

# Bristol City Council

## Minutes of the Development Control A Committee



**17 October 2018 at 10.00am**

### **Members Present:-**

**Councillors:** Don Alexander (Chair), Chris Windows (Vice-Chair), Clive Stevens, Mark Wright, Harriet Bradley (substitute for Margaret Hickman), Fabian Breckels, Stephen Clarke, Olly Mead, Lesley Alexander, Richard Eddy and Celia Phipps

### **Officers in Attendance:-**

Jeremy Livitt (Democratic Services Officer), Gary Collins, Alison Straw, Peter Westbury, Natalie Queffurus, Jim Cliffe and Jon Fellingham

## **1. Welcome, Introductions and Safety Information**

The Chair Councillor Don Alexander led introductions and welcomed those present.

## **2. Apologies for Absence and Substitutions**

Apologies for absence were received from Councillor Margaret Hickman (substituted for by Councillor Harriet Bradley).

## **3. Declarations of Interest**

Councillor Clive Stevens declared an interest in Agenda Item 8(b) since had called it in and would be making a Public Forum Statement on it.

Councillor Mark Wright stated that, whilst he had met with residents 6 months ago to discuss Agenda Item 8(a), he did not believe it would affect his judgement in making a decision and therefore would participate and vote on this item.

## **4. Minutes of the previous meeting**

Resolved: that the minutes of the meeting held on 5<sup>th</sup> September 2018 be approved as a correct record and signed by the Chair.



## 5. Appeals

The Head of Development Management explained how the appeals process operated. He referred to the following cases and outlined the latest situation in each case:

- Appeal Number 6 : Hamilton House, 80 Stokes Croft – to be determined by written representations
- Appeal Number 7: PX Centre, Bedminster Road – to be determined by written representations
- Appeal Number 8: 28 York Road, Easton – to be determined by written representations
- Appeal Number 9: Old BRI Building, Marlborough Street (South Side – City Centre) – this inquiry was still pending and held in abeyance subject to UNITE’s decision to appeal against the decision to list the Chapel Building
- Appeal Number 10: 8 to 10 Station Road, Shirehampton – this appeal had now been set for 20<sup>th</sup> November 2018
- Appeal Numbers 11 and 12: 15 to 16 Brunswick Square – a date was awaited for this appeal
- Appeal numbers 13 to 56 – Appeal decisions were awaited
- Appeal Number 58: Unit 1 Maggs House, 70 Queens Road, Clifton - This application had been refused on the grounds of the loss of the retail frontage and amenity concerns. The Inspector agreed with the Council’s case expressing concern about the growth of bars and nightclubs in the area. Cots had been applied for and not awarded since the Inspector believed that, whilst it was contrary to officers’ recommendations, the Committee was entitled to do so and it was defensible. In relation to the issue of the break- up of the shop frontage, the Inspector felt it was reasonable for Councillors to rely on local knowledge. Officers’ view was that this decision set a good precedent for similar future applications.

In response to Councillors’ questions, the Head of Development Management made the following points:

- He explained the process for local residents to write to the Inspector for their views to be heard
- He noted Councillors’ concerns that the current number of successful delegated appeals was currently higher than officers would expect or want but did point out that the figure fluctuated. He stated that officers would be carrying out a full assessment of individual cases to establish if there were any obvious trends that could be addressed.
- He explained that, whilst there were exceptions such as in the case of UNITE ( see Old BRI Building appeal above), it was generally expected that claims would be made at the outset of the case to ensure the process was reasonable. However, costs had to be robustly defended at every appeal since costs could always be awarded against Bristol City Council for any reason

## 6. Enforcement

It was noted that there had been 5 Enforcement Notices served since the last Committee Meeting.



