

# Bristol City Council

## Minutes of the Development Control B Committee

9 December 2020 at 2.00 pm



### Members Present:-

**Councillors:** Richard Eddy (Vice-Chair), Lesley Alexander, Tom Brook (Chair), Mike Davies, Paul Goggin, Fi Hance, Chris Jackson, Jo Sergeant, Clive Stevens and Sultan Khan

### Officers in Attendance:-

Gary Collins and Jeremy Livitt

## 1. Welcome, Introduction and Safety Information

The Chair welcomed all parties to the meeting.

## 2. Apologies for Absence

Apologies for absence were received from Councillor Olly Mead (Councillor Paul Goggin substituting) and Councillor Nicola Bowden-Jones (Councillor Jo Sergeant substituting).

## 3. Declarations of Interest

Councillor Clive Stevens declared an interest in Agenda Item 8(b) Planning Application Number 19/04167/F Telephone Exchange St Johns Road Clifton Bristol BS8 2EU as he had submitted a Public Forum Statement and Questions for this application.

In accordance with the Council's Code of Practice for Councillors on Planning Matters, he indicated that he would withdraw from the meeting for the duration of this item.

## 4. Minutes of the previous meeting held on Wednesday 11th November 2020

It was moved by Councillor Tom Brook, seconded by Councillor Richard Eddy and upon being put to the vote, it was

RESOLVED – that the minutes be approved as a correct record.



## 5. Appeals

Officers advised the Committee that there had been a recent surge in appeals and he made the following comments:

Items 7 to 13 relating to Hamilton House – the hearing for these applications was taking place today (ie Wednesday 9<sup>th</sup> December 2020)

The hearing in respect of the site of the former Giant Goram Public House was likely to be held in the New Year. It was noted that it would be held as an informal hearing on 12<sup>th</sup> January 2021. Anyone wishing to attend would need to register to do so and would be able to submit evidence to it.

Two appeals were taking place in respect of Former Pring and Street Hill Limited, Malago Road. The hearings would take place on Tuesday 15<sup>th</sup> January 2021.

The Public Inquiry for St Catherines Place Shopping Centre East Street Bedminster was scheduled to take place on 26<sup>th</sup> January 2021 and would be held as virtual meetings.

## 6. Enforcement

It was noted that enforcement action had been taken in respect of 420 Sandwell Road.

## 7. Public Forum

Members of the Committee received Public Forum Statements in advance of the meeting.

The statements were heard before each application they related to and were taken fully into consideration by the Committee prior to reaching a decision.

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The Committee received a statement from David Sweeting in respect of Planning Application Number 20/02274/F which was previously approved at DCB Committee on 19th August 2020 –Address: Unit 7 Merton Road, Bristol.

Officers advised the Committee that the enforcement team had written to the developer for this application to request that they comply with the required pre-commencement conditions and that they desist from their current works which were different from what was approved. It was noted that this matter could be escalated further as necessary.



Committee members expressed concern at this situation and made the following comments. Officers responded as indicated:

- In situations such as this where conditions were repeatedly violated, the local community suffered. Urgent discussions were required with building and planning enforcement and the matter needed to be dealt with quickly.
- This was a matter of great concern as applications were frequently only approved on the basis that certain conditions were adhered to. However, officers confirmed that conditions were legally binding
- Whilst there had been attempts to negotiate with this developer, there seemed to have been difficulties with communications
- Decisions were made on the understanding that conditions would be adhered to and these should be properly enforced. Notwithstanding any legal constraints, the process needed to take place quicker
- Officers confirmed that they would check to see the number of complaints that had been received concerning enforcement and details of response rate. There were performance management statistics that could be provided. They acknowledged members concerns but pointed out that following a reduction in resource the enforcement team only consisted of 3.5 people for the whole city. Therefore, these could no longer operate on a proactive basis as they previously had done but relied very heavily on responding to complaints.
- In response to concerns as to when officers could take action in such circumstances, officers confirmed that the management protocol in these situations required an initial period of negotiation and a small window of opportunity for the developer to act prior to enforcement action being taken. If a breach had occurred and compliance did not take place, an application could be made to the magistrate for enforcement action. However, care did need to be taken to follow the approach properly as the appellant did have a right of appeal. In the event that the Local Planning Authority were deemed to have acted in an excessive manner, they could be liable for compensation
- Officers confirmed that the existing resource model for enforcement operated for a 5 year period and was cross-subsidised based on income.

