

STATEMENT A9

APPLICATION 21/01999/F BRISTOL ZOO – WEST CAR PARK PUBLIC FORUM STATEMENT OF ADAM CHIVERS

General

1. The number of those objecting to this application is huge. Notwithstanding that, certain matters are common to all the submissions:
 - (a) The development is over-intensive
 - (b) The buildings are too tall
 - (c) The poor design and over-massing is deleterious to the setting of the surrounding buildings
 - (d) The amenity space is inadequate
 - (e) A significant number of trees would be lost
 - (f) The proposals fail altogether to preserve the character of the Conservation Area; in fact, would do the opposite: significant damage.
2. There are 4 matters of the greatest significance:
 - that entirely independently so many people say the same thing
 - that their objections are supported by the Contributors consulted by the Planning Officer
 - that the Contributors' objections have either been ignored or seriously misrepresented in the report provided to the Planning Committee
 - that nowhere is there any objection to the **principle** of development: only to **this scheme**.
3. None of the fundamental concerns of those objecting (raised to the scheme in its original form) have been addressed by the amended scheme.
4. Since the objectors do not object to the principle of development, the Committee should avoid the temptation to see the choice as a binary one: between approving this particular scheme and frustrating the development of the site.¹
5. It should instead reject the application and, by doing so, encourage the Zoo to come up with a less intensive, properly sustainable, well-designed scheme with proper provision for trees and play areas. If it did so it would
 - (i) satisfy the statutory obligation to preserve or enhance the character of the Conservation Area;
 - (ii) comply with the requirements of the Climate Change and Sustainability Practice Note; and as a result

¹ This is a trap that the author(s) of the report to the Planning Committee have invited the members to fall into. See paragraph 22 below.

- (iii) meet with the approval of the objectors; and, most importantly,
 - (iv) create a legacy of which both the City and the Zoo could be truly proud.
6. This note concentrates in the main (see paragraphs 10-16 below) on the fact that those consulted on the application agree with the individual objectors. Despite this however, the report before the Committee has either ignored or, where it was not possible to do so, misrepresented the representations made by both its External and relevant Internal Contributors (and to do so in a way that is thoroughly misleading). They have offered scant or no reasons for their conclusion. In the circumstances the recommendation of the report that the application be granted can only be regarded as perverse. The application should be refused and a new scheme should be submitted.
7. The note also draws to the Committee's attention (see paragraphs 17-21 below) the submissions of Dr Dominic Hogg - most notably his dated 16.08.2021 (in response to the revised proposal). Dr Hogg is a well-recognised authority in policy and strategic issues concerning environmental matters. He has led work for the UK Government on climate change. **His submissions are of the utmost importance and should clearly be made available to the members of the Committee.** Regrettably, like the other consultants, his advice has been ignored. No attempt whatsoever has been made to engage in the issues he has raised nor to explain why.
8. These representations conclude however on an optimistic note and propose a way forward on which everyone could unite and that would be of enormous benefit to the reputation of both the City and the Zoo.

The report of the Planning Officer(s) to the Committee

9. The report is poorly presented. It
- (a) gives every impression of being thrown together in haste² without proper consideration of the significant issues involved;
 - (b) seriously misrepresents the opinion of the most relevant External Contributor - Historic England;
 - (c) disregards in their entirety the representations of the other most relevant External Contributor – the Conservation Advisory Panel;
 - (d) ignores the representations of its Internal Contributors – the Bristol City Design Group;

² For example, it refers without explanation to level differences across the site (there are none) and to roads in Bristol almost 5 miles away (para 5.7). It contains unfinished sentences (para 7.25). Bearing in mind that at a meeting with certain objectors on 13.9.2021 the Planning Officer said that the number of objections to the application was 'unprecedented' (far more than for the proposed Arena) and having regard to the iconic status of the Zoo property, it could reasonably have been anticipated that more care would have been taken in the preparation of the report.

- (e) fails to engage with the numerous concerns raised by Dr Hogg including matters which, on the City Council's own document(s) leave the Committee with no discretion but to refuse the application.
- (f) fails even to contemplate the (patently obvious) possibility of a revised scheme that would deal with the objections

and in consequence is **highly** unbalanced (indeed biased).

Historic England

10. The report to the Committee contends that HE '*have not objected to the application.*' This bald statement is thoroughly misleading.

