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Bristol City Council
Minutes of the Development Control A Committee

30 November 2016 at 2.00 pm

Members Present:-
Councillors: Donald Alexander (substitute for Jo Sergeant), , Fabian Breckels (Vice-Chair - acting as Chair for the meeting in the absence of Lesley Alexander), Harriet Bradley, Stephen Clarke, Mike Davies, Kye Dudd, Richard Eddy (substitute for Lesley Alexander), Steve Pearce, Clive Stevens, Chris Windows and Mark Wright

Officers in Attendance:- Gary Collins, Jim Cliffe, Laurence Fallon, Kate Cottrell, Peter Westbury, Charlotte Sangway, Ken Reid, Jeremy Livitt

1. Apologies for Absence and Substitutions

Apologies for Absence and Substitutions were noted (see the list of attendees).

All Councillors on the Committee introduced themselves and confirmed that they had read all the paperwork to enable them to make decisions in respect of each application to be considered. In addition, they confirmed that none had been whipped.

2. Declarations of Interest

The following Declarations of Interest were made:

Councillor Mark Wright indicated that he had previously objected to an earlier Planning Application for Brunel House, St Georges Road, Bristol BS1 5UY but, since the Applications being considered were different, he retained an open mind concerning this.

Councillor Stephen Clarke indicated that he had a property interest several streets away from Planning Application Number 15/06400/F – Former Chocolate Factory, Greenbank Road but retained an open mind concerning this application.

Councillor Mike Davies indicated that he worked for Thangam Debonnaire MP who had raised an objection to the Chocolate Factory application. However, he retained an open mind about it.

Councillor Clive Stevens had previously objected to an application on the Former Chocolate Factory site as the Chair of the Tree Forum. However, he retained an open mind concerning this application.

3. Minutes of the previous meeting held on Wednesday 19th October 2016

The Chair referred to the decision concerning Planning Application Number 16/00828/F – O and M Sheds, Welsh Back. He stated that he had been advised that the owners of the houseboats had been contacted concerning their eviction from the site. He expressed great concern about this and reminded officers that they should not be acting against the Committee's decision on this issue.

Resolved – that the Minutes of the above meeting be agreed as a correct record and signed by the Chair subject to the following amendments concerning Planning Application 16/00828/F O + M Sheds:

> The phrase "The house boats were not present" be altered to read "The house boats were present" in the first bullet point of the officers' comments;
>
> The word "windows" replaces the word "glazing" in the third bullet point of the officers' comments;
>
> The word Ebenezer be corrected to read "Ebenhaezer"

4. Appeals

Officers reported on the following appeals:

Item 2 – 11 to 13 Queens Road, Clifton, Bristol BS8 1QE – This appeal had been heard yesterday. Officers would circulate details of the outcome to the Committee.

Item 4 – 541 to 551 Fishponds Road, Fishponds, Bristol BS16 3AF – Since the appellant's barrister had fallen ill, no Inquiry had taken place. A fresh date had been set for 5 to 6 days commencing 20th April 2016.

Item 11 – 1A Ambra Vale, Bristol – The Planning Inspector had agreed with the Committee's decision to refuse this application on the grounds of poor quality accommodation.

Items 36 to 42 – Trinity House, Kensington Place, Bristol BS8 3AH – This appeal had been dismissed. Officers would bring a report and relevant photos of the site for information to the Committee in early 2017 as an example of a typical enforcement case.

Item 44 – 99 Queens Road, Clifton, Bristol BS8 1LW –The Inspector had dismissed this appeal, on the grounds of the proposed extended hours of opening having a detrimental impact on the amenities of the flats directly above the commercial unit.

Item 46 – Rear of 98 Whiteladies Road – The Inspector had supported the Council's decision to refuse this application on the grounds of an inadequate quality of accommodation.

5. Enforcement

The Committee was advised that there had been no enforcement notices since the last meeting. However, a number were in the process of being issued through legal and were likely to be reported at the next meeting.

6. Public Forum

The Committee heard 29 Public Forum Statements (including 2 late statements accepted by the Chair) which 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 is held on public record in the Minute Book).

7. Planning and Development

The Committee considered the following Planning Applications.