## 7. 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.

## 8. Planning and Development

The Committee considered the following Planning Applications

### **a. Planning Application Number 17/05149/F - Merchants Academy Gatehouse Avenue Bristol BS13 9AJ**

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

- The details of the application site were outlined
- It was noted that the application had been referred to Committee by Councillor Paul Smith
- The proposed site layout was shown
- The scale and massing of the proposed development fits in with the conservation area. Some three dimensional sketches were shown to the Committee
- Planning permission had been granted in 2006. Officers believed that this was still extant
- The development on each floor was indicated. It was noted that the fourth floor was in accordance with the scheme
- Amenity - officers believed that the scale of massing was not significantly different to the previously approved scheme and that the outlook was acceptable
- Daylight – officers confirmed that 7 flats would notice a reduction in daylight levels which currently receive acceptable levels but that 4 of these would meet the higher daylight factor test. Whilst there would be some impact on amenity for these flats, it was acknowledged that there were already reduced areas of daylight in the previously approved scheme
- Sunlight – There will be issues in the neighbouring courtyard with a likely loss in the winter months
- Privacy – Conditions would be made to ensure screens were on the balcony of the roof terraces
- Overlooking – A condition was proposed to ensure the roof terrace was limited to the defined area
- Management Plan – There would be a condition to ensure there was a Management Plan for the apartments

Officers believed that the development was an acceptable high quality design and that the impact had been thoroughly considered. In addition, the access arrangements were safe and that the site



contributes a negative impact on the Conservation Area. In view of this, the recommendation in the report was to approve the application.

The following points arose from Councillors' questions:-

- Details for the management of the serviced apartments was set out in the report
- SA101 Allocation related to the Whapping Wharf site and excluded this site which was adjacent to it
- There is an identified need for affordable housing and the Local Plan which would be launched in 2019 had identified this. However, until then the Council was required to operate in accordance with current policies
- The application had to be considered on its merits. If the applicants wanted residential properties in the future, there would need to be a new application.
- In relation to potential future provision of student accommodation, the issue of adapting apartments to become affordable ones had been discussed. However, it was the responsibility of developers to understand the situation. Some of the current units did not currently conform to national space standards
- Planning permission for an application remained in place for good
- The central area plan promoted small scale boutique hotels
- Page 38 of the report referred to Policy BCAP41 which confirmed that enhancing the Harbourside area as a leisure destination was an aim and therefore, a proposal for this could be presented at a later date
- Officers confirmed that the vacancy of the site had an impact on the Conservation Area. However, it was acknowledged that this development did not provide affordable housing. Councillors were also reminded of the amenity issues set out in the report
- Whilst there could be some overlap in terms of the daylight/sunlight issues, the tree officer had not examined whether or not there would be a loss of light for the trees in the adjoining courtyard
- It was likely that the properties would pay business rates since they would operate as a commercial business
- Officers could not confirm why no development had taken place following the previously approved application for residential properties. However, it was noted that the development had been approved shortly before the financial crash and that this could have caused an impact
- Following a suggestion from Councillors that a 24 hour concierge should be present on site to deal with noise from late night parties (as opposed to someone simply being on call), officers pointed out that under the existing situation there would always be the potential for noise from adjoining properties. There was no requirement for this in the Management Plan. Whilst in the case of previous planning applications this had been addressed through a condition, there had been recent cases of appeals being upheld in similar circumstances and officers' steer was that any refusal on this basis would be difficult to prove at appeal

Members made the following comments during debate:



- Whilst a development on the site should be welcomed, this type of C1 usage for serviced apartments was not appropriate. Disputes between residents in relation to such properties had in the past proved to be very bitter and protracted. The proliferation of these properties was not welcomed and contradicted the Council's policies
- This site was more appropriate for residential properties for which it already had permission. The issue of noise from these properties was a cause for concern
- Whilst the design was good with appropriate scale and massing and the need for development on this site was clear, C1 use should not be accepted here. Whapping Wharf was currently much quieter than the other side of the harbour front and there was a risk that increased noise and disturbance would transfer to the former and ruin its character. B2 usage would be much more appropriate. In addition, it did not comply with BCAP10 which was designed for small scale boutique hotels
- These kinds of developments pushed up the cost of flats and made them unaffordable for some people
- This development should not be approved at the time of a housing crisis
- This was not the appropriate venue for this site
- This development had the potential to cause harm to existing developments in terms of amenity (ie loud music) and was incompatible with the Local Plan
- There was a great deal of anecdotal evidence concerning noise at this site which needed to be fully assessed

The Head of Development Management strongly advised the Committee that any potential refusal reason based on incompatibility with the Local Plan would be very difficult to prove at appeal since the existing plan still applied. He pointed out that the policy framework did not require development for C3 housing. However, refusal on the basis of loss of amenity due to noise and disturbance could be argued.