- (a) in its submission of 22.6.2021 on the original scheme HE stated (and these are examples only)

*'we advise that the opportunities for **the entire zoo site**³ and other assets owned by the zoo ... are explored through a master planning exercise. We would be very happy to engage with the zoo in partnership with other stakeholders and help identify where opportunities and constraints are within the zoo site and its ancillary assets. We believe that this would provide the best way forward in addressing the aspirations and economic needs for the Zoo. With this in mind, we are concerned that the application proposes development without a full assessment of opportunities for the wider site.⁴*

'we believe that the site can accommodate a quantum of residential development, but in very general terms the proposed layout, massing and design fails to respond to the character and appearance of the Conservation Area.

'the existing boundary wall [to be demolished under the Zoo's scheme] ... contributes positively to the Conservation Area. The Conservation Area Appraisal prescribes: 'Where consent is required, resist proposals to remove boundary walls that make a positive contribution to the character or appearance of the conservation area'.

*'In summary, considered as a stand-alone application, **these proposals would harm the character and appearance of the conservation area without clear and convincing justification.**⁵*

³ My emphasis

⁴ The Zoo has consistently refused to open up the discussion to a consideration of the 'opportunities for the entire zoo site' as HE proposed. Its wholesale lack of transparency and its misunderstanding of the duties of its trustees to take account of the wider public benefit are serious causes for concern. See the submissions of Adam Chivers dated 30.6.2021 and 10.8.2021 **These should be made available to the members of the Committee.** See also his emails dated 19.8.2021 and 30.8.2021 (attached to these submissions). Note also that Dr Hogg has also had to indicate that the trustees do not understand their duties. See pages 20 and 21 of his submissions dated 16.8.2021.

⁵ My emphasis. No such 'clear and convincing justification' has been attempted.

'Historic England has concerns regarding the application on heritage grounds. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 194 and 200 of the NPPF.'

(b) In its submission of on the amended scheme dated 27.7.2001 HE stated

*'The amended scheme primarily involves two changes to the previous iteration: the setting back of the College Road apartment block footprint by approx. 1m, so that a lowered portion of the boundary wall can be retained, and secondly the stepping of the northern end of the same block by a storey. **We do not consider that these amendments suitably or meaningfully address our concerns over the impact of the proposed development on the character and appearance of the Conservation Area.**'⁶*

'As it stands, the proposed terraced approach to massing against the existing late C19 terraced properties to the south does not meet the requirements to enhance or better reveal the significance of the Conservation Area (para 206 of the revised NPPF). We therefore advise that your authority would still be justified in recommending refusal, given that these amendments do not represent a meaningful change to the previous the scheme.'

and, after emphasising the statutory obligations of the local authority in considering a proposed development in a Conservation Area and the provisions of the NPPA, expressed its considerable concerns on heritage grounds before indicating clearly that the application should **not** be approved in its present form.

11. The position of HE in relation to both the original and the (marginally) amended schemes is abundantly clear:

- (i) they have significant concerns on heritage grounds and
- (ii) if the present scheme were to be approved that would involve a serious failure to comply with the statutory requirements that govern Conservation Areas and the provisions of the revised NPPF.

12. In the report to the Planning Committee it is stated that

'HE fall short of objecting. They do not state that the proposals will cause substantial harm to the heritage assets. The Local Planning Authority is in effect invited to proceed with the determination of the application with caution.'

13. That statement constitutes an egregious misrepresentation of HE's position - see, in particular, the bold passages above. This is alarming.

Conservation Advisory Panel

14. The CAP stated

⁶ My emphasis

'While the principle of residential development of this site is accepted, the Panel considers this application to be over intensive development...

'The large monolithic block on College Road would be overbearing in nature, and is disappointing in design..., particularly the inappropriate form of the mansard...

'There is insufficient parking provision on this site...

'The scheme removes 15 trees with very limited tree replacement...

'This proposal does not respond to the character of the conservation area and consequently does not enhance the character and appearance of this part of the conservation area...

'In summary, it is considered that there are no positive elements of the scheme.

'Consequently, the Panel considers the proposal does not accord with relevant up to date Local Plan heritage policies nor the requirements of the NPPF and provides insufficient public benefits to outweigh the harm caused by the impact of such a poor scheme on relevant heritage assets.'⁷

Bristol CC City Design Group.

15. The CDG made representations in relation to the original scheme. Their comments apply equally to the revised scheme. The CDG contended:

'Without further design development and refinement, we are not convinced that the current massing and appearance along College Road and from Durdham Downs meet the policy requirement to preserve and enhance the special character of the Conservation Area.

'For the internal spaces of the site including parking a clear justification is needed in relation to their amenity value and compliance with the Urban Living SPD. At present these spaces appear tight and dominated by car parking. Softening of these areas through more generous planting, particularly in light of the verdant quality of the wider conservation area, would improve the scheme's contextual response

'The development contains no onsite children's play area which is contrary to the objectives of the Urban Living SPD.