At the end of the discussion, the following pieces of action for enforcement notices were agreed for officers:

- An update on this specific enforcement action before and after Christmas as required
- A briefing on how enforcement operates, including provision of enforcement information and timescales as well as resource constraints
- Enforcement data over a year including numbers and results



## 8. Planning and Development

The Committee considered the following applications set out below:

### 9. Grange Court Grange Court Road Bristol BS9 4DW

The Committee noted that this application was being reconsidered in accordance with Committee procedure following the decision at the previous Committee meeting that it was minded to refuse the application on the grounds of impact to visual amenity, impact to amenity to existing residents and parking impacts.

Members were reminded of the details of the application which needed to be considered in accordance with Government legislation relating to prior approval under permitted development rights.

Officers drew members' attention to the report which set out the reasons under which the Committee might refuse the application based on the visual impact of two additional stories on neighbouring properties and existing residents, highways impact due to the lack of on street parking and the external appearance of the proposed building.

In response to members questions, officers made the following comments:

- The Committee was free to consider the application on the merits of the evidence provided, including lack of evidence in relation to the time of the day of the parking survey that was carried out
- Since the application was next to a Conservation Area but not within it and due to its status as a prior approval planning application, there were more limited grounds on which it could be considered
- The reference to external appearance as one of the suggested reasons for refusal could still be considered by the Committee and could be defended at appeal
- Residents' views on the appearance of the building could still be considered in making the decision

Councillor Richard Eddy moved, seconded by Councillor Sultan Khan and upon being put to the vote, it was

**RESOLVED (9 for, 1 against) – that the application be refused on the following grounds:**

#### Highways Impacts

**1. The application is not supported by sufficiently robust evidence to demonstrate that there is adequate on-street parking capacity to accommodate parking arising from the development without safety and congestion issues. In addition to existing on street car parking relating to adjacent schools, bowling club, church and homes, car parking relating to the proposed flats would cause excessive congestion, increased complexity in navigation and manoeuvring as well as reduced visibility. This is of**



particular concern given movements of pupils accessing the adjacent schools. Increased conflict between pedestrians, cyclists and drivers would lead to a material decrease in highway safety. The development therefore fails to contribute to a safe environment which minimises conflicts between all highway users. The development also fails to address the needs of people with disabilities and reduced mobility through lack of any car parking provision. These factors would represent unacceptable transport and highways impacts and conditions which are contrary to policy outlined at Section 9 of the National Planning Policy Framework. The development therefore fails to pass the test outlined at Condition A.2 – (1) (a) of Schedule 2, Part 20, Class A of The Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020.

#### Impact to external appearance

2. The proposed extension would disproportionately increase the scale and mass of the building which would harmfully unbalance the external appearance of the building. The extension would cause the building to appear over scaled and excessively prominent within the context. This would relate to the external appearance of the building when viewed including surrounding buildings and trees. The proposed increase in scale would be of detriment to the visual attractiveness of the building and would be unsympathetic to local character and result in harm to the adjacent conservation area. The impact to the external appearance of the building is found to be unacceptable due to conflict with policy outlined at Section 12 of the National Planning Policy Framework. The development therefore fails to pass the test outlined at Condition A.2 – (1) (e) of Schedule 2, Part 20, Class A of The Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020.

#### Impact to amenity of existing residents

3. The proposed third and fourth floors would cause overlooking of adjacent existing dwellings. Specifically, windows within the south elevation of the extension would afford views towards 27 Grange Park as well as 27 Grange Court Road. This would materially reduce privacy experienced at these adjacent dwellings which would be harmful to quality of amenity. The development would also be harmful to the amenity of existing occupiers of Grange Court as a result of increased occupancy of the building and increased use of stairwells. As a result of these factors, the development would fail create an environment which promotes residents' health and well-being, with a high standard of amenity for existing and future users. This is contrary to policy outlined at Section 12 of the National Planning Policy Framework. The development therefore fails to pass the test outlined at Condition A.2 – (1) (g) of Schedule 2, Part 20, Class A of The Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020.

### 10 Telephone Exchange St Johns Road Clifton Bristol BS8 2EU

Councillor Clive Stevens withdrew from this item as indicated above and did not participate or vote on it.

Officers responded to supplementary questions (two per speaker) as indicated below:



### Responses to Councillor Clive Stevens

- (1) The applicant has provided a search area where replacement equipment needs to be located. There is no replacement that they can share and no evidence that they have actively co-ordinated as there were other approved sites. Therefore, officers believed that Policy DM36 (2) had been met
- (2) The search area is based on an area as close to the equipment as possible. The applicant was only required to demonstrate that they are as close to existing coverage as currently exists. Since all providers had received a notice to quit, this suggested there were no other providers available. This was based on evidence that there were no existing installations that can be shared.

