

**Bristol City Council**  
**Minutes of the Development Control B Committee**

**9 December 2020 at 2.00 pm**



**Members Present:-**

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

**Officers in Attendance:-**

Gary Collins and Jeremy Livitt

**1. Welcome, Introduction and Safety Information**

The Chair welcomed all parties to the meeting.

**2. Apologies for Absence**

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

**3. Declarations of Interest**

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

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

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

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

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



## 5. Appeals

Officers advised the Committee that there had been a recent surge in appeals being dealt with by either Hearings or Public Inquiries and made the following comments:

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

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

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

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

## 6. Enforcement

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

## 7. Public Forum

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

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

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

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



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

- In situations such as this where conditions were repeatedly violated, the local community suffered. Urgent discussions were required with planning enforcement and the matter needed to be dealt with quickly.
- This was a matter of great concern as applications were frequently only approved on the basis that certain conditions were adhered to. However, officers confirmed that conditions were legally binding
- Whilst there had been attempts to negotiate with this developer, there seemed to have been difficulties with communicating this effectively to local residents
- Decisions were made on the understanding that conditions would be adhered to and these should be properly enforced. Notwithstanding any legal constraints, the process needed to take place quicker
- Officers confirmed that they would check to see the number of complaints that had been received concerning enforcement and details of response rate. There were performance management statistics that could be provided. They acknowledged members concerns but pointed out that following a reduction in resource the enforcement team only consisted of 3.5 people for the whole city. In addition to this, following a previous restructure, the team could no longer operate on a proactive basis as they previously had done but relied very heavily on responding to complaints.
- In response to concerns as to when officers could take action in such circumstances, officers confirmed that the management protocol in these situations required an initial period of negotiation and a small window of opportunity for the developer to remedy a situation prior to formal enforcement action being taken. If a breach had occurred and compliance did not take place, a note could be served and failure to comply could lead to prosecution at the Magistrates court. However, care did need to be taken to follow the Council's Enforcement Policy as the appellant did have a right of appeal. Whilst a Stop Notice could be served in extreme cases, if a breach of planning control had not occurred and in the event that the Local Planning Authority were deemed to have acted in an excessive manner, they could be liable for compensation
- Officers confirmed that the existing resource model for enforcement was cross-subsidised from planning application fee income.

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

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



## 8. Planning and Development

The Committee considered the following applications set out below:

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

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

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

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

Officers also highlighted that the report had been updated to fully consider the likely impacts of the proposed development on specific protected groups under the public sector equalities duty.

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

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

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

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

#### Highways Impacts

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



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

#### Impact to external appearance

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

#### Impact to amenity of existing residents

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

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

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

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



### Responses to Councillor Clive Stevens

- (1) The applicant has provided a search area where replacement equipment needs to be located. Whilst there is no evidence that the applicant has actively co-ordinated a replacement site with competitors, there are no existing or approved sites within the nearby area that could be shared to accommodate the proposed equipment and mitigate the coverage loss. . Therefore, officers believed that Policy DM36 (ii) had been met
- (2) As this proposal is to replace existing equipment, the search area is based on an area as close to the equipment as possible. Since officers understand that all providers had received a notice to quit, this suggested there were no other providers available. This was based on evidence that there were no existing installations that can be shared.

### Responses to Janet Lee

- (1) Whilst it was usually possible to upload all documents when submitting an objection to a planning application, it was noted that this is not clear on the website. However, the diagram and photos that had subsequently been submitted were acknowledged and taken into account
- (2) Whilst it was noted that developers had been able to submit a large number of photos and other documents, it was acknowledged that developers generally have to submit a wide range of documents, sometimes including photos, as required by the local list of validation requirements.

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

### Questions By Rob Lee

- (1) Durdham Downs provides coverage for the area to the north. The applicant has made clear that they needed to ensure coverage could be provided for an installation nearby, and this has shaped the search area assessment.
- (2) The 2019 application was for partial coverage, whereas the proposed installation would provide a complete coverage

### Questions by Richard Durrant

- (1) Officers had only been able to include certain number of documents due to maximum size limits of publishable reports. We included the proposed plans, a search area plan and two views from the applicant which provided a visual interpretation of the development. However, a critical assessment had been provided of the views provided by the applicant, and officers' had adjusted their assessment accordingly. All Councillors had been able to access and review the comments made, images provided, and documents/plans submitted.
- (2) The Committee have to be satisfied that they have all the information available to make their decision. Members also had the option of deferring a decision for further information if they chose to do so. Albeit, Officers advised that the information available to the Committee was sufficient to make a sound and well-considered decision.

