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Bristol City Council Minutes of the Development Control A Committee

16 November 2022 at 2pm



Members Present:

Councillors: Richard Eddy (Chair), Paul Goggin, Fi Hance, John Geater, Tom Hathway, Philippa Hulme, Ed Plowden, Andrew Varney

Officers in Attendance: Gary Collins – Head of Development Management, Relevant Case Officers, Philippa Howson – Transport Development Manager, Steve Gregory – Democratic Services

1. Welcome, Introductions and Safety Information

All parties were welcomed to the meeting.

2. Apologies for Absence and Substitutions.

Apologies received from Councillor Farah Hussain.

3. Declarations of Interest.

None declared for this meeting.

4. Minutes of the previous meeting held on 5 October 2022.

Resolved – That the minutes of 5 October 2022 be agreed as a correct record and signed by Councillor Eddy.

Matter(s) Arising

York Place Bedminster - concerns had been raised about fire safety, this had now been resolved. The Applicant had since amended the scheme and the H&SE had confirmed this to be acceptable.

Councillor Eddy clarified that his comment about removal of land from the Green Belt made at the last meeting was not about being a material consideration but about giving a wider context to residents of the city, when considering an application and was made arising from the ongoing consultation of the Local Plan.

5. Action Sheet.



Councillor Varney provided a verbal update on the Planning Enforcement issue considered by the Growth and Regeneration Scrutiny Commission on 29th September 2022.

Key points made were -

1. The planning authority had a responsibility to investigate all breaches but not necessarily to take any action
2. It was necessary to take great care when pursuing enforcement
3. Planning Enforcement legislation was last reviewed in 1992.
4. Income from application fees funded the work of the planning enforcement team, noted that the number of staff had declined from 6.5 to 3.5 and that one officer had also been recently seconded into the team to largely deal with HMO cases only.
5. BCC was in the lowest quartile for issuing enforcement notices ie, 12 out of 565 cases resulted in notices being served.
6. Some Developers were aware that the current system was not robust so could 'get away' with breaches.
7. TPO breaches were not prosecuted.
8. Staff resources was a major issue, and the current financial situation could make it worse.
9. One solution was to have a whole Council enforcement approach for any breaches.
10. Noted that some enforcement related to repeat offenders.
11. Some breaches were genuine mistakes.
12. There was an institutional reluctance to pursue enforcement due to potential high costs involved.
13. One action considered by the scrutiny commission was to lobby the Government by letter and officers would also contact Core Cities for their input.

Following questions from members further points made were –

14. The Scrutiny Commission would not be giving further consideration to planning enforcement, but the actions suggested during its scrutiny process would be followed up.
15. The funding from planning applications was not a linear process. Application fees were set nationally so although large applications cost more than smaller one's the cost to the planning authority was similar, and as BCC received a high number of small applications there were high processing costs and relatively less income to fund enforcement work.
16. Members agreed that an annual benchmarking report comparing performance with other core cities would be useful. This was agreed.
17. DC A members to have sight of letter to government before sending, with Cllr Varney to share this with DC A Members in advance.

6. Appeals

The Head of Development Management summarized the Appeals report specifically referring to Item 7 (493 - 499 Bath Road Brislington) regarding a key decision that had been made last week at an appeal. Members were reminded that DC A Committee decided on this application, at its meeting in March 2021, and refused the application in accordance with the officer recommendation citing the height and scale of the proposal, the impact that the scale of the development would have on the future occupiers of the residential units, and lack of compliance with the heat hierarchy policy.

The heat hierarchy reason for refusal was one not previously explored at appeal so this was seen as a test



case. The Inspector felt that the developer had not made a convincing case, regarding viability, about not providing more air source heat pumps as a greener solution for the heating of the buildings, the application had provided for 75% direct electric heating and 25% from air source heat pumps. The Inspector also felt that the Urban Living SPD did carry sufficient weight to refuse the application. (This would be circulated to members after the meeting).

The outcome was that the Planning Inspector fully supported the Council's position and dismissed the appeal.

7. Enforcement.

There were two notices, both noted accordingly.

8. 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.

9. Planning and Development

The Committee considered the following applications.

9a 21/04208/F – 1A-C Colston Yard Bristol

Councillor Paul Goggin did not take part in the debate or decision for this application as he was unable to attend the formal site visit.

No amendments had been made to the application since the publication of the original report.

Members were reminded that this application had been considered at the DC A Committee meeting of 5th October 2022 and was deferred to the 16 November 2022 Committee to allow for Members to conduct a formal site visit.