It was moved by Councillor Harriet Bradley, seconded by Councillor Fabian Breckels and, upon being put to the vote, it was

**RESOLVED: (unanimously) –**

**(1) The proposed development of 13 serviced apartments (Class C1), by the very nature of the use, would result in unacceptable noise and disturbance within this relatively quiet part of the Bristol Harbourside and would fail therefore to safeguard the amenity of existing residents and fail to contribute positively to the areas character and identity. As such the proposals would be contrary to policy BCS21 & BCS23 of the Bristol Core Strategy (adopted 2011).**

**(2) In the absence of evidence to the contrary, (though the submission of an Arboricultural Report), the proposed development, by reason of its siting, scale and massing is likely to have an unacceptable impact upon the health of the trees sited within the landscaped courtyard within the adjoining residential development known as The Anchorage, given the consequent reduction in daylight and sunlight. As such the proposals would be contrary to policy BCS9 of the**



**Bristol Core Strategy in that the proposals could lead to the loss of green infrastructure without appropriate mitigation.**

**b. Planning Application Number 18/02902/F – Land On North Side of Belgrave Hill, Bristol**

Councillor Clive Stevens declared an interest in this item since he had called it in and was making a Public Forum statement. He indicated that he would withdraw from the meeting for the duration of this item and would not participate in the discussion or vote on this item.

The representative of the Head of Development Management made the following comments:

- Details of the site were outlined. It was noted that this a lapsed planning permission for an identical development had been approved on 12<sup>th</sup> November 2014
- The narrowness of the development was indicated on the site
- The site had not been assessed as a heritage asset in the Conservation Area
- A condition relating to insurance was proposed
- Three additional representations had been received in the amendment sheet

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

- The recent incident where an ambulance had been stuck on this road had occurred at a point where there was a 3.7 metre kerb width. However, vehicles were able to access roads at a kerb width of 2.75 metres over short distances. Officers did not know the size of waste vehicles
- The key consideration if the previous planning permission. The city design team had been consulted and had raised no objection to the proposal
- Councillors' concerns about the need to ensure the wall could be accessed to deal with any repairs. The applicant would need to comply with the building regulations. There was ongoing maintenance of the wall taking place and refusing on these grounds would not be a material reason for recommending refusal. He also confirmed that the structural integrity and insurance issues were set out in the report
- In response to a Councillor's concerns about the fact that vehicles were generally getting wider and larger and the impact this could have on the previously agreed space standards, officers referred Councillors to the table in the report setting out 2015 National Space Standards
- Whilst the previous permission had now expired, it was still granted recently and, therefore, the Committee needed to give it sufficient weight in making its decision. Officers believed that, other than 2015 Space Standards which were slightly more stringent, there had been no significant change since the previous decision and changing them would be perverse. The Committee were obliged to assume that permission had been granted satisfactorily

Members made the following comments:



- The space standards for Bristol City Council should not be any worse than national standards. This site would be ideal for a community garden. Whilst housing was required in the city, this was not an appropriate site
- There are some situations when developments can be approved even if they did not meet space standards since housing was badly needed
- It was difficult to believe that a 10 metre long lorry could access this site
- Any development that was built so close to the wall could collapse during bad weather
- Although approval had been given 4 years ago on this site, it had not been developed. Whilst it would provide housing, it would be very difficult to access and should not be supported

Councillors discussed whether or not a formal site visit would be appropriate but agreed that it would be more appropriate to view the site individually as required.

It was moved by Councillor Olly Mead, seconded by Councillor Stephen Clarke and, upon being put to the vote, it was:

**Resolved: (9 for, 1 against – Councillor Clive Stevens had declared an interest and not being present during the vote) – that the application is deferred pending investigation by officers of issues relating to access to the site by emergency vehicles and refuse vehicles and to assess the structure and soundness of the adjoining wall.**

**c. Planning Application Number 18/02650/F – 4 to 5 Dean Street, St Paul’s, Bristol BS2 8SF**

The representative of the Head of Development Management made the following comments:

- Details of the site were provided to the Committee which was currently the Roundway Garage
- The application was for a change to a private hire venue independent of the current garage. The applicant had indicated that this would not be a nightclub and would have the following opening hours: 0900 to 0000 Hours Sunday to Thursday and 0900 to 0100 Friday to Saturday
- Access to the venue would be maintained and details of access to the existing garage were also outlined
- There would be no on site parking
- Arrangements for waste collection were outlined
- Residential amenity and noise were the main issues. The site would be restricted to D2 usage
- A Noise Impact Assessment had been carried out and a Premises Management plan had been prepared which set out the restrictions on opening hours, arrangements for a noise limiter and a process for dealing with complaints
- The location of the site enabled mixed use





