

**BATH AND NORTH EAST SOMERSET COUNCIL**

**Development Control Committee**

**Date 2<sup>nd</sup> July 2014**

**OBSERVATIONS RECEIVED SINCE THE PREPARATION OF THE MAIN  
AGENDA**

**Item No. 1 (1) Page No. 102**

**Application No. 14/02158/FUL**

**Address - Recreation Ground, Pulteney Mews, Bathwick Bath**

**Correction**

In the section IMPACT ON THE CONSERVATION AREA/ WORLD HERITAGE SITE/ SETTING OF LISTED BUILDING/OPEN SPACE the report refers to s.16 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This should be s.66:

“General duty as respects listed buildings in exercise of planning functions.  
(1) In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

**Plans List**

An additional drawing (14.1571.PL22) showing the Control Room at a bigger scale has been submitted and should be added to the Plans List at the end of the report.

**Further Representations**

Since completion of the Committee report a further 1,614 representations have been received.

The Case Officer has reviewed all representations received. Members are advised however that due to the late submission of such a significant number of representations it has not been possible to redact and publish all of the representations to the application prior to reporting the case to this Committee.

1,597 of the representations are in support of the application, citing the following principal reasons:

- i. the need for extra capacity to meet demand for seats
- ii. support for additional capacity during the Clubs 150<sup>th</sup> year
- iii. the benefit the Club brings to the city including expenditure by spectators before and after the game to the benefit of local businesses
- iv. the need for improved facilities for spectators at The Rec.

- v. the importance of Bath Rugby Club being located on The Rec, and the unique character and atmosphere that the location of Club's ground gives both the ground and the city centre

Concern was also expressed in a number of the representations about the possible loss of the Club from The Rec. and the detriment and financial loss to the city that would occur if this happened.

16 further representations have been received objecting to the application on a number of grounds. These are summarised below however full copies can be made available to Members.

- i. Difficulty in downloading files to view on-line. Lack of information regarding the Control Box and its impact and the materials to be used in the construction of the temporary stands. The choice of lurid turquoise for the seating is inappropriate, contrasting with the natural surroundings. The submitted photomontages inaccurately refer to 'summer' views.
- ii. Economic impact of the Club on the city is anecdotal.
- iii. Temporary scaffolding stands do not do the site, or Bath Rugby Club justice.
- iv. Disparity between the application site area and lease boundary area.
- v. Far from increasing the variety of activities on the ground the dominance of rugby demonstrates that undue preference has been shown not only to the sport of rugby, but also to the club.
- vi. The detailed design and materials of the south west hospitality boxes that although slightly hidden in summer, will be on open view all throughout the playing season and the photomontages showing a blank featureless white wall in the view from North Parade Bridge. Also concern at its impact on the views across the ground from North Parade Bridge, a listed heritage asset. There is insufficient information provided in terms of detailed design and materials for this to be acceptable in its current form and this should not be left to be a subject of condition.
- vii. The increased capacity of the East Stand since 2003 will result in an 80% increase in the height of the East Stand from 5m to 9m which is too high and totally inappropriate in the centre of a World Heritage City, with impacts on the views and setting of the Abbey and other heritage receptors and assets as well as across the setting of the wider World Heritage Site.
- viii. Concern at the incremental increase in height and gradual nibbling erosion of views to/from the city.
- ix. The increase in traffic associated with development and impact on air quality in the city (and failure to comply with statutory requirements and adopted planning policy relating to air quality including Air Quality Management Area targets).
- x. The Travel Plan is vague and does very little to mitigate the inevitable effects on traffic, with no evidence of any genuine attempt to incentivise use of alternative methods of transport.
- xi. Since 2003 total capacity will have increased by 66.67% resulting in increased noise disturbance and traffic congestion.

- xii. The deafening noise of the loud music which goes on for hours and the announcer's voice through the tannoy.
- xiii. Flood Evacuation Plan is out of date and inadequate.
- xiv. Leaving the East Stand is a slow process and will worsen with increased capacity. Concerns about spectator safety if there was an emergency.
- xv. The Rec was left in perpetuity to the people of Bath to be an open space and the restrictive covenants on The Rec should be respected. The proposals increase the size of the structures on land that belongs to the citizens of Bath.
- xvi. The proposals represent the thin end of a dangerous wedge in Bath Rugby's continued attempts to establish a major permanent stadium occupying a large part of what should be public land in perpetuity.

In addition, a number of objectors stated that to accommodate its expansion plans Bath Rugby needs to find a more suitable site.

### **Officer Comments**

The additional representations raise a number of issues already addressed in the Committee report however it is relevant to note that:

1. Procedural concerns regarding the submission, validation, availability, accessibility and updating of the application have been addressed during the determination period and information submitted by the applicant to amplify, clarify or correct submitted information has been made published on the Council's website. It is considered that Officers have received sufficient information to appropriately assess the application and conditions are recommended to control the detail, implementation and operation of the proposed development. Issues relating to the Club's lease are dealt with under separate legislation.
2. The photomontages described as 'summer' views with the east stand being visible (as opposed to 'winter') is used to denote when trees are in leaf i.e. between April/May through to October when the east stand will be in position for some this period.
3. This application is for the retention and expansion of spectator capacity at the ground for a period of two years and does not presume or pre-empt a permanent facility at The Rec. In addition, Officers have recommended that a Condition (2) be imposed requiring the removal of the temporary stands each year.
4. The location of the proposed development in the World Heritage Site, conservation area and affecting the setting of several listed buildings (including listed buildings situated on the site) has been taken into consideration when assessing the proposed development. It is considered that sufficient information is available for the Council to assess the effects of the development on heritage assets and an appropriate assessment (as set out in the Planning Practice Guidance) has been undertaken. Special attention has been given to the desirability of preserving or enhancing heritage assets, with appropriate weight being given to the importance of those assets and any harm likely to result. In this case, it is concluded that less than substantial harm to heritage assets will occur. It is acknowledged that even this level of harm gives rise to a strong

presumption against planning permission being granted and this has been weighed against other material planning considerations in reaching a conclusion on this application. It is considered that other material considerations in this case, including the economic and social beneficial impacts of the development to the city and the presumption in favour of sustainable development as set out in the NPPF, outweigh this harm.

5. Officers have reviewed clarifications submitted by the applicant regarding traffic impacts of the scheme and it is considered that these adequately address concerns raised regarding the initial submissions. In addition, the measures set out in the updated Travel Plan and Construction Management Plan are considered to provide appropriate mitigation and will be secured by condition.
6. The proposed development will result in an increase in vehicle trips to Bath and appropriate regard has been had to the impacts on the local environment including air quality and related policies relating to the Air Quality Management Area in the city and the associated Action Plan. Based on existing patterns of travel to the ground, the Transport Assessment submitted with the application estimates that increasing the capacity of the ground by approximately 2,000 spectators will give rise to an additional 374 car trips to the city as a whole. This is well within the daily variability in total traffic movements in Bath. Based on existing travel patterns by spectators, approximately 40% of these vehicles are expected to use the Park and Ride sites located at the edge of the city and as a consequence need not necessarily involve travel through the AQMA. Accordingly, impacts on air quality are not considered to be significant and the Club's proposal to promote public transport and non-car modes of travel to the ground will support the objectives of the Air Quality Action Plan.
7. The Environment Agency has raised no objection to the application or the Flood Risk Assessment submitted with the application. They have recommended that a Flood Evacuation Plan (FEP) be in place and the Club has proposed that the procedures previously submitted in 2010 continue to be in place for a further two years (i.e. to coincide with the timescale of the permission being applied for). The general procedures in terms of warnings under different flood conditions are still considered relevant and reasonable over this timescale.
8. No economic impact assessment has been submitted by the Club to support the current application however the attendance of (currently) 12,000 spectators at The Rec. generates revenue within the city, for example in pubs and restaurants before and after a game.
9. Whilst an additional 2,000 spectators is likely to give rise to greater noise at the ground during matches, objection to the proposals on noise grounds is principally related to the use of the tannoy system. This is an environmental protection issue and is monitored and managed by the Council's Environmental Health team in liaison with the Rugby Club under relevant (non-planning) legislation. This will continue to be monitored and, where appropriate, action taken to address or mitigate impacts.

Officers have considered the additional representations received and have concluded that the Recommendation to grant planning permission subject to conditions set out in the report remains unchanged.

**Item No: 3**

**Application No: 13/04683/FUL**

**Address: Radway Service Station, 482 Wellsway, Bath**

A further representation has been received in objection to the application since the committee report for this application was submitted. This representation raises the issue of affordable housing in addition to other areas of concern which are addressed in the committee report.

The application is proposed for student accommodation and therefore no affordable housing would be provided by this development. The site lies within the Bath World Heritage Site where new residential development would be acceptable in principle. This in itself does not however present justification to refuse alternative form development on the site.

The following conditions have also been added to the recommendation in relation to this proposal:

- *The development hereby permitted shall be occupied as student accommodation only and for no other purpose unless a further planning permission has been granted.*

*Reason: To define the terms and extent of the permission.*

- *The flat roof of the single storey structure to the rear of the site identified on the submitted drawings as the communal kitchen/living for flat 2 shall not be used as a balcony and shall not be accessible from the windows within the development hereby permitted.*

*Reason: In the interest of the residential amenity of adjacent occupiers.*

**Item No: 7**

**Application No: 14/01817/FUL**

**Address: End Farm, St Catherine Lane, St.Catherine, Bath**

The committee report for this application has been reviewed by the Council's Principal Solicitor who has requested that clarification is provided in relation to the issue of private property rights being a 'key material consideration', as indicated in the report.

The assessment of the previous applications for this access which were subsequently withdrawn had been undertaken with the understanding that the applicant would have a fallback position to reinstate the previous access onto Beek's Lane for which planning permission would not be required. The impact

on highway safety was therefore assessed on the basis that granting planning permission would not change the number of vehicular movements on this part of St Catherine Lane. Officers were subsequently made aware that the applicant does not have a legal right of access to use Beek's Lane and therefore the highways assessment was reconsidered to take into account that granting planning permission would also create an intensification of vehicular movements on this part of St Catherine Lane as there would be no fallback position. The intensification of vehicular movement, in addition to the issues relating to visibility and conflicting traffic movements have resulted in a recommendation for refusal.

Although private property rights will not usually be a material consideration, in this case, the ability for the applicant to reinstate an access onto Beek's Lane as a fallback position is relevant to whether planning permission should be granted or refused. This is therefore a material consideration relating to this application.