### Responses to Janet Lee

- (1) Whilst it was usually possible to upload all documents when submitting an objection to a planning application, it was noted that this had not been possible in this instance. However, the diagram and photos that had subsequently been submitted were acknowledged and taken into account
- (2) Whilst it was noted that developers had been able to submit a large number of photos, they had legal requirements to submit a wide range of documents including photos which were required as part of the application

Officers indicated that they would investigate whether the planning portal could be adapted to make it easier to submit a wider variety of photos.

### Questions By Rob Lee

- (1) Durdham Downs provides coverage for this area. The applicant has made clear that they needed to ensure coverage could be provided for an installation nearby
- (2) The 2017 replacement was for partial coverage whereas the proposed installation would provide a complete coverage

### Questions by Richard Durrant

- (1) Officers had only been able to include certain documents since some were too large. We included a coverage plan and two views from the applicant which provided a visual interpretation. However, a critical assessment had been provided of the view and adjusting it. All Councillors had been able to access and review the comments made and the images
- (2) The Committee have to be satisfied that they have all the information available to make their decision. Members also had the option of deferring a decision for further information if they chose to do so

### Questions from Merche Clark



- (1) Officers did not know the numbers of residents who would have their views interrupted by the proposed masts
- (2) In relation to the Conservation Area, the views from St Johns Road and Alma Vale were they key views in assessing where the equipment was most harmful and apparent and therefore these had been taken into account.

Officers gave a presentation on this application and made the following points:

- Details of the site were provided
- Alma Church was not listed as suggested by a number of people submitting Public Forum Statements
- Details of the proposed elevations and photographs were shown
- The Committee was reminded of Telecommunications Policy DM36
- The biggest concerns raised in the objections were that the equipment was unsightly and at odds with the character of the Conservation Area, as well as the short and medium term views from St Johns Road
- The map of the search area was shown. The applicant will remove existing equipment on the Clifton Down Shopping Centre
- Whilst the Local Planning Authority could question the need for a particular site, they could not question the need for Telecommunication Systems generally.
- The applicant was not required to specifically prove that there were not opportunities with other providers which was a requirement for consideration under criteria viii, the indications were that this had happened since an existing building was being used which was in accordance with criteria iii
- Other sites had been assessed by the applicant but had not been deemed suitable. The applicants had discounted Whiteladies Road in terms of its coverage and suitability of buildings
- Officers therefore believed that all the criteria within Policy DM36 had been met. A full design of all the requirements had been provided
- Officers had assessed the harm against the benefits to the Conservation Area and believed that the benefits outweighed these.
- The suggestion of a temporary mast was not considered justified. Similarly, the proposal to restrict use to 3G and 4G was not considered appropriate since the applicant could use 5G in future. There was no legal basis to impose such a limit since an application for this would be considered separately on its own merits

In response to members questions, officers made the following comments:

- Whilst the possibility of a future application from Sovereign Housing following the provision of a notice to quit from Sovereign Shopping Centre was an interesting development, no weight could be given to this in deciding on this application
- Under Paragraph 116 of the MPPF, Councils were not able to question the need for a Telecommunications System, only the specific site



- In terms of the health impact of radiation from masts, the MPPF made clear that the health safeguarding standards should not be any different to international ones
- Officers believed there would be less than substantial harm to the Conservation Area and that in the search area there were no other installations planned.
- In relation to potential harm to trees, officers had not received any advice that they would be adversely affected by radiation
- Councillors' concerns were noted about the need for adequate photo evidence. Officers would revisit this issue
- The possibility of future development and its impact on this proposed development was noted but would be speculation and could not be considered by the Committee
- The telecommunications equipment was being installed in a business location not a residential one. Therefore, the risk to home owners would not apply

Councillors made the following comments:

- This equipment is necessary for modern life and this seemed to be the only suitable site. The impact on the Conservation Area was limited and therefore it should be supported
  - Whilst the technical advice had to be taken on its merits, there were nevertheless concerns about visual amenities and balancing these with mobile phone coverage
  - There are concerns with this application related to the impact on amenity
  - On balance this application would have to be supported. Any possible future development at Clifton Down Shopping Centre would present far greater problems
- Councillor Richard Eddy moved, seconded by Councillor Mike Davies and upon being put to the vote, it was

**RESOLVED (unanimously of those present) – that the application be approved subject to the conditions set out in the report.**

## 11 Date of Next Meeting

The Committee noted that the next meeting was scheduled for 2pm on Wednesday 27<sup>th</sup> January 2021 as a remote zoom meeting.

Meeting ended at 4.15 pm

**CHAIR** \_\_\_\_\_





