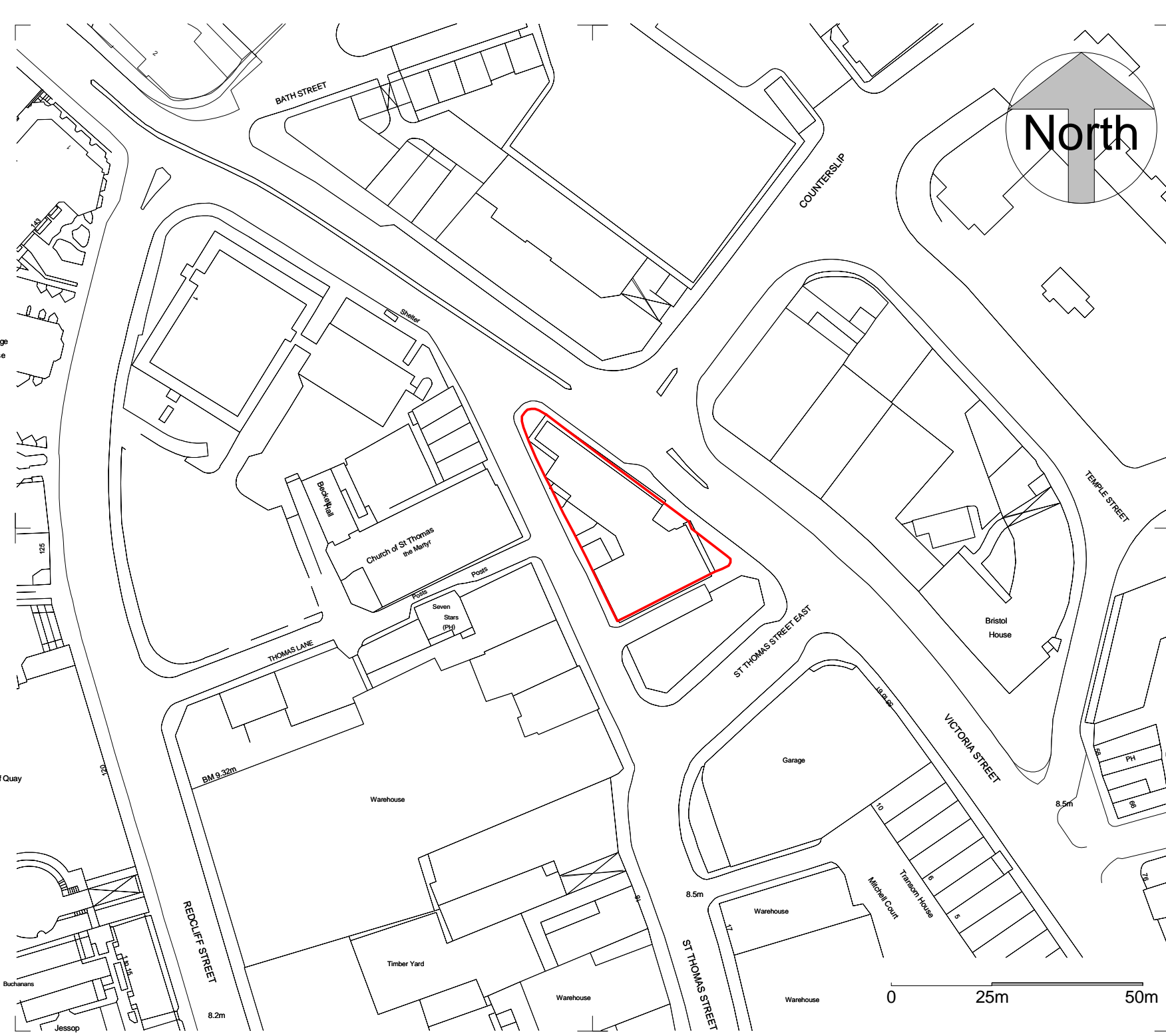
On this basis, the application has failed to demonstrate that it would meet national policy objectives set out within the National Planning Policy Framework to create high quality living accommodation and contribute to goals to achieve healthy and sustainable communities and to address noise considerations as set out within the National Planning Practice Guidance. The proposals would also fail to meet local planning policy requirements set out in Policy BCS23 of the Bristol Core Strategy by failing to design a development that satisfactorily takes account of existing sources of noise pollution and considers the impact of the development on the viability of existing uses by reason of its sensitivity to noise. The proposal would also fail to meet the requirements of Policy DM35 of the Bristol Site Allocations and Development Management Policies Document by failing to provide a scheme of satisfactory noise mitigation (including satisfactory ventilation).

Advice(s)

1. Refused Applications Deposited Plans/Documents

The plans that were formally considered as part of the above application are as follows:-

Air quality report, received 22 September 2014
Noise assessment, received 22 September 2014
Hydrock hvac strategy, received 22 September 2014
1000 B Location plan, received 22 September 2014



Notes
 This drawing may be scaled for the purposes of Planning Applications, Land Registry and for Legal plans where the scale bar is used, and where it verifies that the drawing is an original or an accurate copy. It may not be scaled for construction purposes. Always refer to figured dimensions. All dimensions are to be checked on site. Discrepancies and/or ambiguities between this drawing and information given elsewhere must be reported immediately to this office for clarification before proceeding. All drawings are to be read in conjunction with the specification and all works to be carried out in accordance with latest British Standards / Codes of Practice.

