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# Bristol City Council Minutes of the Development Control B Committee

14 March 2018 at 2.00 pm



**Members Present:-** Donald Alexander, Harriet Bradley, Fabien Breckels, Harriet Clough, Mike Davies, Richard Eddy, Martin Fodor (Chair), Fi Hance, (substitute), Olly Mead, Azal Shah.

**Officers in Attendance:-** Gary Collins- Head of Development Management, Alison Straw, Tom Watson, Jonathan Dymond, Lewis Cook, Nigel Butler – Development Management, Dylan Davies – Environmental Health, Allison Taylor – Democratic Services.

### 1. Welcome, Introduction and Safety Information

The Chair welcomed everyone.

### 2. Apologies for Absence

Apologies for absence were received from Councillor Denyer with Councillor Hance substituting and Councillor Quartley.

### 3. Declarations of Interest.

Councillor Mead declared that he was a Fellow of the Royal Society of Arts in relation to the land at Temple Circus application and the Engine Shed building, but could decide this application with an open mind.

### 4. Minutes of the previous meeting.

These were agreed as a correct record.

**Resolved – that the minutes of the above meeting be confirmed as a correct record and signed by the Chair.**

### 5. Appeals.

The Head of Development Management highlighted items 48 – 50, 52 and 53 as examples of a continuing stream of applications for digital advertising and noted that where refused these were largely upheld at appeal. He also referred to Ebenezer Street, St. George which was not currently listed in the appeals report. This application was granted by Committee in April 2017 and was subject to a Premises Management Plan requiring a Premises Manager on site over a 12 hour period and zero car ownership. The applicant had applied to discharge some of the conditions and after 8 weeks had lodged a request for a deemed discharge. These

had been refused and were then appealed against. Another application was then lodged minus the Premises Management Plan and this was refused under delegated powers and was also appealed. The Planning Inspector looked at both appeals together and found that the zero car ownership condition was an unreasonable restriction as the Committee had been presented with information regarding available spaces on streets nearby. The Inspector also found that requiring a Site Manager on site at a specific period of time was unreasonable and the Committee had not articulated why this was required. The officer approach to discharging the condition for obscure glazing of certain windows was found to have stretched the original requirement. These were therefore all allowed. The appeal against the Management Plan and Construction Management Plan were dismissed. The applicant had been awarded costs.

In response to questions raised, the following points arose:-

1. Proposals for advertising were dealt with by separate legislation. There were only 2 factors that could be considered with digital advertising applications which were visual amenity and public safety;
2. It was not anticipated that the costs for Ebenezer Street would be excessive as the issues under scrutiny were fairly narrow;
3. The appeals for 131, Bridgewater Road had been lodged but had not yet been allocated to a Planning Inspector so were not yet on the Appeals List.

## **6. Enforcement.**

These were noted.

### **Enforcement Update Report – 131, Bridgewater Road.**

The Head of Development Management referred to the detailed report before the Committee. This had been a frustrating situation for local residents due to particular actions from the developer and legislation not being as sharp as officers would like it to be. This retrospective application for 14 houses was refused in August 2017 due to its lack of affordable housing. However, legal colleagues advised that it was not possible to issue an enforcement notice for the lack of affordable housing. There was therefore no planning consent and no incentive to buy the houses. The applicant had lodged an appeal against refusal so the issues would be played out through the appeals process. The Inspector could either allow the appeal so that no affordable housing was required or dismiss it and require the applicant to make a payment. There could be no planning consent until the appeal process was complete. An alternative approach could be a Breach of Condition Notice but as the applicant had not implemented the earlier permission officers did not wish to give the impression that they had complied. The Inspector had the final say as to whether the process was a Public Inquiry.