'Greater efforts should be made to reflect the generous front verdant gardens (with allowance for street trees) that characterises the conservation area.

'With regard to layout deficiencies including the absence of children's play space a clear and convincing justification has not been made to demonstrate that this is a result of site constraints.

⁷ My emphasis

*'Private outdoor space and children's play: ... the lack of meaningful communal open space (in part due to the amount of surface car parking) means that 23% of units on site will not have access to any private outdoor space. It would be regrettable if children were occupying one of the 23% of units with no outdoor space.'*⁸

16. The Planning Officer(s) made no attempt to address these concerns in the report beyond drawing attention to the fact that amendments had been made. (None of these amendments are relevant to the CDG representations quoted above). In fact, he just ignored them.

Dr Hogg

17. To avoid duplication, it is not intended to repeat the advice provided by Dr Dominic Hogg but the Committee should consider his submissions – especially those dated 16.8.2021.
18. Dr Hogg draws attention at page 6 to the City Practice Note of 2020⁹ and its key principles applicable to all Sustainability Statements:

(1) Sustainability Statements should address both mitigation and adaptation as set out under policy BCS13.

(2) Sustainability Statements should engage with and address the energy requirements of policy BCS14, the water management requirements of policy BCS16 and each of the key issues listed in policy BCS15.

(3) In respect of each of these issues, Sustainability Statements should set out what possible measures have been explored, which measures have been adopted and integrated into the design and, where relevant, why it was not feasible to incorporate certain measures into the proposed development.

(4) A failure to convincingly address each of these issues will result in a refusal of planning permission.

He makes clear that because of the failure to adhere to key principle 3 of the CCSPN above the application **must** be refused. This is not a matter of discretion: the provisions of the CCSPN are **mandatory**.¹⁰ **If the application were allowed in these circumstances the Committee would be committing the City Council to an *obvious* and, bearing in mind the extent of the proposed development, *serious* breach of its Practice Note within a little over a year of its publication.**

⁸ On the assumption that the units with no private outdoor space will be cheaper, it is likely that a substantial number will be occupied by families including young children.

⁹ Bristol City Council (2020) Climate Change and Sustainability: How to design low carbon and resilient developments: Practice Note, July 2020

¹⁰ See pages 6 and 11 of the submissions of Dr Hogg.

19. Dr Hogg points also to the City's *One City Climate Strategy* also published last year.¹¹ It provides that

2030 goal: All buildings in the city will be carbon neutral and use resources efficiently, ensuring everyone can enjoy affordable warmth in winter and avoid overheating in summer. The related objectives include the following (by 2030): New buildings are carbon neutral and climate resilient (aligning heat provision to the city's heat decarbonisation programme).

Dr Hogg states clearly there is no possibility of this new development (as it has been proposed) meeting this objective.

20. Finally, Dr Hogg draws attention to the failure of the scheme to provide for a green infrastructure or adequate play areas and the fact that it will generate excessive noise. He states that by doing so it '*designs in ill health.*'¹²...

21. The report submitted to the Planning Committee has simply ignored Dr Hogg with no attempt to deal with his advice or provide any explanation for its failure to do so.

Not a binary choice

22. It is highly relevant to any proper consideration of the report sent to the Planning Committee that its author(s) sought to give the impression that the future of the site depended on consideration of this particular scheme and no other. At para 9.28 of the report it was stated that:

'While the density of development is appropriate, it is not possible to achieve both parking and a safe play area.'

Nothing could better illustrate the lamentable failure of the Planning Officer(s) to properly evaluate the site and the need to bear in mind the statutory obligations that arise in a Conservation Area.

Of course, it is possible to achieve both adequate parking and a safe play area. The problem only arises because of the density of the development. A less greedy approach to density would ensure that there were proper parking arrangements, an adequately green environment with sufficient trees/canopies **and** appropriate amenities for children.

The pressure brought to bear on the Planning Department

23. At a meeting with certain objectors on 13.9.2021, the Planning Officer volunteered the information that the Zoo had exerted a lot of pressure on him and others at the Council and that it was 'desperate'. It had demanded that the application be referred for determination by the Committee as soon as possible.

¹¹ Bristol City Council (2020) Bristol: One City Climate Strategy: A Strategy for a Carbon Neutral, Climate Resilient Bristol by 2030. See page 23 of the submissions of Dr Hogg.

¹² See page 23 of the submissions of Dr Hogg dated 16.08.2021.