Rev	Date	Init	Notes	Chkd
A	11/02/2	CP	Application Boundary amended	PB
B	19/02/2	CP	Planning submission	PB
	014			

Application Boundary

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Project Title
**33 Victoria Street
 Residential Refurbishment**

Drawing Title

Location Plan

Scale: 1 : 1250 Sheet Size: A4 Drawn: TM

Date: 28/08/13 Checked: PB

Status
PLANNING

Project No.	Drawing No.	Revision
3224	1000	B



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Rev	Date	Description	By
A	13/02/20	CP balcony revisions and window areas amended	PB
B	19/02/20	CP Planning submission	PB
C	06/03/20	CP PLANNING ISSUE	PB
D	21/03/20	CP PLANNING ISSUE revised area scheme	PB
E	23/06/20	CP PLANNING ISSUE - Planning officer amendments	PB
F	25/06/20	CP PLANNING ISSUE - Planning officer amends balcony revert	PB



NORTH ELEVATION - TO VICTORIA STREET



EAST ELEVATION - TO St THOMAS ST E

- MATERIALS KEY**
- (1) Engineering brick base (Re-use of existing bricks and/or match with similar)
 - (2) Stone effect cladding system (natural) colour TBA
 - (3) Stone effect cladding system (buff) colour TBA
 - (4) Metal panel cladding system (dark grey)
 - (5) Spandrel panel - Opaque coloured glass (various shades of green)
 - (6) Powder coated dark grey aluminium framed window system
 - (7) U profile glazing system laid horizontally.
 - (8) Balconies with grey metal edging and glazed balustrades
 - (9) Planter with steel cable trellis.
 - (10) Perforated metal or metal mesh used as privacy screen and car park ventilation panel.
 - (11) Metal and Glass entrance canopy
 - (12) Spandrel panel - Opaque coloured glass (dark grey)
 - (13) Buff coloured render system
 - (14) Dark grey metal coping

Note: Flat sizes may vary dependent on applied detail layout
 Note: AOV's (automatically opening vents) to achieve 1.5m² free area unless otherwise stated.

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Project Title
**33 Victoria Street
 Residential Refurbishment**

Drawing Title
Proposed Elevations 1

Scale	Sheet Size	Drawn
As indicated	A1	CP
05/12/13		Checked
		PB

Status
PLANNING

Project No.	Drawing No.	Revision
3224	3000	F

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- 06_Sixth 17850
- 05_Fifth 15150
- 04_Fourth 12450
- 03_Third 9750
- 02_Second 7050
- 01_First 4350
- 00_Ground 1500
- Street Level 0
- 01_Basement -1300



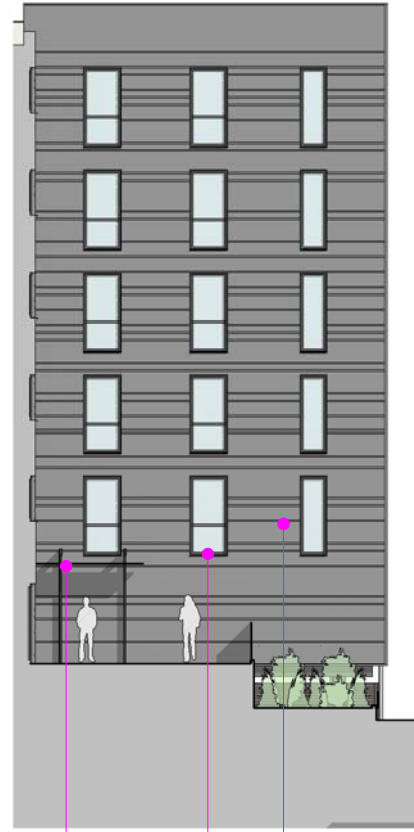
SOUTH ELEVATION - To St THOMAS ST

- 06_Sixth 17850
- 05_Fifth 15150
- 04_Fourth 12450
- 03_Third 9750
- 02_Second 7050
- 01_First 4350
- 00_Ground 1500
- Street Level 0
- 01_Basement -1300

Planters, climbing plants and steel cable trellis form an attractive living green screen



WEST ELEVATION - TO VICTORIA ST



MATERIALS KEY

- (1) Engineering brick base (Re-use of existing bricks and/or match with similar.)
- (2) Stone effect cladding system (natural) colour TBA
- (3) Stone effect cladding system (buff) colour TBA
- (4) Metal panel cladding system (dark grey)
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Project Title
**33 Victoria Street
 Residential Refurbishment**

Drawing Title
Proposed Elevations 2

Scale Sheet Size Drawn
 As A1 Author
 Indicated 12/05/13 Checked
 Status PLANNING

Project No.	Drawing No.	Revision
3224	3001	F