8. Planning Application Number 15/06400/F - Former Chocolate Factory, Greenbank Road

Officers outlined the key details of this Planning Application, including details of the Council's Affordable Housing Policy:

(1) The Council's policy was to seek 30% (Outer area of the city) and 40% (Inner area of the city) of affordable housing for developments. However, if the developer was unable to provide this percentage due to the viability of the scheme, a lower percentage (including 0%) could still be acceptable in planning policy terms;
(2) The Council's affordable housing policy was adopted in June 2011;
(3) The Council is also required to act in conformity with the National Planning Policy Framework , as well as the Financial Viability in Planning document (RICS Guidance), both of which were published in 2012. Surveyors and Valuers were expected to abide by the RICS Guidance. Officers' view was that both of these policies had an adverse effect on the Council's ability to obtain affordable housing. The RICS guidance made clear that assessments had to be made on current cost value and could not be factored forward;
(4) Councils were required to take into account the price paid for land;
(5) There were other examples elsewhere in the country where Local Authorities had approved schemes that provided no affordable housing – for example, a recent scheme for 1,300 dwellings in a more prosperous area of Manchester;
(6) It was generally more expensive for a developer to convert an existing building into flats;

(7) Most schemes that the Council received were generally small in the context of large scale housing schemes elsewhere;
(8) Assessments were not taken at face value but were rigorously challenged. The Council's consultants carried out their own assessments and did not rely on developers, particularly in the event of fundamental differences. However, assessments had to be based on planning viability and could not take account of the developers' attitude to risk;
(9) There was a deficit in this scheme of £1 million;
(10) In view of the current policies in operation, officers could not recommend refusal in this case. Officers recommended acceptance of the developer's offer following discussions with Sovereign Housing Association of 6 affordable units for Block A, which had been made following the developer's consideration of their commercial position and likely timescales for receiving planning permission;
(11) Highways and Parking – the scheme proposed 117 car park visitor spaces and 20 communal car park spaces which was a shortfall of 2 from the agreed ratio;
(12) Greenbank and Corporation Road will be a stop for emergency vehicles;
(13) Design and Layout – this was considered an acceptable urban design;
(14) Amenity – amendments had been proposed to the scheme where officers had concerns about the existing proposals;
(15) A solar renewable system would operate on the roof;
(16) Various other proposed amendments were set out on the amendment sheet;
(17) If the scheme was approved, it would be subject to a legal agreement to cover it

In response to Councillors' questions, officers made the following points:

(18) Councillors were required, as usual, to determine the application before them;
(19) The costs of the building works themselves were between one third and 40% of costs – other costs included finance, CIL, professional fees and profit;
(20) The assessment of the viability level of affordable housing was based on the DVS report dated 17th October 2016 – they were happy that the sales values for the development set a new benchmark high for the area;
(21) As part of the initial assessment, it was felt that the developers' costs were too high – the initial contingency of 7.5% had been reduced to 5%;
(22) Whilst technically the £50, 000 contributions could alternatively be made by the Neighbourhood Partnership as part of their local CIL contributions and which could help towards the cost of further affordable housing, decisions about expenditure of CIL were for NPs to make and not the Development Control Committee;
(23) There were schemes with affordable housing which had been recently approved – for example at Jacob Street, Old Market and Dunmail since they met the criteria of 30 to 40%;
(24) Officers understood members' concerns about the contrast between the Local Plan requirement for affordable housing (based on housing need) and the levels of affordable housing that were being supported by individual planning applications. Planning Inspectors examined all local policies before they are adopted and it was a requirement for any target for affordable housing that it was subject to viability. In addition, Planning Inspectors also made decisions about appeals against refusals of planning permission;

(25) The National Planning Policy Framework and RICS Guidance restricted how Local Planning Authorities can operate in terms of assessing viability and negotiating affordable housing;

(26) Whilst Councillors' concerns about the political impact of decisions were understood, and that the provision of affordable housing is a material planning consideration, the guidance was clear that the scale of public opinion cannot be given undue weight when making decisions on planning applications ;

(27) Viability advice received by the Council will continue to be made public to ensure maximum possible transparency with any necessary redactions for genuinely commercially sensitive information;

(28) The Nature Conservation Officer had been involved in the assessment of the site to determine if there was any evidence of bats roosting on the site and had clearly indicated that there was no evidence that they were despite repeated inspections. Nevertheless an additional condition 8 had been added to provide mitigation if required;

