

Bristol City Council
Minutes of the Development Control A
Committee



26 July 2017 at 6.00 pm

Members Present:-

Councillors: Chris Windows (Chair), Mike Davies (Vice-Chair), Harriet Bradley, Tom Brook, Stephen Clarke, Kye Dudd, Olly Mead, Paula O'Rourke, Celia Phipps and Mark Wright

Officers in Attendance:-

Gary Collins, Peter Westbury, Matthew Bunt, Jon Fellingham and Jeremy Livitt

1. Apologies for Absence and Substitutions

Apologies were received from Councillor Steve Jones, Clive Stevens (Paula O'Rourke substituting) and Jo Sergeant (Harriet Bradley substituting).

2. Declarations of Interest

Councillor Paula O'Rourke stated that, whilst Application Numbers 16/03473/F and 16/03474/LA (Goldney Hall) were in her ward, her fellow Ward Member had been dealing with this application. She, therefore, felt that she would be able to participate and vote on this issue.

3. Minutes of the previous meeting

The Committee agreed to include a reference to the view of the interior as an additional reason that Councillor Mead would be abstaining from the Empire Sports Club (223 Newfoundland Road) application (Paragraph 11).

Resolved – that the minutes of the above meeting be approved as a correct record and signed by the Chair subject to the addition of the above reference.

4. Appeals

Somerset House – Following the Inspector's decision to dismiss this appeal on the grounds of amenity of neighbouring properties, officers had now received a letter from the Planning Inspector indicating that the Inspector should have also expressed concern over the setting of listed buildings. Officers indicated that to receive such a letter from the Inspectorate after a formal decision had been given was unusual.



Chocolate Factory – Officers referred to the Inspector’s decision on this issue. He drew members’ attention to the decisions made on 30th November 2016 and 22nd February in respect of this application as follows:

30th November 2016 where a late offer of six affordable housing units had been reported but the £46,000 contribution towards bus stop enhancements had been withdrawn, the Committee’s decision was to defer pending:

- (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

and, following an appeal by the applicant against non-determination, a further Committee decision on 22nd February 2017 as follows:

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.

Officers then confirmed that the decision had been made following written representations via an Inspector’s letter dated 28th June 2017. He outlined the main points made by the Inspector as follows:

The Appeal was allowed as he felt that there was a consensus between the developer and the Council’s Independent Adviser which had concluded that it would not be commercially viable to provide affordable housing and gave significant weight to this. He had not been provided with any other substantive evidence to demonstrate that the provision of affordable housing would not be economically viable to provide any affordable housing would not render the scheme economically unviable. This led the Inspectorate to conclude that currently it would not be economically viable to provide any affordable housing on this site.



There had been significant concerns expressed regarding the additional traffic generated by the proposal and the issue of the parking availability, with the number of car parking spaces being marginally below the recommended standards. The appeal site lies within an urban residential area and it is highly likely that some of the future occupiers would wish to make use of public transport. As a result, the Inspector attached significant weight to the improvement of public transport facilities in the locality.

Based on the evidence before him the Inspector considered that the bus stop enhancement monies required by BCC were necessary to make the development acceptable in planning terms.

In conclusion, the appeal was allowed with zero affordable housing but with a requirement for a £46,000 contribution towards bus stop enhancements.

In relation to the issue of costs, the National Policy Guidance lists a number of examples of unreasonable behaviour that may give rise to a substantive award of costs against a local planning authority. One of these examples refers to preventing or delaying development which clearly should be permitted, having regard to the development plan, national policy and any other material consideration.

The proposal was deferred by Committee contrary to the advice of the Council's professional officers who recommended approval. The proposal was allocated in the Development Plan and was supported by Development Plan policy. Authorities are not bound to accept the recommendations of their officers but if their professional advice is not followed then reasonable planning grounds for taking a contrary decision need to be provided supported by relevant evidence.

The first reason for deferral relates to further consultation about the need for more affordable housing and discussions about potential alternatives to the proposal that was before the Council. Viability reviews had been provided by both the appellant and consultants acting for the Council, both of which concluded that an affordable housing contribution would not be viable. Despite this and with no specific alternative evidence provided in this regard, the proposal was deferred.

The scheme was judged by Officers to be acceptable and the Inspector noted from the published Minutes the advice from Officers that Councillors were required to determine the application before them. Therefore by deferring the application in order to investigate a hypothetical alternative scheme in order to potentially achieve better affordable housing provision, Members acted in a manner contrary to established case law in this regard. Furthermore, the reason given is unacceptably vague in that by neither local stakeholders nor details as to who should carry out the consultation and by what mechanism were adequately defined.

The Council's Transport Development Management Team (TDM) considered that the parking shortfall would only be minimal and considered the development to be acceptable subject to the imposition of planning conditions and obligations. Despite this consultation response from TDM the Committee Members sought further discussions with the developer about "parking and traffic". . In the Inspector's mind, these were vague reasons that were not supported by objective analysis.