The following points arose in response to questions:-

1. Councillor Eddy referred to the continuous problems faced by local residents because of this development. People on the site were leaving black bins to be collected, there was light pollution and removal of land drains. He noted that the developer had gone out of business and asked who was legally responsible and who were officers in communication with. He was informed that officers were communicating with the planning agent who represented the landowner. The landowner stated that he was the developer and officers accepted what they had been told;
2. Councillor Bradley believed that even though it was legal it was immoral to allow developers to start new companies when their previous one had gone into liquidation. She asked whether legal advice was over cautious and was informed that the legislation was not ideal, however, ultimately the developer could not escape the lack of planning permission. The Planning Inspectorate would have needed to ensure that the

developer seeking an appeal was the actual applicant in order to validate the appeal.

**Resolved – That the update report be noted.**

## **7. Public Forum**

Members of the Committee received Public Forum statements in advance of the meeting. The statements 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 in the Minute Book).***

## **8. Planning and Development**

The following items were considered:

### **A. 17/04490/X – Bristol Waste Recycling Facility.**

There was no amendment Sheet.

The representative of the Head of Development Management made the following points by way of introduction:-

1. This application was brought before the Committee due to the level of public interest after the initial consultation;
2. It was for the variation of hours for the bailer and sorting line and glass tipping operations;
3. The site consisted of primarily industrial and commercial operators and faced two industrial estates. Beyond the sites were a mix of residential terraces and commercial units;
4. No community consultation was formally required but the applicant chose to undertake involvement with local stakeholders and Councillors and a meeting was held along with a tour of the site.

An Environmental Health Officer gave advice regarding noise and methodology as follows:-

5. Objections received concerned noise, air quality and detriment to amenity. Environmental Health Officers were concerned that that the applicant had not demonstrated that these concerns would not be made worse. Following a meeting with Environmental Health Officers and in light of the concerns from objectors, a revised proposal was submitted to address the issues. These included no Sunday operation and reduction in the hours for activities for the rest of the week. On re-consultation, this received 7 objections concerning noise, the level and nature of glass tipping, the blanket extension of Saturdays and Bank Holidays and the start time;
6. No objections were received from air quality or contaminated land officers. Transport Development management were satisfied that the proposals would have minimum impact on the highway network;
7. The Environmental Health Officer stated that his main concern had been the external glass tipping although not exceptionally loud it was distinct and happened once every 3/4 minutes. Sometimes vehicles queued, other times there were no vehicles. The deep bays provided a noise barrier to an extent;
8. The existing noise environment and the noise of particular activities was considered individually in accordance with BS4142 and the lowest observed adverse impact and the Committee's attention

was drawn to the table of findings as set out in the report;

9. The EHO Officer was satisfied that the removal of activities on Sunday and the reduction in hours during the week provided respite for residents and a noisy situation was not made worse and subject to conditions the revised proposals were considered acceptable.

The representative of the Head of Development Management summed up:-

10. The application was assessed in line with National Planning Policy Framework and its Noise Policy Statement and with regard to Bristol Local Plan Policy BCS23 and DM 10 and DM35 of the Site Allocations document;

11. Regard was also had to the West of England Joint Waste Core Strategy which stated that such applications should not be granted unless they could demonstrate no adverse impact on residential amenity and noise pollution;

12. All objections were taken into account and officers recommended approval subject to conditions set out in the report.

The following points arose from debate:-

1. The proposed South Bristol Recycling Plant would make no difference to these proposals. This was an allocated site for waste activities and would bring about a certain level of noise and therefore it was important that there was a sound scheme to protect residents;

2. The prevailing wind was South West so would not take noise to nearby homes. The background noise was assessed over a number of days and an average was arrived at;

3. Technically it was possible to limit the conditions for a number of days of use but this would not provide the operator with the flexibility it sought. It would also be difficult to monitor as the enforcement service was now purely reactive;

4. Councillor Shah observed that this was a significant development and questioned whether targets for recycling would continue to be achieved and was the development creating a precedent. He was informed there was no precedent in planning as all applications were considered on their merits. This application had been individually assessed with regard to its impacts;

5. Councillor Bradley had visited the site and observed that the bailer did not produce much noise but the glass tipping did. She commended the work done by the Environmental Health Officer (EHO) and was satisfied with his recommendations and moved them as set out in the report;

