

# Bristol City Council

## Minutes of the Development Control A Committee



22 February 2017 at 2.00 pm

### Members Present:-

Councillors: Lesley Alexander (Chair), Harriet Bradley, Stephen Clarke, Mike Davies, Kye Dudd, Steve Pearce, Jo Sergeant, Clive Stevens and Mark Wright

### 1. Apologies for Absence and Substitutions

Apologies received from –

- (a) Councillor Breckels, substituted by Councillor D Alexander;
- (b) Councillor Windows, no substitution.

### 2. Declarations of Interest

Declarations received –

- (a) Agenda item 7 (d) - Councillor Clarke non pecuniary interest as member of the Port authority and confirmed would not take part for this item;
- (b) Agenda item 7 (d) - Councillor D Alexander non pecuniary interest as member of the Port authority and that he had expressed views on the Application in his Ward. Councillor D Alexander confirmed that he had submitted a statement for the Committee's consideration and would not take part for this item;
- (c) Agenda item 7 (d) - Councillor Sergeant non pecuniary interest as a Ward member but confirmed that she had not made a judgement on the Application so would take part in the consideration of the Application;
- (d) Agenda item 7 (a) - Councillor Davies non pecuniary interest, as his employer (Thangam Debonnaire MP for Bristol West) had made comments on the Application, but confirmed that he had not made a judgement on the Application so would take part in the consideration of the Application.

### 3. Minutes of the previous meeting



The Minutes of the last meeting held on 11<sup>th</sup> January 2017 were agreed as a correct record.

#### 4. Appeals

The Service Manager, Development Management updated the Committee -

Item 5 – appeal was written representation but Planning Inspectorate now wanted an Informal Hearing; Items 29 – 34 appeals were associated with an application to DC B Committee but Change of Use was allowed even though application subject to DC B decision was already being implemented. A partial award of costs was granted against the Council because the refusal reason concerning ventilation could have been dealt with by Condition.

#### 5. Enforcement

The report was noted.

#### 6. Public Forum

Members of the Committee received public forum statements in advance of the meeting. The Statements were heard before the application they related to and were taken fully into consideration by the Committee prior to reaching a decision. *(A copy of the public forum statements are held on public record by Democratic Services [democratic.services@bristol.gov.uk](mailto:democratic.services@bristol.gov.uk)).*

#### 7. Planning and Development

##### 8. Application Number 15/06400/F - Former Chocolate Factory, Greenbank Road, Easton Bristol BS5 6EL

Members were reminded that this application had been deferred by the Development Control Committee (A) meeting on 30 November 2016, after concerns had been raised about the level of affordable housing provided on the site and the highway impacts with regard to parking and traffic. Two reasons for deferral had been put forward namely –

(A) Further consultation with local stakeholders about the need for more affordable housing on the site including discussions about:

- (i) the possibility of a trade-off between the need for retaining the existing buildings and provision of further affordable housing on the site;
- (ii) further analysis of the viability appraisal reports used in the assessment process as appropriate;
- (iii) negotiations with the developers about the mix of uses on site and potential flexibility with the site allocation policy;



(B) Further discussions with the developers about parking and traffic.

The Service Manager, Development Management explained that the Applicant had submitted an appeal against non-determination to the Planning Inspectorate including an application for costs against the Council. This meant that the application would now be decided by the Secretary of State for Communities and Local Government via the Planning Inspectorate. The Council was now required to put forward, to the Planning Inspectorate, reasons on which the Planning application, would have been refused, if a decision had been taken by the DC (A) Committee. This would assist the Planning Inspectorate to assess the merits of the application and reach a decision on the Appeal.

The Committee was advised that having regard to the specific issues and conclusions raised at the November meeting (which included a detailed professional assessment of scheme viability) there would be no reasonable planning case to be made regarding refusal of this application on the viability of delivering additional affordable housing on the site or on parking and traffic grounds.