24. Such considerations are of course wholly irrelevant to the proper determination of planning applications. They are even less apposite when it would clearly be open to the Zoo and its consultants to design a scheme that is sympathetic to the Conservation Area and to the needs of those who would be living on the site. If the Zoo is indeed 'desperate' it is because it has advanced a scheme that is over-intensive and takes no account of the Conservation Area or the concerns that have been raised.
25. In short, the Zoo has been inordinately greedy and has created an entirely avoidable problem. With a degree of transparency and cooperation and a recognition that it has an obligation to act so as to achieve a public benefit in its widest sense, an entirely acceptable scheme could and would have been devised. (This problem has arisen in large part because the Zoo does not understand the obligations of their trustees).¹³

Conclusion

26. The application site (and indeed the main Zoo site) offer
- (i) the Zoo a unique opportunity to produce a scheme that is not only consistent with (but demonstrates its commitment to) its avowed conservation principles and will provide its home for almost 100 years with a permanent legacy of great value; and
 - (ii) the City with the chance to further demonstrate its much-valued commitment to meeting the challenges of climate change. As the first authority to declare a climate emergency it has a prestigious reputation. If it allowed this iconic site to be developed in accordance with the present scheme it would cause itself significant reputational damage. On the other hand, if it were to facilitate the creation of a truly sustainable and enjoyable living environment it would create for itself an enormous reputational benefit.
27. This is not an opportunity to be missed.

¹³ See the correspondence attached and pages 20 and 21 of Dr Hogg's submissions.

CORRESPONDENCE

LETTER ADAM CHIVERS TO DR MORRIS DATED 19 AUGUST 2021

Dear Dr Morris

I refer to my attendance at your consultation event this afternoon and my conversation with Francesca Fryer at approximately 3.20pm. She will recall our meeting because I made certain points which were strongly supported by various other attendees in the immediate vicinity. In the circumstances I thought it would be helpful if I recorded those points as follows:

1. On their website, the Zoo claimed that

'We have been through a very rigorous process to explore a number of options as well as taking independent professional advice from a range of sources to ensure we are taking the best possible course of action for the Society's future.'

It maintained that

'As part of our extensive review in 2020, we explored other options for the Clifton site, which included other types of visitor attraction and other types of zoos. Working with professional advisors we do not believe that any will be viable or sustainable over the long-term on the Clifton site.'

You have not however made public the other options that you considered or the reasons for their rejection.

2. I made to Francesca Fryer the very obvious point that this lack of transparency is damaging. It is counter-productive because it is bound to exacerbate existing suspicions. As is clear from the very substantial number of objections to the scheme for the West Car Park (in both its original and amended iterations) there is a wholesale lack of trust in the motives of the Zoo and of its trustees with the overwhelming majority of those who have commented on the planning application considering the trustees to have been greedy: concerned simply and solely with a concern to maximise the development potential of the site with no regard for the legacy which it leaves behind when it vacates the site.

3. The reason for this lack of transparency has to be a matter of conjecture but I suggest that the most likely reason is apparent from the letter which you wrote on 8 April to those who responded to the initial proposal for the West Car Park. In that letter you stated that

'As the Society is a charity, the Trustees are legally required to obtain maximum value from the charity's assets to reinvest in its charitable objectives...'

That, regrettably, is a misconception which Francesca Fryer appeared to repeat in my conversation. It takes no account of the obligation to ensure that in the discharge of its charitable purposes the trustees pay appropriate regard to the overriding need to ensure a

public benefit of its activities. In its legal analysis of (and its guidance on) the public benefit requirement the Charity Commission is clear:

'Since it is inherent in every charitable purpose that it is for the public benefit, the charity trustees' duty to further the purposes of their charity includes a duty to further its purposes for the public benefit.'

4. The interests of the Zoo and of its neighbours coincide in one important respect. The Zoo would benefit from seeking to dispel (or at least mitigate) the cynicism that it has endangered by its lack of transparency whilst those who otherwise would be inclined to object to the scheme for the main site would benefit if they could be provided with proper detail of the *'rigorous process'* which the Zoo claims to have undertaken and thus enabled to make an informed decision. Historically, the Zoo has enjoyed the widespread support of its neighbours. It is an enormous pity that in mishandling the sensitivities of its departure from Clifton it is in obvious danger of seriously damaging its (hitherto excellent) reputation.

5. May I therefore suggest that

5.1 you publish details of the other *'options'* that have been considered and why the conclusion has been reached that none of them *'will be viable or sustainable over the long-term on the Clifton site.'*

5.2 you confirm that you will reconsider your understanding of the Trustees' legal obligations which you asserted in your letter of 8 April in the light of the Charity Commission guidance on the public benefit requirement.