6. Councillor Breckels also welcomed the thorough work carried out by the EHO and asked whether there were any measures that could soundproof the bays where the glass was tipped. He was informed that Bristol Waste was asked for other mitigating measures but was unable to offer any. There was potential for a roof on the bays but this would need a detailed assessment and it was possible that this could make noise worse at other locations by funnelling noise;

7. Councillor Eddy seconded the motion to grant. On being put to the vote, it was:-

**Resolved (9 for, 1 against) – That the application be granted planning permission subject to conditions as set out in the report.**

At this point, Councillor Shah left the meeting.

**B. 17/02413/F - Old Bristol Royal Infirmary Building, Marlborough Street (South Side), City Centre.**

Supporting Documents were made available to the Committee in advance of the meeting.

The representative of the Head of Development Management made the following points by way of introduction:-

1. These proposals were due to be considered at Committee in September 2017, however two days before the Committee the Hospital chapel was listed as a Grade II listed building. This was a material change and required a withdrawal of the report as it did not reflect the listing and the necessary weight to be attached to it;
2. The applicant subsequently requested that the listing be reviewed by Central Government (DCMS) and as such the Public Inquiry arranged for November 2017 for the appeal against non-determination was put in abeyance pending the outcome of the review.
3. The application was therefore brought before the Committee to determine what its decision would have had it been able to determine the application so that officers could defend the reasons at appeal;
4. In light of the listing of the Chapel, there were two scenarios the Committee was asked to determine. The first scenario reflecting the position before the listing, which was needed should the Chapel be de-listed and the second where the Chapel was listed and remained listed;
5. There were no material changes to the proposals and therefore the only change was the listing of the Chapel which provided a further reason for refusal. The application consisted of 715 student bed spaces, office floor space, a medical school and 23 car parking spaces. Officers were satisfied that the loss of the hospital façade did not impede on the expansion of hospital facilities as the proposed medical school continued that link and the use of the land was therefore accepted. The contentious issues were the locally listed buildings, the urban and architectural design quality, air quality and the way one moved around the site;
6. Significant objections were received and there was collective concern regarding the quality of the scheme, the relationship with the street and the architectural quality and nature of the scheme;
7. There were various levels of harm on heritage assets such as St James Parade and Priory, the Coach House and White Harte. The Chapel was still locally listed (in the event that statutory listing was not confirmed) and its loss was considered harmful as it was part of Bristol's identity and the replacement scheme did not compensate for that. Air quality was not good along the road and the extra height of the development was likely to make this worse as it acted in a canyoning effect. Officers had requested air quality remodelling but this had not been forthcoming and therefore this was a reason for refusal.

The following points arose from debate:-

1. Councillor Breckels observed that it was astonishing and tragic how much of the fabric of Bristol had survived the Blitz but was subsequently redeveloped. He was pleased the Chapel had been listed and supported officers' recommendations for refusal. He asked whether it was possible to list the whole of the BRI building and was informed that there had been two previous unsuccessful attempts and was aware that there might be another attempt;
2. Councillor Bradley highlighted the poor air quality in a heavily trafficked area where there were sick people and asked whether officers could undertake the remodelling and was informed that this was the responsibility of the developer and for officers to then assess its findings;
3. Councillor Hance stated that there was very little to recommend in the proposals and moved that both scenarios be refused and this was seconded by Councillor Eddy. Both scenarios were put to the vote and it was unanimously :-

**Resolved –**

- 1. That had the Local Planning Authority been in a position to determine the development proposals prior to the Hospital Chapel being Grade II listed, it would have refused them on the grounds as set out in the report.**
- 2. That had the Local Planning Authority been in a position to determine the development proposals where the Hospital Chapel remains Grade II listed, it would have refused them on the grounds as set out in the report.**

**C. 17/05145/F – Woodlands, Church Road, Sneyd Park.**

There was no Amendment Sheet.