The Committee was strongly advised that it should now focus on limiting the Council's potential financial exposure in this situation. Additional costs would be incurred in appointing consultants to prepare the Council's written appeal statement and to prepare further evidence regarding viability. The Appellant would also prepare further evidence as a rebuttal to anything that the Council puts forward and, bearing in mind the existing application for costs, there was a high risk that the Council might have to cover all of the costs.

During the ensuing debate members of the Committee expressed their serious concern about the 'Planning system' that put the Council in a difficult position due to financial costs being awarded against it. Various ideas and suggestions were put forward by members in order to find an acceptable solution but it was ultimately realised that the law and policy as it currently stood barred any of the ideas from reaching an acceptable fruition.

It was recognised that this particular problem was a wider issue than this individual application and that policy relating to affordable housing and viability would have to be reviewed and significant changes made in order to mitigate the situation the Committee currently faced.

It was subsequently moved and seconded that if the Committee had the power to determine the Application that permission be granted.

On the motion being put to the vote there were 7 in favour and 3 against.

**Resolved –**

**1. That if the Committee had the power to determine the application it would have GRANTED planning permission, subject to the obligations (including the delivery of 6**



affordable units) set out in the report to committee on 30th November 2016 and the associated Amendment Sheet, to be secured by an agreement or undertaking under s106 of the Town & Country Planning Act 1990, and all of the proposed conditions;

**2. That the Head of Development Management be authorised to advise the Planning Inspectorate of this resolution and that the Council does not intend to defend the Appeal.**

#### **9. Application Number 16/03029/F - Somerset House, 18 Canynge Road, Bristol BS8 3JX**

Members were reminded that this application had been deferred following consideration at the Development Control Committee A meeting which took place on 19 October 2016. At the meeting, Members had raised a number of concerns which were discussed, and initially 7 reasons for deferral were put forward as a motion and seconded.

These were as follows:

- (a) the site was an unsustainable location for housing;
- (b) the impact of the design in a conservation area;
- (c) loss of employment;
- (d) impact on car parking;
- (e) loss of light;
- (f) loss of privacy;
- (g) loss of Yew tree on site.

The vote to defer the application on these 7 grounds was lost, and instead 2 reasons for deferral were put forward, as follows:

- (a) the design of the proposals in terms of their location in a conservation area, and their scale, given the context;
- (b) loss of the plane tree on site;

The Committee resolution was that these issues should be looked at by the applicant and by officers before being brought back to Committee in a revised form for a decision.

The Applicant subsequently notified planning officers on 4 January 2017 that they had submitted an appeal against non-determination to the Planning Inspectorate but had not included an application for costs.

The Committee was informed that there were grounds for refusal and it was proposed that the Council would put forward its case at the Appeal. A consultant would be appointed to present the Council's case.

During the debate the following points were considered/made –

1. The Council could choose not to defend its decision;



2. If the Appeal went ahead the Committee would need to define its reasons for refusal;
3. The costs relating to an appointment of a consultant were significant and for a hearing could be in the region of £30k-40k;
4. The chance of success at the Appeal was around 50%/50%;

After further consideration it was moved and seconded that the case be not defended at the Appeal.

On the motion being put to the vote there were 6 in favour and 4 against.

**Resolved –**

- 1. That if the Committee had the power to determine the application it would have GRANTED planning permission, subject to the conditions set out in the report to committee on 19th October 2016 and the associated Amendment Sheet;**
- 2. That the Head of Development Management be authorised to advise the Planning Inspectorate of this resolution and that the Council does not intend to defend the Appeal.**

**10 Application Number 16/00828/F - O + M Sheds, Welsh Back, Bristol BS1 4SL**

Members were reminded that this application had been considered at the Development Control Committee A meeting on 19 October 2016. Arising from a number of concerns the Application had been deferred for the following reason:

‘A decision on the application be deferred for the proposals to be amended to accommodate the existing residential mooring, including removal of the proposed walkway and outdoor seating on the harbour side of the site, plus ensuring that the windows on this elevation are obscurely glazed.’

