

Planning Application Reference 20/02864/F - The Windmill, 14 Windmill Hill & 3 Eldon Terrace Bristol BS3 4LU

Nick James' Statement – 21 November 2021

I would like Councillors to be aware of my relevant experience, and knowledge of the finances of the Windmill Inn, to comment upon the financial viability of the Windmill Inn.

The planning officer has not provided Councillors with very relevant and pertinent financial analysis that I have supplied, demonstrating that the Windmill Inn IS financially viable.

I qualified as a Chartered Accountant in 1990, I have operated my own practice for 20 years, and I also own 3 pubs, 2 of which are trading profitably and the other is undergoing refurbishment.

FINANCIAL VIABILITY

I cannot emphasise strongly enough that the planning officer report to Committee dated 4 November 2020 was SIGNIFICANTLY MISLEADING, and that the planning officer reports to Committee dated 14 July 2021 and 16 November 2021 FAILS TO INCLUDE relevant analysis of the financial information which has been supplied to the planning officer.

In his report to Committee dated 4 November 2020, the planning officer stated: "the applicant has provided detailed profit and loss analysis for the public house which demonstrates a significant loss over the last few years".

I CANNOT EMPHASISE STRONGLY ENOUGH THAT THAT STATEMENT IS FACTUALLY INCORRECT.

I know that to be the case because the owner of the Windmill Inn provided me with copies of those accounts, which cover the 3 years ended 30 November 2019, during my brief negotiations with him in September 2020 to purchase the pub.

The planning officer has never presented those accounts, either on the planning portal, or in presentation to Committee, yet in the latest application, due to be discussed on 24 November 2021, accounts have been presented on the portal for the two years ended 30 November 2020.

The planning officer comments in his latest report: "The financial information supplied is accepted in good faith as it has been supplied by professional accountants who have a responsibility to provide fair and accurate accounts in relation to their clients business".

That may be the case, however the information requested of, and provided by, the owners' accountants, is irrelevant.

The accounts provided by the owners' accountants show losses – of course they do, they include a 3 month period from December 2019 to February 2020 when the owner announced that the pub was to be closed, and a 9 month period from March 2020 to November 2020 when the pub continued to incur fixed costs and actually was closed!!

This is a serious distortion and misrepresentation of financial information to Councillors.

Going back to the accounts for the 3 years ended 30 November 2019, in my objection dated 9 November 2020 I explained that, while the overall profits as shown in those accounts were modest

(but not “losses” as the planning officer had stated), they were significantly distorted by substantial, highly questionable expenditure, in terms of being relevant to the ongoing trading costs of the pub. This expenditure could be as much as £100,000. In addition, the owner of the Windmill did not work at the pub, but incurred wages costs which a working owner/tenant would not incur.

I made these points to the planning officer in my objection dated 9 November 2020 prior to the Committee Meeting on 11 November 2020, but my evidence was ignored by the planning officer, and was not made available to the Committee. I subsequently discovered that the pack of information provided to Councillors prior to the meeting included my covering email to the planning department, BUT DID NOT INCLUDE the detailed financial information which I had provided, and included a comment in the Amendments section which stated “Since publication of the Public Report Pack (Monday 2nd November), a total of 3 further comments have been submitted in relation to this application..... Grounds of objection submitted in the additional comments raise similar concerns and themes to those summarised and present within the original report”.

The detailed financial information which I had submitted on 9 November 2020 was significantly different to any other objection which had been received, and therefore this statement in the pack was INCORRECT, hence why I challenged the decision by Judicial Review.

In July 2021 a further meeting of the Planning Committee was scheduled. In his report dated 14 July 2021, the planning officer changed the wording of his comments on financial viability: “the applicant has provided a profit and loss analysis for the public house. It understood that on this basis the applicant decided to close the public house as they considered it no longer viable to keep it open”.

In other words, the planning officer withdrew his previous assertion that the public house had incurred “a significant loss over the last few years”, but still failed to include the actual accounts for the 3 years ended 30 November 2019, or any meaningful financial analysis, which could and should have included the analysis which I, a qualified Chartered Accountant, had provided.

I again asked the planning officer to present my financial summary and analysis to Councillors ahead of the Committee Meeting scheduled for 21 July 2021. Once again, the planning officer refused. My solicitors therefore made representations to Bristol City Council, hence why that meeting was cancelled. As my solicitors stated in their letter dated 19 July 2021 to Bristol City Council:

“It is a matter of grave concern that the profit and loss evidence relied upon by an applicant to support an application, and which may in the event tip that balance in favour or against the grant of planning permission is not being fully scrutinised in the OR. It is equally alarming that this evidence is not being published on the Council’s planning portal. It follows that it is not acceptable or lawful that Mr James’ representations in respect of that policy criterion and material consideration are not being published or addressed in the OR”.