- There were no objections from transport to the proposed development

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

- There were no concerns expressed in relation to access and the stairwell. Arrangements for emergency exit were covered by a premises licence
- There would be a separate process for licence arrangements
- The previous use had been very similar. It had been a private members club for Porsche owners
- Fire access issues were not within the remit of the Committee and were covered by separate regulations
- Operating hours had been approved by Environmental Health. There had been previous restrictions on hours for the recently lapsed permission
- Councillors' concerns about noise were limited. However, officers explained that there would be a nominated person at the venue to ensure no-one was at the premises outside operating hours. In addition, there was a requirement that there be no more than 6 people in the smoking area. Although some councillors remained concerned as to how these requirements could be properly enforced, officers pointed out that since they had been approved by Environmental Health, it would be difficult to set a noise limit. It was noted that the Environmental Health team could serve a breach of conditions notice if required

Councillors made the following comments during debate:

- It was important that the Committee did not stray too much into discussing licensing issues since these would be dealt with separately through the licensing process
- The large list of objections made this application problematic. Since the area was primarily residential, the situation was different to the time of the approval of the previous application when the private members club was approved. Control of the noise disturbance would be difficult to enforce
- This type of use was more appropriate for the city centre and should have the hours of operation reduced if it was approved
- Whilst the issue of the operating hours was a cause for concern, it was noted that this issue would be addressed by the Licensing Committee
- Whilst residents' concerns were noted, mitigation to address them seemed to have taken place

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

**Resolved: (6 for, 3 against, 2 abstentions) – that the application be approved as set out in the report.**





**d. Planning Application Number 17/04673/F – Site ND6 Temple Quay - Land Bounded by Providence Place, Old Bread Street and Avon Street, Bristol BS2 0ZZ**

The Head of Development Management and the Planning Obligations Manager made the following comments:

- This application had originally been approved at Development Control A Committee on Wednesday 21<sup>st</sup> June 2018. At briefings prior to the Committee meeting, it was noted that stamp duty should not be applied to a viability assessment
- The application was approved subject to a Section 106 agreement with a determination deadline of 25<sup>th</sup> March 2018, following which there is a window of 6 months for a decision to be made subject to the agreement of this extension period by both parties. However, no such request was made in this instance
- On 6<sup>th</sup> September 2018, the applicant lodged an appeal against non-determination which was refused on the grounds that it was incorrectly issue. Following its correction and resubmission, the Inspector's decision on this matter was awaited
- In view of this situation, the Committee had a choice of two decisions that it could make as follows: either concede the appeal or indicate the reasons that it would have given for refusing the application if it had been determined
- The RICS guidance had been published in June 2018 and had taken effect from October 2018. It indicated that stamp duty would now be included in any viability position. Whilst this was just guidance, it still needed to be given due weight. Nevertheless, it should be noted that this was not part of the Planning Policy Framework which applied to all applications
- Members' attention was drawn to the new Paragraph 57 which required ND6 to be delivered in conjunction with ND7

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

- There was no guaranteed outcome at any appeal. However, officers' view was that 21<sup>st</sup> June 2018 decision was not unreasonable at the time that it was made. Nevertheless, Councillors were required to take into account what they now know in respect of the RICS guidance
- The covenant indicated that the 15 year rental period applied to all properties and that tax would apply only in instances when the land was subsequently sold on
- There were 120 dwellings in total for the development, of which only 4 were affordable
- The applicant had requested written representations for the appeal which was likely to reduce any award of costs
- The implementation of the RICS guidance was very new since it had only recently come into force
- Officers explained why this issue was being reconsidered at Committee



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

**Resolved (9 for, 1 against, 1 abstention) – that if the Committee had the power to determine the application it would have refused it for the following reason:**

**The proposed development fails to make an appropriate contribution towards the provision of affordable housing and is therefore contrary to Core Strategy Policy BCS17**

## **9. Date of Next Meeting**

The next meeting is scheduled for 2pm on Wednesday 28<sup>th</sup> November 2018.

Meeting ended at 1.10pm

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