The representative of the Head of Development Management made the following points by way of introduction:-

1. The application was before Committee as the ward Councillor Peter Abraham had referred it;
2. The application was for the construction of a three-storey four bedroom house on a disused and overgrown plot adjacent to a Grade II listed building;
3. The proposals would require the removal of 17 trees with 19 replacement trees being planted on site and 6 off site. Tree Officers were content with this level of mitigation;
4. The new dwelling would be set into the slope on the site with the lower and mid-floors situated below the ground level at Church Road;
5. Twenty objections were received concerning the adjacent listed building, overdevelopment, loss of trees and residential amenity impact;
6. In principle the development was considered acceptable and was supported by policies BCS5, BC20 and DM21. The Conservation Officer supported the view that there was not substantial harm and the special interest of St Marys was not directly affected;
7. Officers considered that there was sufficient public benefit to offset any harm caused and the proposal was sufficiently subservient to the Victorian buildings either side. Over-looking was avoided given the distance and height from St Marys. A daylight and sunlight study conducted by a consultant on behalf of the applicant showed that the neighbouring windows passed the BRE daylight and sunlight test. Transport Development Management Officers were content that access was maintained and there was sufficient parking. The controlled ventilation system provided a 20% reduction in CO2 as set out in BSC14.

The following points arose from debate:-

1. The numbers of replacement trees was in line with policy;
2. Councillor Mead believed it was a well-designed modern building with modern buildings nearby within a Conservation Area but was hesitant in supporting it in relation to the grade II listed buildings;
3. Councillor Breckels stated that it was an exciting piece of architecture and was subservient to surrounding buildings and he would support the officer recommendation to approve;
4. Councillor Eddy appreciated the neighbours' concerns but preferred land use was not the role of the Committee. The proposal was contemporary and well-designed and he would support the officer recommendation to approve;
5. Councillor Bradley stated that the design was imaginative. She would normally be opposed to infill and was

sympathetic to concerns but moved the officer recommendation to approve and this was seconded by Councillor Eddy. On being put to the vote it was unanimously:-

**Resolved – That the application be granted planning permission subject to conditions as set out in the report.**

**D. 16/06828/P & 16/06842/LA – Land at Temple Circus.**

There was no Amendment Sheet.

The representative of the Head of Development Management made the following points by way of introduction:-

1. The applications were first brought before Committee in November 2017 where it supported them on the grounds that the benefits outweighed the harm but were unable to grant planning permission as objections were received from Historic England and the Victorian Society requiring the applications to be referred to the Secretary of State;
2. Since then the Secretary of State has confirmed that he will not be calling the application in for decision and a package of S106 measures have been negotiated;
3. Further detail on air quality has been submitted following the previous meeting. As a consequence Officer would be seeking additional control over parking, which would be picked up in Reserved Matters applications, and amendments to the travel plan which could be secured by condition;
4. The Committee was asked to confirm the previous resolution and the reasons for it as set out in the report and agree a Heads of Terms of a legal agreement.

The following points arose from debate:-

1. Councillor Eddy noted the basic planning principle that ownership did not dictate planning consent. He was reassured by the progress and moved the recommendations to grant planning permission, this was seconded by Councillor Davies;
2. Councillor Mead supported the principle but felt it was a shame to lose the building although it had been scaffolded and a problem for a long time;
3. Councillor Breckels was concerned that it was possible to submit an application on a site you did not own and was informed that land ownership was not a planning issue and the situation had not changed since the previous decision;
4. On being put to the vote it was unanimously:-

**Resolved –**

**1. That application no. 16/06828/P be granted planning permission subject to appropriate conditions and a planning agreement to secure:-**

- i) A financial contribution of £13,500 for the administration of a travel plan
- ii) £5,395 fees for a Traffic Regulation Order.

**2. That application no. 16/06842/LA be granted planning permission subject to appropriate conditions.**

**11 Date of Next Meeting**

It was noted that the next meeting was scheduled to be held at 6pm on 25 April 2018.

Meeting ended at 4.45pm

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