Therefore, costs were awarded against the Council as the Council had delayed development which ought reasonably to have been permitted, acted contrary to well-established case law and had made vague assertions in regard to affordable housing and parking provision which were not supported by any objective analysis. The Inspector considered that this constituted unreasonable behaviour on the part of the local planning authority. Consequently, the applicant's costs in mounting the appeal were unnecessarily incurred and the award of costs was therefore justified.

Officers stressed the importance with all applications of Committee members considering the evidence before them and sticking to the core issue. In addition, officers would ensure that contentious issues were brought earlier in the process to Councillors (ie through pre-application briefings) and discussions concerning potential issues arranged with all appropriate parties as early as possible, as had recently happened concerning the Blackberry Hospital site.

Officers responded to Councillor's questions as follows:

- (1) Whilst due weight needed to be given to the scale and volume of objections, this should not unduly influence Councillors in making their decision. The issues relating to each application needed to be at the forefront of their decision;
- (2) Costs were not yet clear. However, it is possible that the decision by the Committee not to defend the appeal and the use of written representations would keep costs reduced;
- (3) Whilst the developer had originally offered to provide 6 affordable houses as a commercial response to Councillors' concerns about the application, this did not form part of the evidence that was available to the Inspector in the form of the viability appraisal which was agreed by the Council's Adviser.

Councillors also made the following comments:

- (4) Whilst officers had clearly explained the reasons behind the decision, it was undemocratic not to take into account the numbers of people objecting to a scheme. Members needed to be made aware with such decisions that they were faced with no choice
- (5) The Committee had not made a good decision in this instance. The Council would be lucky if it was able to keep costs below £30,000. Councillors needed to bear in mind the quasi-judicial nature of their role on the Committee;
- (6) Whilst Councillors should avoid deferring an application wherever possible, there were situations when Councillors had acted contrary to officers' advice and the Inspector had indicated that their decision was not an unreasonable one to make. It would be helpful if officers could provide a briefing to Councillors on lessons learnt on this issue, particularly in terms of viability;
- (7) There were lessons to be learned in relation to the need to comply with the necessary rules. There were situations where Councillors needed to take decisions that they did not feel comfortable with.

5. Enforcement

There were no enforcement notices served since the last meeting.



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.

7. Planning and Development

The Committee considered the following Planning Applications.

8. Planning Application Numbers 16/03473/F and 16/03474/LA - Goldney Hall, Lower Clifton Hill, Bristol

The representative of the Service Director (Planning and Development) introduced the report and made the following points:

- (1) There were a lot of works required to facilitate this development taking place. Control would be given by the Local Planning Authority to ensure that this takes place;
- (2) Details of the consultation were set out in the amendment sheet;
- (3) Photos showing the collapsed wall were provided
- (4) Felling of trees was required
- (5) If the application was approved, Condition 17 would require a construction method statement

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

- (6) It was proposed to strengthen the wall to reduce the likelihood of any further collapse;
- (7) The application for consideration (including the wall) was as indicated in the report
- (8) It would not be possible to extend Randall Road to the adjoining parking zone since this was outside the Planning Act. This would not be enforceable off the back of a Planning Application. However, officers indicated that they could report back to Councillors to confirm whether or not the applicants were prepared to give consideration to this as part of a Management Plan;
- (9) It would not be possible to add a condition limiting the size of the wall. The protection of the listed wall was a statutory duty and had been approved by Bristol City Council's Conservation Team and Historic England;
- (10) The sign at Randall road indicating that HGV's were unsuitable was noted. It was acknowledged that this was not an ideal situation;
- (11) The suggestion that smaller vehicles are used was noted. However, it would depend on the material being transferred. In addition, the proposed lorry size would avoid the disruption period being unnecessarily being extended. Members' attention was also drawn to the Construction Management Plan which would arrange deliveries at certain times and keep disruption at a minimum



- (12) The suggestion of a condition to ensure safety for schools by limiting deliveries to certain times was noted. Officers confirmed that they could arrange this with the applicant

Councillors made the following comments:

- (13) It was clear that officers had considered all possible alternatives and come up with the best solution;
- (14) There was no alternative to the proposal. However, the size of the lorries that would be used remains a concern;
- (15) It was clear that the works were required. The proposal was the least worst option available.

It was moved by Councillor Kye Dudd, seconded by Councillor Harriet Bradley and, upon being put to the vote,

Resolved (unanimously) - that the recommendations contained in the report be approved.

