

BATH AND NORTH EAST SOMERSET COUNCIL

Development Management Committee

Date 5th April 2017

OBSERVATIONS RECEIVED SINCE THE PREPARATION OF THE MAIN AGENDA

ITEM

ITEMS FOR PLANNING PERMISSION

Item No.001 Application No. 16/06124/FUL
Address: 14 Audley Grove, Lower Weston, Bath, BA1 38S

Further representations have been received as detailed below:

Objections have been received from the owners/occupiers of 37, 43 and 45 Edward Street, 15 and 15B Audley Grove and 30 and 49 Audley Park Road, the content of which is summarised below:

- Dispute the ownership of the strip of land at the rear of Nos. 12, 13 and 14 Audley Grove and contend that this land is owned by the Highways Department;
- This land should be protected as a public amenity and in the interests of improved pedestrian visibility and public safety;
- There is a 11000 volt electrical cable on this land leading from a sub-station at the lower end of Edward Street up to Audley Park Road;
- Concerns regarding structural integrity of the highway on Edward Street from retaining structures;
- The Highways Department have a legal responsibility to improve visibility of highways land and remove incorrectly positioned fencing;
- Nos. 15, 15A and 16 Audley Grove were not notified of the planning application by the Planning Department ;
- Site notices were not displayed as required;
- Additional documents have been submitted to support the planning application which have not been consulted on. The application should be withdrawn;
- Dispute the status of the strip of land between the application site and Nos. 15 and 15a Audley Grove;
- Dispute the position of a public right of way between Audley Grove and Edward Street in relation to Nos. 14, 15 and 15a Audley Grove;
- Concerns regarding impact on 15 Audley Grove through loss of light, visual impact, loss of views and overlooking;
- Construction of the proposed dwelling would deter new tenants renting 15 Audley Grove with financial implications for the landlord;
- Concerns regarding increased demand for on-street parking;

- Concerns regarding highways impacts, Edward Street is not lightly trafficked as asserted in the application submission;
- The proposed development would set a precedent;
- Developing the garden would have an adverse environmental impact;
- The site is in a high radon area, what protective measures are included in the build design?
- Concerns regarding potential impact on water mains;
- Concerns regarding the gradient of the parking spaces and water run off to the highway;
- Concerns regarding proposed planting scheme and impact on land stability from new trees and removal of existing Sycamore;
- Disruption to the area during construction;
- Surprised and disappointed that the pond in the garden of 14 Audley Grove has been allowed to go dry. Toads, frogs, newts and slow worms are found in the area.

A Title Plan has been provided demonstrating that the strip of land at the rear of 14 Audley Grove which has been included within the red site boundary line is within the ownership of the applicant. It is noted that the land in question is shown on the Highways Department's records as being part of the public highway. However, this does not mean that the land is owned by the Highways Department or that the land is not in the ownership of the applicant.

The existing position of the rear fence line continues the fence line to the south. In planning terms, it is not considered that the existing and proposed position of the rear fence panels causes unacceptable harm to the character, appearance or amenity of the area. The issue regarding the rear strip of land is therefore a land ownership dispute, which is a civil matter and not a material planning matter.

As per the Highways Consultation response dated 30th December 2016, no highway safety issues are posed by the proposed development.

There is no record of a public right of way running within the application site. Public Right of Way CQ29 is marked as running from Edward Street to Audley Grove to the north of the application site between Nos. 15 and 15a Audley Grove and the application site boundary, although a note is attached to the record stating that this path is obstructed.

In regards to the presence of an electrical cable close to the site and potential presence of a water main, it is the developer's responsibility to ensure all necessary permissions are in place prior to works commencing in addition to obtaining planning permission.

One site notice was displayed on Audley Grove and one site notice was displayed on Edward Street on 6 January 2017 in accordance with the Council's statutory duties for development in a conservation area. Photographs were taken of the site notices as a visual record.

As set out in the main agenda, minor changes have been made to the proposals during the course of the application to retain a Sycamore tree and to slightly reposition the northern retaining wall to the parking area away from the root protection area of the tree. Whether or not to re-consult third parties it is at Officers' discretion. In this case it was not considered that the level of changes warranted additional notifications, nor that the amendments amounted to a new form of development that would necessitate a fresh application.