(29) There were late night licensed commercial units at the site. Whilst these were subject to a separate statutory process, there were conditions which restricted the developments to A4 use, their opening hours, ventilation and to limit Anti-Social Behaviour;

(30) There had been previous schemes proposed on this site which would have provided some affordable housing but had either been unfeasible due to the market situation or had been refused for other reasons. Given the history of the site, officers felt that it was unlikely that there would ever be affordable housing up to 40% on site;

(31) Officers were currently carrying out a piece of work on site delivery and housing delivery for the city as part of an assessment of its land assets, as this was an important way in which the wider Council could meet housing need outside of the planning process;

(32) Officers noted Councillor's concerns about the issues raised by the Police. However, they were expressing their views according to their own concerns. There did remain some concerns for officers about the proposals for gating which were contrary to urban access principles.

Councillors made the following comments:

(33) The opposition to the proposal from the community was extremely strong, including from the local MP. Development should meet the needs of people within the ward. It was not acceptable for developers to put forward proposals for very small or no affordable housing whilst ensuring that they made a profit;

(34) In other countries (ie in Scandinavia) cheaper materials were used for housing which helped to reduce costs. Something similar to this should be used here;

(35) A large number of Councillors locally and nationally had been saying for some time about the urgent need for affordable housing. The current policy to provide 30 to 40% affordable housing might need to be re-evaluated if existing legislation made it so difficult to reach this level with developments;

(36) Parking issues were a problem on the site. The non-provision of parking on the site was very disappointing in view of the difficulties within the surrounding area;

(37) This development was a wasted opportunity in terms of its design since it was a landmark site. There were also concerns about potential Anti-Social Behaviour in the square and the increased

pressures on parking. However, by far the most serious problem with the development was the lack of affordable housing. The agreement by the developers to provide 6 houses was too little, too late. More radical solutions (such as using cheaper possibly recycled materials) needed to be examined to solve this problem;

(38) Whilst the public anger concerning this application was understandable, anger should be directed at Central Government who set the rules by which the Council has to operate. The Committee had to bear in mind that if it refused the application and lost on appeal, it could pay costs;

(39) The design of the development in relation to the adjacent cycle track was good. Whilst the parking was less of a concern since the development was so close to the City Centre, the lack of affordable housing was not acceptable;

(40) There appeared to have been some mistakes in the viability report. Further analysis and a re-assessment of this report was required;

(41) There were serious concerns about affordable housing. However, whilst there had been some material flaws in the viability report, these had been corrected. If the application was refused, there was a likelihood that the Council would lose on appeal and costs would be awarded against them;

(42) It was frustrating that the need for affordable housing appeared to have been sacrificed in order to ensure that the historic buildings were retained;

(43) The development system in respect of affordable housing was broken. The current rules for testing viability were now redundant and needed to be changed. The scheme needed to be deferred to re-assess its viability and for negotiations with developers for a scheme which better suited the needs of the people of Easton;

(44) The highways proposals were not acceptable.

Councillors thanked the Planning Obligations Manager for all his work in responding to questions from Councillors on this issue.

Councillor Eddy moved that the application should be approved. This was not seconded.

Councillor Stevens moved, seconded by Councillor Clarke and, upon being put to the vote, it was

Resolved (8 for, 2 against, 1 abstention) – that that the application be deferred pending:

(1) 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

(2) further discussions with the developers about parking and traffic.

9. (1) Planning Application Number 16/02349/F - Redcliff Quarter - Land Bounded By Redcliff Street, St Thomas Street And Three Queens Lane and (2) Planning Application Number 16/02964/F - Land Bounded By Redcliff Street, St Thomas Street and Three Queens Lane,, Bristol BS1 6JJ

Officers made the following points during their presentation:

(1) Detailed illustrations of the proposed developments were set out, including an aerial photo
(2) The proposed tower would be 82.7 metres tall, whilst Castle Mead was 80m tall and the Spire at St Mary Redcliffe was 89 metres tall

Councillors made the following points:

(3) The £5.2 million of CIL payable if this scheme was approved was likely to be the largest the Council had ever received since this form of funding was introduced;
(4) It was not acceptable that the CIL from this scheme, due to the Council's existing policy, would be given to only one NP. The CIL policy needed to change;
(5) The proposed tower was contrary to the Council's Tall Buildings Policy and the policy was likely to require amendment if this application was approved;
(6) There will be licensed premises on the site. Therefore, adequate soundproofing would be required for residents;
(7) It was important that the status of the new thoroughfare through the site was clarified to establish if it was pedestrianised, one way and whether or not it fell within the private or public realm;
(8) Garden access seemed a good idea. There was a good use of trees on the site. It was not unusual for modern cities to have tall buildings as part of their skyline;
(9) The design of the buildings was a big improvement on what had previously been suggested. Whilst the amount of affordable housing was acceptable, it was not ideal but it was acknowledged that it could increase subject to the archaeological requirements;
(10) The site was good for storage of bicycles;
(11) This scheme should be supported. It was a development in an area which badly needed it and which provided 12% affordable housing with £5 million CIL. It was not overshadowing or altering the character of the area and was supported by the local Ward members;
(12) Whilst there was acknowledgement of the concerns previously expressed about the way in which CIL was allocated, it was noted that Councillor Holland (Cabinet Member for Place) was examining this;
(13) This development would be very good for the city and should be supported. The concerns about the process for allocating CIL were noted and had recently been raised by a question to the Mayor;
(14) This site could deliver much more than 12% affordable housing. In addition, the Tower was not very impressive. A better design would have been the Eclipse Tower at Castle Park. However, there were other good elements to it and it had local Ward Councillor support;

(15) Officers should investigate whether an agreement could be made with the developer to provide apprenticeships. It is disappointing that 40% affordable housing could not be provided as per existing policy;
(16) Bristol has a low sky line compared to other cities so a building on the scale that was being proposed should not be opposed on these grounds alone. It was a functional and utilitarian design. The rest of the development was good and it was long overdue for the area;
(17) The affordable housing was not good enough. However, the proposed BREEAM rated District Heating Scheme was excellent;
(18) It was disappointing that, despite extensive discussions with the developers, more affordable housing could not have been offered;
(19) The PRS scheme was encouraging;
(20) Although it was disappointing there was not more affordable housing, the developers had made an effort in this area.

In response to Councillors' comments, officers stated that:

(21) There were a number of conditions (5, 11 and 12) which had been included in the recommendation to address concerns about any potential risk from flooding;
(22) The proposed amount of CIL was a material planning consideration by virtue of the Localism Act;
(23) Government regulations are clear that the local component of CIL goes to the local community in which the development that pays the CIL is located. It enables those communities that are affected by development to financially benefit from it;
(24) Cross Street had not been offered for adoption as part of the public highway. Officers would need to establish if the public would be able to pass through this area. However, it was not intended to be used for vehicular access. A measure of control would be retained through the use of Condition 16;
(25) It would be possible to add a condition stating that apprenticeships should be offered as part of the development.

Councillor Stevens moved, seconded by Councillor Eddy and upon being put to the vote, it was

Resolved

(1) (9 for, 0 against, 2 abstentions) that Planning Application Number 16/02349/F (Redcliff Quarter - Land Bounded By Redcliff Street, St Thomas Street And Three Queens Lane) be approved subject to the additional conditions outlined in the amendment sheet and an additional condition concerning the provision of apprenticeships;
(2) (10 for, 0 against, 1 abstention) that Planning Application Number 16/02964/F (Land Bounded By Redcliff Street, St Thomas Street and Three Queens Lane, Bristol BS1 6JJ) be approved subject to the additional conditions outlined in the amendment sheet and an additional condition concerning the provision of apprenticeships.

10. Planning Applications 16/02994/F and 16/02998/LA - Brunel House, St Georges Road, Bristol BS1 5UY

Officers made the following points during their presentation:

(1) Details of the development, including the roof extensions and amenities were set out;
(2) The public consultation was summarised;
(3) The make- up of the area was mixed, including office and commercial development. Officers believed that the development was acceptable in residential terms;
(4) Some small trees would be removed;
(5) Cycle parking would be provided in the area.