The Officer summarized the report as follows:

Since the decision to defer this application, pending a site visit, a revised scheme had been submitted which reduces the height of the southernmost section by 3.4m, removing the gable and one proposed apart-hotel room. As such, the proposal was now for a 19-room aparthotel and an 8no. bedroom HMO (which benefits from an extant planning permission).

The revisions submitted required further assessment of key issues C (Design and Heritage), D (Amenity) and K (Other Matters) in the original Officers' Report. This assessment was set out below.

Following the submission of the revised plan, a 14-day re-consultation was undertaken with letters sent to all neighbouring properties and citizens that had commented on the



application. The deadline to respond was 2nd November 2022. In addition, the Urban Design Officer and Economic Development Officers had also been consulted.

A total of 27 objections had been received from members of the public. The majority of the reasons for objection were resubmission of reasons given in the first round of consultations and summarised in the first report.

Additional reasons for objection given during the re-consultation period were summarised as follows:

- Revised plans did not adequately address previously raised issues.
- Should be a storey lower.
- Does not offer a substantial contribution to Bristol Infrastructure.
- Non-residential development.
- Lack of light due to trucks.
- Construction hours were too long.
- The area was a key feature in Bristol's tourism offering due to the concentration of independent businesses.
- No need for hotel accommodation.
- Loss of light and air to properties adjoining the proposal.

Comments had also been received in support of the proposal within the latest consultation period and these included:

- The continuation of the Johnny Ball Lane arches was appealing.
- The architectural merits were evident in the response to the Victorian arches on Johnny Ball Lane, the pitched roofs of Colston Yard and Street.

The recommendation was for approval and any outstanding issues could be dealt with by Conditions.

The following points arose from questions and debate:

- During determination of the proposal structural assessments had been made by an external specialist consultant and had confirmed the structural viability of the development.
- Condition 2 ensured that as the adjacent structure was within 6 metres of the publicly adopted highway, an agreement between the developer and the Council would need to be secured before any work could take place.
- The consent for the development was for a hotel only and additional consent would be required for any student accommodation application on the site.
- A Construction Management Plan (CMP) for building waste removal was yet to be approved following concerns raised by local businesses however any development must ensure safe access, and this would be secured by condition prior to any development work commencing. It was considered that as most construction work would be via Johnny Ball Lane end this would be minimize the impact on local businesses.
- The Condition for the CMP would not be consulted on with all objectors, this would not be an opportunity to raise fresh objections. The applicant might contact neighbouring properties to ensure access and emergency accesses are kept clear.
- It was confirmed that the number of objections raised for the development had reduced from 57 to 28 following resubmission of the proposal.
- There would be two CMP's one for transport to and from the site and one for environmental aspects



such as noise and dust. The Transport Manager expressed concerns about transport arrangements for the site and supported a robust CMP and would welcome an opportunity to comment on it.

- Concerns about trip generation from the hotel development on the site could be less than that from businesses under the existing use of the site.
- The CMP was crucial to reduce impact on local businesses and residents, it was proposed that the final version of the CMP be reviewed by the DC A Committee's lead members. This was agreed.
- The Servicing/Management Plan was a material consideration and would be tightened up to secure access arrangements and ensure equality of access for disabled people. This to include a chair lift at the main entrance to the building and security lighting along Johnny Ball Lane.
- A member suggested that the application be deferred pending a further transport report following concerns raised by the Transport Management Team.

Having regard to all the comments made Councillor Eddy moved that the application be granted, to include a robust CMP being approved by lead members and the provision of a chair lift, this was seconded by Councillor Varney.

On being put to the vote there were 3 for, 3 against and 1 abstention. A decision was, therefore, not made.

In accordance with the Council's Standing Orders Councillor Eddy exercised his casting vote and voted for the proposal.

RESOLVED –

- 1. That the application be granted subject to the conditions as set out in the report.**
- 2. That a robust Construction Management Plan be approved by lead members, in liaison with the Transport Management team, prior to any work commencing.**
- 3. That the proposal includes a chair lift at the main entrance to the building.**

9b 21/01999/F – Former Car Park College Road Clifton Bristol

An Amendment Sheet was provided to the Committee in advance of the meeting, detailing changes since the publication of the original report.

This application had been considered by DC Committee A on the 22 September 2021 following the receipt of a Member Referral from Councillor Grant.

The Officer summarized the report as follows:

1. Members had resolved to grant planning permission and following the completion of a Section 106 Agreement to secure 13 affordable houses (split 77% Social Rented and 23% Intermediate affordable housing) and planning permission was granted on the 28th February 2022.
2. On the 24 March 2022, the Local Planning Authority received a Pre-Action Protocol Letter Before Claim on behalf of the Clifton & Hotwells Improvement Society, challenging the grant of planning permission. Following the receipt of legal advice, the LPA conceded the prospective claim.