### Questions from Merche Clark



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

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

- Details of the site, proposal, public interest and the motivation of the application were provided, including that the site is in the Whiteladies Road Conservation Area.
- Alma Church was not listed although this had been as suggested by a number of people submitting Public Forum Statements
- Details of the proposed plans, including the site plan and elevations, and photographs were shown
- The Committee was reminded of Telecommunications Policy DM36
- Officers presented a number of views from the submitted photomontage as well as their own photographs taken in November. Officers explained the likely visual impact of the equipment.
- The biggest concerns raised in the objections were that the equipment was unsightly and at odds with the character of the Conservation Area, as well as the short and medium term views from St Johns Road, as well as other views within the Conservation Area.
- Officers explained any views from the south would be limited and disrupted by trees, regardless of the time of year, and set out that there would be limited short term views when adjacent to the site, short-to-medium views from the west-side of Alma Vale Road, and of most concern short and medium-distance views from St John's Road. Officers advised that such views would result in a low degree of less than substantial harm to the Conservation Area. Further, officers explained that the proposal's design is contrary to criteria i of policy DM36
- With regard to criteria ii of policy DM36, the map of the search area was shown. It is understood that the applicant will remove existing equipment on the Clifton Down Shopping Centre, as per the applicant's advice. Officers responded to concerns from members of the public concerning the area covered by the search area, explaining the justification for the search area.
- Whilst the Local Planning Authority could question the need for a particular site, they could not question the need for Telecommunication Systems generally.
- A map showing other operators in the area was presented, which demonstrated there were no existing mast sites that could be shared. Further, officers explained that they were not aware of any other sites with planning permission in the search area that could be shared in future. Officers advised that criteria ii of policy DM36 was met.
- As per criteria iii of policy DM36, an existing building was being used.
- Other sites had been assessed by the applicant but had not been deemed suitable or available. Officers acknowledged that whilst it is fair to say that Whiteladies Rd is likely to be less historically and architecturally sensitive than other areas of the Conservation Area, the applicant had discounted a number of sites on Whiteladies Road in terms of its coverage and suitability of buildings. Criteria iii of policy DM36 was met.
- Criteria vi of policy DM36 had been met, given the provision of a ICNIRP declaration.



- Officers had assessed the harm to the Conservation Area against the proposal's benefits that largely surrounded the ensuring 3G and 4G coverage was maintained in the area. 4G coverage maps were presented to support this. .
- Officers advised that a balanced judgement had been made, and the proposal's negative impact on the Conservation Area was considered to be outweighed by its beneficial aspects.
- The suggestion of a temporary mast was not considered justified, as there is no certainty that the planning circumstances of this case would change in the future.
- Similarly, a condition to restrict use to 3G and 4G only, explicitly prohibiting 5G coverage, was not considered appropriate as there was no legal basis to impose such a limit. Further officers advised that the Applicant suggested a new planning application would be required to upgrade the masts to provide 5G coverage. Any future application to upgrade the equipment would be considered separately on its own merits

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

- Whilst the possibility of a future application from Sovereign Housing following the provision of a notice to quit from the new owners of Clifton Down Shopping Centre was an interesting development, no weight could be given to this in deciding on this application
- Under Paragraph 116 of the NPPF, Councils were not able to question the need for an electronic communications system, but could question the need for a specific site, as had occurred under policy DM36.
- In terms of the health impact of radiation from masts, the NPPF made clear that the health safeguarding standards should not be any different to international ones
- Officers believed there would be less than substantial harm to the Conservation Area and that in the search area there were no other installations that could be shared.
- In relation to potential harm to trees, officers had not received any advice that they would be adversely affected by radiation. The impact on trees has been considered in correspondence with the arboricultural colleagues, and a condition had been advised.
- Councillors' concerns were noted about the need for adequate photo evidence. Officers would revisit this issue
- The possibility of future development and its impact on this proposed development was noted but would be speculation and could not be considered by the Committee
- The telecommunications equipment was being installed on an existing commercial building, not a residential one.

Councillors made the following comments:

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



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

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

### **11 Date of Next Meeting**

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

Meeting ended at 4.15 pm

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