And further:

“If the Committee were to follow the advice in the OR without having Mr James’ representations drawn to their attention and grant planning permission this could disclose a failure to take into account a relevant material consideration. This is particularly problematic because the officer has already effectively conceded that the information is a relevant material consideration, albeit one that in his professional opinion ought not to be afforded great weight in so far as it applies to the development plan. As well as the question of the importance of Mr James’ representations being

considered, there is an additional point as to whether those representations and the material to which is relates ought to be published to the planning portal in any event”.

And further again:

“The Council has provided no good reason why submission of accounts by the applicant in support of the Application should proceed upon the basis that these will not be made available for scrutiny by the public. The applicant would have been aware that an application for planning permission is a public process, not an exercise in which it is afforded a private discussion with the Council shaded from the light of public enquiry and representations”.

Despite this, in his report for the next Planning Committee meeting, scheduled for 24 November 2021, the planning officer has still not presented to Councillors the financial analysis which I have provided for the 3 years ended 30 November 2019. This information is ESSENTIAL in order for the councillors to make an informed decision as to financial viability.

I am sending this statement directly to Councillors ahead of the meeting on 24 November 2021, together with evidence of my comments in this statement, but also evidence challenging the planning officers’ assertion that there are a diverse range of pubs in Windmill Hill.

DIVERSE RANGE OF PUBS

I note for example that whereas in his presentation to Committee on 11 November 2020 the planning officer spoke at length of the Star & Dove in Totterdown as being one of the alternative available pubs, that view has subsequently been demonstratively shown to be incorrect and so has been dropped altogether from the latest report, as have venues which he had previously included as being “pubs” such as a community centre and a music venue.

So, historic financial information has not changed since November 2020, topography has not changed since November 2020, and yet the planning officers’ comments on both of those issues have changed in his latest report.

In my view, this undermines the credibility of the planning officers’ reports. How many other incorrect statements were included in his reports dated 4 November 2020 and 14 July 2021, and how many more incorrect statements are there in the latest report dated 16 November 2021?

I also note that, according to the planning officer, every single one of the alleged 14 pubs which he has identified are either 482 metres or 643 metres away. How likely is that, but notwithstanding that, he is incorrect, none of those pubs except the Rising Sun have safe walking distances with an acceptable walking experience, for reasons as follows.

In his report to Committee dated 14 July 2021, the planning officer referred to the Department for Transport “Manual for Streets” which states (section 4.3) that:

“Walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes’ (up to about 800 m) walking distance”.

What the planning officer omits to say however is that same document also states (section 6.3):

“the propensity to walk is influenced not only by distance, but also by the quality of the walking experience” – the walks to the pubs identified by the officer as listed are not a desirable walking experience, being as they are (at night) through largely desolate commercial areas.

So in other words, the very document which the planning officer purports to support his assertion that 800 metres is an acceptable walking distance, in fact, in the case of the Windmill Inn, effectively says the complete opposite.

Furthermore, the Manual for Streets is not the authoritative document on the subject.

“Providing for Journeys on Foot”, published by the Institute for Highways and Transportation, suggests that acceptable walking distances in town centres, for those without mobility impairment as being:

- Desirable 200m
- Acceptable 400m
- Preferred Maximum 800m

All of the (under stated) distances listed by the planning officer are in excess of the acceptable distance of 400 metres.

OFFER FOR WINDMILL INN

In July 2021 I made a written offer to the owner of the Windmill Inn, evidenced in an email chain, in excess of its market value (as provided by an independent valuer) as a public house – the status of the Windmill Inn is a public house.

The owner of the Windmill Inn declined my offer, because he believes it is worth substantially more if changed to flats.

But the point is, planning permission does not exist for that, and so my offer was more than generous. The owner of the Windmill Inn purchased the Windmill as a pub, says he wants to sell the Windmill, yet will not sell the pub for its value as a pub, even though it is a pub.

SUMMARY

I once again repeat that the financial analysis that I have carried out, based on the accounts of the Windmill Inn for the 3 years ended 30 November 2019, which the planning officer has chosen not to include in his report, demonstrate that the Windmill IS financially viable. **I cannot emphasise this strongly enough.**

The planning officers’ alleged distances to other pubs are plainly incorrect and do not take account of safety issues or the desirability of the walking experience, or the fact that most of the pubs he has listed are outside of the community, being in Bedminster, Totterdown or Southville, not Windmill Hill.

In short, the planning officers’ reports are misleading.

In my view the only appropriate decision is that the planning application should be refused.