Councillors made the following comments:

(6) There would be difficulties for Councillors, particularly in relation to attendance for major meetings, if access to the College Car Park was reduced by about 20 spaces. The horse bazaar was big enough for people to drop off and should work well enough;
(7) The provision of 59 cycle parking spaces was queried as whether this was sufficient for the number of students;
(8) It was queried whether affordable housing should be required for this scheme;
(9) Officers should consider the possibility of limiting provision of accommodation for Year 1 students;
(10) Officers needed to ensure that the correct trees were felled as indicated on the appropriate plan;
(11) There was very little benefit for the Council with this development in terms of CIL;
(12) There were concerns about parking and cyclists – measures need to be put in place to encourage cyclists;
(13) Whilst the initial proposal had not been acceptable, this was a sensible application and should be supported. It preserved the historic aspects of the Horse Bazaar and the quarry;
(14) The promotion of the central area for purpose built student accommodation was a wrong policy;
(15) The issue of the impact of marketing accommodation for Year 1 students on subsequent student years needed to be examined – further discussions with the University might be required;
(16) Whilst the initial proposal was unacceptable, this was now a very sensible application which preserved the historic aspects of the Horse Bazaar and quarry.

Officers made the following comments in response to Councillors' questions:

(17) Student accommodation is Sui Generis (ie. not within a specific planning use class) and therefore not subject to the Council's policy requirement for affordable housing, which applies to Use Class C3 residential uses only;

(18) Refuse collection would be arranged on a commercial basis;
(19) Condition 29 had been added to ensure there was a moving in/moving out strategy for this development;

(20) There was a highways safety issue to be considered in relation to Horse Bazaar which was only 3 metres wide and therefore, if used for student moving in/out would generate serious highways safety concerns (i.e. vehicles reversing onto) on a 5-arm mini-roundabout which has numerous highway safety problems. Officers did not consider it detrimental to use the College Street Car Park;

(21) The proposed Cycle Parking provision was set in accordance with research indicating 1 to 4 ratio for cycling users;

(22) A dialogue with the university concerning the marketing of the site was required. However, it was difficult to see that any different scheme would address Councillors' concerns about this matter. It would be contrary to guidance to say that students cannot occupy certain flats.

Councillor Breckels moved, seconded by Councillor Windows and upon being put to the vote it was

Resolved (8 for, 1 against, I abstention) – that the recommendations contained in the report be approved, together with the proposed amendments set out in the Amendment Sheet and also including:

(1) Any application to discharge the condition agreeing the drop off & pick up strategy should be the subject of a further update to the Chair of the Committee (via the agenda meeting) in the future

(2) an additional condition preventing the development from being exclusively marketed at first year students .

11 Planning Application Number 16/03446/F - Albemarle Chemicals Site, Smoke Lane

Officers made the following points during their presentation:

(1) Site photos and an aerial photograph were provided;

(2) Details of the battery storage units and gas fuelled stand by generators proposed for the site were given;

(3) An air quality assessment had shown that the worst case scenario for this development was 2,000 hours usage per year which would not have a significant impact on the site;

(4) There were no ecology concerns on the site;

(5) The site was in a Flood Zone 3 but mitigation measures set out in the submitted Flood Risk Assessment were considered to be acceptable.

Councillors made the following comments:

(6) There was no information in the application concerning particulates and in terms of arrangements for monitoring and filtering;

(7) There was no information concerning the operating process;

(8) If a quick response was needed, more battery storage may be required since this was the means to ensure that any temporary gaps in renewal technology (ie wind and solar power) were filled.

In response to Councillors' questions, officers made the following points:

(9) Condition 9 was proposed to provide mitigation measures in the event that the site was flooded;
(10) The fossil fuel energy provision was through a gas powered diesel engine;
(11) The information provided by the applicant on battery storage was indicative since this was a new technology. ;
(12) It was technically possible to provide capacity to ensure simultaneous gas and battery provision;
(13) Condition 14 addressed issues in the event that emissions were exceeded;
(14) The natural gas outputs were very low and the pollutants were significantly less than diesel.

Councillor Breckels moved, seconded by Councillor Windows and upon being put to the vote it was

Resolved (9 for, 0 against, 1 abstention) that the application be approved as per the recommendations contained in the report and including changes set out in the Amendment Sheet, together with the following additional changes:

(1) an amendment to condition 14 to include an additional sentence which will require scheme of mitigation to be submitted and implemented within a specific timescale if emissions exceed those predicted in the air quality assessment;
(2) an additional condition requiring a phasing plan which will address members' concern about the need to ensure the proper amount of battery storage is built out in conjunction with the gas generators.

12 Date of Next Meeting

The Committee noted that the next meeting was scheduled for 6pm on Wednesday 11th January 2017.

Meeting ended at 6.35 pm

CHAIR _____