I would be grateful for your reply to this email.

With kind regards

Yours sincerely

Adam Chivers

LETTER: JUSTIN MORRIS OF BRISTOL ZOO TO ADAM CHIVERS DATED 23 AUGUST 2021

On 23 Aug 2021, at 13:09, Justin Morris wrote:

Dear Mr Chivers

Many thanks for your email and for attending our event last week to meet with Francesca and the design team.

To safeguard the future of Bristol Zoological Society we are relocating Bristol Zoo to the Wild Place Project site to create a world-class zoo for Bristol and the West of England. The

new Bristol Zoo will offer spacious, modern facilities, significant growth in our conservation and education work and an innovative and exciting visitor experience. In order to deliver this exciting new vision and to secure the future of Bristol Zoo, the Clifton properties will be sold.

We have been open and honest about our intentions, and following our announcement in late 2020 we have continued to engage residents and other stakeholders in our plans, and the reasons behind our strategic direction. This decision has not been taken lightly; however, it is vital to safeguard the future of Bristol Zoological Society, and ensure an exciting new beginning for Bristol Zoo.

For many years Bristol Zoo Gardens, at only 12 acres in size, has been struggling with the size of our site, declining visitor numbers and restricted parking. The impact of COVID-19 caused us to radically rethink our plans about the future and how we address the fundamental and persistent challenges that we face, in order to save Bristol Zoological Society.

As you mention, as part of our extensive strategic review in 2020, we thoroughly explored other options for the Clifton site. We took independent professional advice from a range of sources to ensure we are taking the best possible course of action for the Society's future – this included looking at the potential for other types of visitor attraction and different types of zoos as well. We identified that these options were not viable financially or operationally sustainable.

Since our announcement last year both zoos have been closed for a further three months as a result of the national lockdown, and the site's parking issues have been amplified following the settlement of a judicial review brought by Downs for People against Bristol City Council, meaning that from 2024 onwards the North Car Park at the Zoo will only be able to be used by people visiting the Downs.

We realise the significance and importance of the Bristol Zoo Gardens site, and it is important to us to leave a legacy for the site we can be proud of. Our vision is very ambitious – to create an exemplar of how much needed homes and public places can be designed to be fit for the future we face. Our architectural team, Penoyre & Prasad have won over a hundred architectural awards, including RIBA National Awards, and are known for prestigious, forward-thinking projects in sensitive locations. Penoyre & Prasad are particularly renowned for their environment-first philosophy and are a natural partner given the importance that Bristol Zoological Society is placing on ecology, biodiversity and sustainable development of the Bristol Zoo Gardens site.

As a charity it is important that we ensure that the sale of our site allows us to achieve best value and deliver our charitable benefits for the long-term, specifically our mission of Saving Wildlife Together. We continue to believe that a residential-led scheme on the Bristol Zoo Gardens site is the best way to do this and provide much needed homes for Bristol at the same time.

We hope that you will continue to engage with us over the coming months as the designs are developed and our plans come to life.

Kind regards

Justin

LETTER: ADAM CHIVERS TO JUSTIN MORRIS DATED 30 AUGUST 2021

Dear Dr Morris

I have now had the opportunity to consider your email of 23 August, ostensibly sent in response to mine of 19 August.

Regrettably it wholly fails to address the concerns which I raised or to answer the two specific questions that I put to you. At paragraph 5 of my email I suggested that you

(1) publish details of the other '*options*' that have been considered and why the conclusion has been reached that none of them '*will be viable or sustainable over the long-term on the Clifton site.*' I explained that it was in the interests of the zoo as well of its neighbours if you were transparent in explaining the alternatives for the use of the site which you had considered and the reasons for their rejection since that would help to dispel the widespread suspicion (verging on cynicism) that you have engendered amongst your neighbours by the way you have dealt with the matter.

(2) reconsider your understanding of the Trustees' legal obligations which you asserted in your letter of 8 April in the light of the Charity Commission guidance on the public benefit requirement. That is necessary to ensure that you and the trustees appreciate their duties and avoid an inevitable complaint to the Charity Commission.

You have avoided dealing with either matter. It is little help to your neighbours for you simply to repeat what is on your website and in your correspondence: they know all about that and it is somewhat insulting to them to assume that your email will be sufficient to assuage their concerns.

I repeat: the great proportion of your neighbours are concerned to work collaboratively with the zoo but are concerned that you have no interest in the legacy which you will leave when you move from the Clifton site.

May I please have a reply which actually addresses the two specific points I raised in my earlier email and which I have repeated above?

Yours sincerely

Adam Chivers