3. The process of Judicial Review of planning permissions related to the process undertaken rather than the merit of the scheme. In this case the grounds of the review related to the way in which Heritage and Sustainability matters were presented to the Committee.
4. On the 14 June 2022 the High Court quashed the decision of the Local Planning Authority to grant planning permission, principally on the grounds that the report as presented to Committee failed to properly consider the level of heritage harm; undertake a planning balance in relation to harm and public benefits; or set out a clear and convincing justification for the heritage harm in accordance with the guidance in the National Planning Policy Framework that it was purporting to apply. A related error concerned an inaccurate summary of the views of Historic England with regard to the heritage effects of the development.
5. The Local Planning Authority was now required to reconsider the application and to look at all matters afresh with no reliance on the earlier report or on the previous quashed decision. The current report included a required assessment weighing the public benefits of the application against the assessed harm to heritage assets surrounding the site.
6. The Conservation Advisory Panel strongly objected to the new proposal on grounds of sustainability. Case officers reminded members that the new proposals had been assessed on existing policies, when the policies were updated, the proposal would be assessed again.

Having regard to all the material planning considerations, it was considered that the application was acceptable as it brought new housing on a brownfield site and included affordable homes in a sustainable location for the benefit of Clifton and the city. The harm to identified heritage assets was outweighed by the benefits. The heritage tests in the NPPF were satisfied and had met legal duties under the Listed Buildings Act 1990 in relation to listed buildings and conservation areas.

It was emphasised that the current application proposals had changed significantly, and members were therefore asked to disregard their previous views and only consider the application before them.

The following points arose from questions and debate:

- A biodiversity report had not been done as at the time the Application was submitted, April 2021, there was no legal requirement, in planning law, to undertake one. The NPPF requirement to do so came into force after the application date, aiming to be introduced in November 2023.
- The application was assessed by the Council's ecologist as this was a requirement of the NPPF, and no objections had been received on biodiversity grounds. The biodiversity objectives were supported by the requirement for a landscaping scheme and on-site tree planting.
- A net gain biodiversity report would be a legal requirement in future arising from the Environment Act 2021 whereby all planning permissions granted in England would have to deliver at least 10% biodiversity net gain, it was anticipated that this would come into effect in November 2023. No guidance on this had been received at the current time however there was an ongoing debate with stakeholders about net gain biodiversity to obtain the minimum 10% as would be required by the NPPF going forward.
- The key date of decision for this application was today (16 November 2022) and only policy requirements currently in force now could be given due weight.
- Sustainability had been assessed on the existing adopted plan policy and core strategy and the proposal was in full compliance with the policies. It was acknowledged that a new policy framework was emerging, but the LPA was legally bound to consider under existing policies. The process for this was undertaken with probity and transparency.
- Requirement for Air Source heat pumps was included under Conditions.
- It was confirmed that the planning application for the main site had been received however



members were reminded that the application before them must be considered on its own merit without reference to the application for the main site.

- It was anticipated that as the main site would retain existing buildings the confluence with the current proposal would not be significant as the new application would not be a 'mirror' site to this proposal.
- The requirement to design in renewables eg solar pv, was restricted because of heritage and conservation grounds, this was unavoidable and illustrated the classic balance of all the issues raised by the proposal. There were no grounds to refuse permission on scale and massing of the proposal.
- The committee noted that the Tree Forum disagreed with the number of trees proposed to be planted citing that 30 more should be planted elsewhere. The case officer felt that the correct number had been identified and this had been assessed by the Council's tree officer, noted that the scheme would replace all trees lost on site.
- Regarding height scale and massing the case officer confirmed that there were no real grounds for refusal however it was for members to decide on the application before them.
- The key positive aspects of the development were that it was on a brownfield site, contributed to the chronic shortage of housing, including 20% affordable housing, was on a sustainable site with positive conservation measures and was fully policy compliant.

Having regard to all the comments made Councillor Eddy moved that the application be granted, this was seconded by Councillor Goggin.

On being put to the vote there were 7 for and 1 against.

RESOLVED - That the application be granted subject to the completion of a planning agreement and the conditions as set out in the report.

9c 21/06761/F – Land on the North Side of Gas Lane Bristol

An Amendment Sheet was provided to the Committee in advance of the meeting, detailing changes since the publication of the original report.

Members were advised that the application proposal was being brought to the Committee due to its size.