The Committee was advised that this application was not subject to an appeal and could be determined on its own merits emphasising that the houseboat issue was not a planning matter and for that reason the officer recommendation was for approval.

Arising from the debate the following points were made/considered –

1. Bristol City Council was the land owner of the development site and the harbour authority, the Committee had to act outside of these roles as the Local Planning Authority;
2. In order to protect amenity the houseboat would need to be relocated and, in its Local Planning Authority role, the Committee could secure this through a ‘negative’ condition that would prevent the development from taking place whilst the houseboat remained;
3. A point was raised about the Council having conflicting interest as landowner in relation to the removal of the houseboat. The Committee was advised that this issue was not a material planning consideration;



4. Bat activity on the site had not been confirmed but a condition to protect any bat conservation issues had been included as part of the permission;
5. Questions were raised about the difference between use classes A3 (café / restaurants) and A4 (drinking establishments) and the differing effects on local residents. The committee were informed that suitable controls were in place to prevent a change of use from A3 to A4 without planning permission, although sometimes the boundaries between the two uses could be blurred;
6. If the Application was refused the Applicant would have the right to appeal;
7. The site was not allocated for housing in the adopted Central Area Plan. Overall, the Bristol Local Plan already included sufficient allocated housing sites to meet the housing need identified in the Core Strategy, although this overall objective was being assessed through the emerging Joint Spatial Plan which in itself would trigger a review of the Bristol Local Plan. The Committee had to determine this application in accordance with the currently adopted development plan. In addition, the recently published Government white paper on housing acknowledged that future development was not all about housing, it was about creating places that included supporting uses such as the ones being proposed by this application;

After further consideration it was moved and seconded that the Application be refused on the following grounds –

1. The development would have a significant impact on the historic use of the Quayside by large boats;
2. The development would harm the amenity of local residents;
3. The development would provide potential for anti-social behaviour;

On the motion being put to the vote there were in 5 favour, 3 against and 2 abstentions.

**Resolved –**

**That permission be refused for the following reasons –**

- 1. The development, particularly the cantilevered decking, would compromise the historic setting of the Harbour;**
- 2. The development would impede the historic use of the quayside, which is the residential mooring of large boats;**
- 3. The development would result in harm to the amenity of local residents.**

#### **11 Application Number 16/05322/F - Land Adjoining Berth T and Graving Dock Royal Edward Dock Bristol**

*(Councillors D Alexander and S Clarke did not take part in the debate or decision for this application)*

The Committee was advised that this application had received an 'advise against' recommendation (objection) from The Health and Safety Executive, however it was considered that draft conditions set out



in the report would overcome the issues that had been raised. As approval of the application was technically against the HSE's advice it was considered that the Committee should make the final decision to allow for further scrutiny and discussion.

The recommendation also requested delegated authority that if, prior to the city council issuing the decision notice, further information is received which provides suitable additional information relating to the conditions below, that the conditions be varied to take account of this prior to the issuing of the decision notice. Any variation must be approved by the Development Management Service Manager.

During the discussion the following points were made/considered –

1. Enforcement of the Conditions would not be done proactively as the Compliance officer posts were recently deleted as part of the Corporate Strategy savings plan, however there was still a reactive enforcement function that would investigate if complaints were received;
2. Deliveries of materials to the site would be by boat or rail, not lorries;
3. There was no requirement for a condition regarding explosive storage as this was covered under separate health and safety law and regulations;
4. That a condition to be added to monitor air quality and the noise monitoring should take account of tonality & impulse.

It was moved and seconded that the Application be approved.

On being put to the vote the Committee was unanimously in favour.