9. Planning Application Numbers 15/05673/F and 15/05674/LA - Empire Sports 223 Newfoundland Road

The Service Director (Planning and Development) introduced the report and made the following points:

- (1) This application had been approved at the last meeting on 14th June 2017 subject to clarity regarding future residents' eligibility to the Residents' Parking Scheme (RPS) being reported to the Agenda Meeting and if necessary the full Committee. Whilst the Secretary of State did not want to call in this application, the issue of enforceability of the RPS scheme needed to be further discussed;
- (2) Members' attention was drawn to the Amendment Sheet which proposed an advice note as a means of addressing the issues that had been raised following the investigation into the RPS parking issues;
- (3) The application was in a very accessible location in the City Centre;
- (4) The provision of cycle facilities in the development was an effective means of meeting the policy requirement for appropriate cycle parking;
- (5) The capacity for the RPS was approximately 67%. However, so far only 750 permits had been issued out of 2,300. Therefore, based solely on this figure there would be capacity within the RPS to accommodate the additional vehicles associated with 22 residential dwellings
- (6) However, this does not reflect the actual situation as it should be noted that the parking restrictions are only enforced between 9am to 5pm Monday to Friday. As a consequence outside of these hours and at weekends there are likely to be additional vehicles parked. Furthermore due to the proximity of the city centre there is an element of people parking in this location to utilise the facilities of Cabot Circus in the evening. It is, therefore, likely that the actual capacity will be much lower than the 67% set out above;



- (7) The usual advice note and the proposed amended one relates to the proposal being treated as a car free/low car use development. As such it should be noted that it would be ineligible for parking permits. Although this advisory is meant to control and regulate vehicle ownership in the RPS, it can only control vehicle parking within the restricted hours. As a consequence vehicle owners which operate outside these ie utilise their car between 9am to 5pm will still be able to park outside of these times. Therefore, it has the potential not to deter car users from this location. Also, the existing RPS TRO wording does not give the Council as Transport Authority sufficient power to reject permit applications from occupiers of new developments;
- (8) Resident Parking Schemes are to be reviewed with Local members and amended TROS may come forward, for example relating to hours of control. Any new TROs are planned to be in place by April 2018 and they won't apply retrospectively. Whilst the development would have an Advice Note, this would only act as a deterrent since the TRO won't be in place.
- (9) In view of the accessible location of the site and the existing available capacity, officers did not believe the impact would be significant and were, therefore, recommending approval.

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

- (10) Whilst it was acknowledged that this could continue to be an issue for any resident who found out about this situation concerning the RPS until April 2018, the forthcoming TRO's would prevent any further difficulties in future cases. In addition, there was a need to promote other forms of transport.
- (11) Officers believed that a similar situation applied to all RPS zones with the exception of the Central Parking Zone;
- (12) Officers noted the suggestion that car club spaces would be desirable at the site. However, they pointed out that the site was landlocked which would make this impossible. Nevertheless, he stated that he would discuss the possibility of car club spaces forming part of any new TRO with transport officers and also suggested that the Ward Member present did likewise.

Councillor Mead indicated that, whilst the written description of the development was good and it was within easy walking distance of the City Centre, he would nevertheless be abstaining on this issue due to the heritage impact issues.

Councillor Mike Davies moved, seconded by Councillor Harriet Bradley and, upon being put to the vote, it was

Resolved: (8 for, 1 against, 1 abstention) – that the recommendations contained in the report be approved.

10 Planning Application Number 17/01813/F - 135 Highridge Road Bishopsworth Bristol BS13 8HT

The representative of the Service Director (Planning and Development) introduced the report and made the following points:



- (1) He referred Councillors to additional consultation that had been received concerning this application, in addition to a note of clarification concerning Paragraph (G) (Arboricultural Issues) and clarification of the issue relating to materials;
- (2) Relevant plans indicating the proposed site
- (3) Officers proposed that the application be refused on the grounds that the site was within a designated Important Open Space, would be harmful to the character and appearance of the conservation area and that the further access would be detrimental to the site and affect the amenities of properties at 133 and 135 Newfoundland Road;
- (4) The property would be over 7 metres in height and consisting of 5 bedrooms;
- (5) Officers did not believe that public benefit outweighed harm to the site.

In response to questions from Councillors, officers made the following comments:

- (6) The Post Box would be re-located wherever possible. As this was not a Planning issue, it could not be addressed by officers;
- (7) Whilst the site would affect the Development Plan as it currently stood (since it was currently designated as an area of important open space), Councillors remained free to approve it contrary to this. However, Councillors were requested to give due weight to the existing plan and not to act in a way that would be premature, as Important Open Space designations would be reviewed as part of the forthcoming Local Plan review.

Councillors made the following comments:

- (8) There did not seem to be a significant amount of harm to the Conservation Area from this proposal. A family home would be less obtrusive than the previously approved flats. The application had been well thought through and was designed to only provide what the family needs. It would cause less than substantial harm;
- (9) The arguments concerning harm to amenity did not seem convincing. There was unlikely to be very much traffic arising from one house with a small access lane. In addition, the site was only 20 metres from Dundry and, therefore, there was green space nearby.

The Committee noted that the applicant had already arranged with Royal Mail to re-site the Post Box in the wall.

It was moved by Councillor Olly Mead, seconded by Councillor Mike Davies and, upon being put to the vote, it was

Resolved: (unanimously) – that the application be approved with appropriate conditions.

11 Date of Next Meeting

It was noted that the next meeting was scheduled to be held at 2pm on Wednesday 6th September 2017.



Meeting ended at 8.20pm

CHAIR _____