The Case Officer summarized the report as follows:

- The scheme proposed to redevelop the site and create a Purpose-Built Student Accommodation within a building ranging in height between 5 and 6 storeys. A total of 260 student bedspaces would be provided within a combination of studio and cluster flats. Also proposed is 237sqm of commercial floorspace within Class E use.
- The site was located within the Temple Quarter Enterprise Zone, which was allocated through the current local plan and where a wide range of uses, including residential, were envisaged.
- In response to consultation two objections had been received and raised issues relating to the design of the scheme. There had also been letters of support.
- The site was at risk of flooding, and the Environment Agency had provided comments on the proposal and if the objection could be overcome, officers were seeking delegated authority to progress the discussions and to add conditions as necessary. If the objection could not be overcome, the application would be brought back to committee for determination.



- The proposal was considered to be of an acceptable height and scale within the context, and the degree of harm envisaged to heritage assets was considered to be outweighed by public benefits brought about by the scheme.
- In view of the constrained nature of the area, the applicant had put forward improvements to the road infrastructure and public realm, and a number of financial contributions were also to be sought via s106 Agreements and these were currently in the process of being negotiated.

The application was recommended for approval subject to conditions and s106 agreement.

The following points arose from questions and debate:

- Regarding safety and security measures the case officer confirmed that the proposal contained several measures and included a balustrade around the terrace, high security locks on the accommodation units and on-site CCTV cameras.
- The accommodation was a mix of both self-contained and shared units.
- There was no requirement for affordable homes for student accommodation.
- The section 106 agreement for the University application on a neighbouring site provides funding for a future Controlled Parking Scheme in the area. This proposal was a car-free scheme and will also explore parking restrictions around the site.
- The site did not have a Masterplan, this was considered when proposing to expand the campus however the Council could not resource the work required to do this. It was considered that a Masterplan was not required for this application proposal.
- The applicant be asked to consider tree planting to provide shade in the courtyard areas.

Councillor Eddy moved, seconded by Councillor Fi Hance, that the application be granted.

On being put to the vote it was unanimously -

RESOLVED – That the application be granted subject to the completion of a planning agreement and the conditions as set out in the report.

Councillor Fi Hance left the meeting at this point.

9d 22/00805/F – 155-165 West Street Bedminster Bristol

An Amendment Sheet was provided to the Committee in advance of the meeting, detailing changes since the publication of the original report.

The Application had been referred to Committee for determination due to the significant public interest the application had received.

The Case Officer summarized the report as follows:

- Planning permission was sought to demolish existing buildings at the site, to facilitate the construction of student accommodation (19no. flats: 12no. studios, 7no. cluster flats) and a replacement employment unit Use Class E(g). The existing site comprised a vehicle repair workshop and a car showroom and a private access road to Chapel Barton flats.
- Concern had been expressed that the proposed development was being located outside of the



city centre, further away from higher education establishments. Although planning policy generally supported specialist student housing in the city centre, it did not prohibit them elsewhere in the City, provided the 'general criteria' set out in policy DM2 was met.

- The application complied with the general criteria of policy DM2, as it would not harm the amenity and character of the locality or create/contribute to a harmful concentration of student uses within the locality. The proposal was on a brownfield site in an accessible location close to good public transport routes, including regular bus services.
- The proposal met the expectations of policy BCS18, as it would help to diversify the housing stock in the area, address the demand for specialist student accommodation.
- The proposal would reduce pressure on existing housing stock and help to provide needed student accommodation and counted toward the Council's five-year housing land supply.
- Concerns that the proposal would result in unacceptable levels of on-street vehicle parking had been addressed by Transport Development Management who confirmed that there was sufficient capacity in the locality to safely accommodate any car parking associated with the development.
- The proposal was not expected to unacceptably impact neighbours through noise and disturbance. A management plan had been provided to provide further reassurances. The development included sustainable design measures and provided an acceptable living environment.
- The proposal had demonstrated that the development would bring substantial benefits to the locality and no significant harms associated with approving the development had been identified.

The application was recommended for approval, subject to a s.106 Agreement and conditions.

The Committee considered the proposal and queried the suitability of providing student accommodation relatively far from its host University. Members asked if the planning authority could re-examine the suitability of the site for student accommodation and therefore suggested that the application be deferred pending a more detailed report about the site's suitability for student accommodation.

Having regard to the comments made Councillor Eddy moved, seconded by Councillor Paul Goggin, that the application be deferred.

On being put to the vote there were 6 for and 1 abstention.

RESOLVED – That the application be deferred pending a more detailed report about the site's suitability for student accommodation.

10. Date of Next Meeting

21 December 2022 at 6pm

The meeting ended at 5.10 pm

CHAIR _____