**Resolved –**

1. **That permission be Granted subject to the Conditions as set out in the report and the Amendment sheet, with delegated authority for the conditions to be updated prior to issuing the decision subject to the receipt of new suitable information, with prior agreement of the Development Management Service Manager;**
2. **That a condition to be added to monitor air quality.**

## **12 Application Number 16/04561/F - Linear Park, Avon Street, Bristol**

The Committee was informed that this application was in a key city centre location and emphasised to Members the negotiated proposals, which were now recommended for approval subject to a number of conditions and a section 106 agreement.

It was important to note that the development did not fully comply with a number of policies including affordable housing provision, compliance with the Bristol Temple Quarter Enterprise Zone Spatial Framework, housing mix, public art and sustainability / climate change mitigation. However planning policies did allow for the consideration of viability issues to be set against the relevant policy issues.



A viability assessment had been submitted as part of the application package which clarified that in order to meet all of the policy objectives the development would not be viable. Therefore, officers had sought to negotiate a scheme which achieved a reasonable mix of residential accommodation, including the provision of affordable housing, a fabric first approach in terms of sustainability and a more constrained approach to the public realm works around the site.

Members noted the viability criteria but emphasised their desire for more affordable housing and some questioned giving approval for the scheme. Particular attention was drawn to this issue by a comment made by the applicant, during his public forum comment, that suggested that the construction period was notably shorter than that set out in the submitted viability appraisal. The Planning Obligations Manager suggested that if this was the case, this would have a favourable impact on scheme viability which could potentially increase the amount of affordable housing delivered as part of the proposal. In response to questions from members, the Service Manager - Development Management advised that the Committee could approve the application subject to delegated authority being given to officers to verify the viability aspects in the light of this apparently new information. The delegated authority could be given subject to officers reporting the outcome of this work back to the Chair of the DC A Committee. An extension of time would be sought regarding the legal agreement to facilitate this.

The officer suggestion was accepted but the Committee reiterated its strong support for greater affordable housing provision for future development proposals.

On the Application being put to the vote, there were 9 in favour and 1 against.

#### **Resolved –**

- 1. That permission be Granted subject to Conditions and the completion of the S106 planning agreement as set out in the report;**
- 2. That delegated authority be given to the Local Planning Authority to secure the Section 106 planning agreement to finalise the affordable housing provision and report the outcome to the Chair of the DC A Committee.**

#### **13 Application Numbers 16/02964/F and 16/02349/F - (16/02964/F) 16A St Thomas Street, Bristol BS1 6JJ and (16/02349/F) Land Bounded by Redcliff Street, St Thomas Street and Three Queens Lane, Redcliffe, Bristol BS1 6LJ**

The Committee was advised that these applications were being brought back to Committee in order to address the issues raised by Historic England (HE) in the submission of a pre-action protocol letter prior to an application for Judicial Review . HE were principally concerned that all the relevant statutory requirements and policy considerations were taken into account. A new Key Issue had been presented including an analysis of the impact of the heritage assets, drawing particular attention to the distinction between nearby listed buildings and the conservation area.





The Officer reported that they undertook an assessment required by Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and gave special regard to the desirability of preserving the heritage assets, their setting and any features of special architectural or historic interests they possess.

It had been concluded that the application proposal would result in harm to the Conservation Area and to listed buildings by virtue of the change in grain and scale of development. Officers have given this harm considerable importance and weight and having undertaken this assessment officers consider that it will not however result in significant harm that would warrant the application being refused.

No amendments had been made to the application proposal brought to Committee on 30 November 2016 and officers maintained their recommendation for approval having regard to all material considerations.

On Applications 16/02964/F and 16/02349/F being put to the vote, there were 9 in favour and 1 against.

**Resolved –**

**That permission be Granted applications 16/02964/F and 16/02349/F subject to Conditions and the completion of the S106 planning agreement as set out in the report.**

**14 Date of Next Meeting**

5 April 2017 @ 6 pm.

Meeting ended at 6.45 pm

**CHAIR**