The potential impact of a proposal on a private individual's finances is not a material planning consideration.

Given the site characteristics and the incline of the proposed parking area, surface water run-off to the highway is not considered to pose a significant issue.

The site is not in an area of known land contamination for planning purposes. There are no planning policy requirements pertaining to radon levels. Any new building would need to meet all relevant building standards set out in Building Regulations legislation.

Potential structural impact on neighbouring land and property is a private property matter and not a material planning consideration.

The remaining points raised are considered to be addressed in the Officer's report in the main agenda.

The additional comments received do not affect the Officer's assessment and recommendation included in the main agenda.

Item No. 1 Application No. 16/04818/EREG03 & 16/04818/REG13
Address: Bath Quays South, Lower Bristol Road

Following publication of the Committee report BMT (prospective occupiers of the new office building) have advised the Council that they do not intend to proceed with this investment.

In the light of this decision, the public benefits of the proposed development have been re-appraised and weighed against the harm to heritage assets. In considering the public benefits, some weight had been given BMT occupying the building, both as a key local employer being retained in the city (with the potential to expand) as well as the fact that they are in a key sector. However, the application was not predicated on BMT occupying the building and the development will continue to deliver Grade A office accommodation, of which there is very limited supply in the city. As is noted in the published committee report, the net addition to office accommodation and growth in employment in the city had BMT occupied the building would have been relatively low. The eventual occupier of the building is not known however if the occupier(s) were new to Bath, rather than being the relocation of an

existing business as was the case with BMT, this would make a net addition to employment in the city.

The change in circumstances has been considered as part of the balancing exercise as set out in NPPF para. 134 and it is concluded that the public benefits of the development outweigh the harm to heritage assets.

The financial appraisal submitted with the application made a number of assumptions about the rent and yield that could be achieved on the office building and about residential sales values. This was reviewed and tested by Cushman Wakefield who concluded that the development could not support affordable housing at this point in time. Given the inability of the scheme to support affordable housing, the published committee report recommended consideration of a review mechanism to reassess scheme viability at a future date. In the light of the change in circumstances it is considered appropriate that this is undertaken for the scheme as a whole. The timing of this would need to be agreed and could be on submission of reserved matters for the residential building or at some other future date when actual costs and values have been established.

Recommendation

In the light of the above it is recommended that the Development Committee resolves to Delegate to Permit subject to Officers finalising a financial review mechanism to be secured through condition or memorandum of understanding.

Further Representations

3 further letters of objection have been received (from SAVE Britain's Heritage, Bath Heritage Watchdog and a local resident). These reiterate objections made previously regarding the proposed development and that the amendments do not address these objections; object to the scale and outline nature of the proposals for the residential buildings and that the Design Guide does not address concerns regarding the scale and detailed design of these buildings; raise concerns regarding the cumulative effect of new proposals on the World Heritage Site; object to the fact that the applications for the new bridge were determined ahead of rather than with the applications for Bath Quays South as they are linked proposals.

1 further letter of general support has been received.

Updated Comments from the Ecological Officer

The bat roost within the Newark building is confirmed as a transitory roost for a single lesser horseshoe bat. This roost will be lost as part of the development and a replacement roost is proposed. A European Protected Species (EPS) licence will be therefore required and the Local Planning Authority must be satisfied prior to issuing permission that the 'three tests' of the Habitats Regulations are likely to be met.

Test 1 - Does the development meet a purpose of preserving public health or public safety or other imperative reasons of overriding public interest including

those of a social or economic nature and beneficial consequences of primary importance to the environment?

The site is identified in the Placemaking Plan as a key redevelopment site within the city and will result in the provision of office space and housing, both of which will provide benefits of a significant social and economic nature.

There can therefore be said to be imperative reasons of overriding public interest and as such Test 1 can be considered to be passed.

Test 2 There is no satisfactory alternative.

The removal of the roosts is necessary to allow refurbishment and re-use of a listed building, and for the full development of the site in accordance with the Placemaking Plan vision for this site. In this context it is considered that there is not any satisfactory alternative and it is considered that the requirement of Test 2 is met.

Test 3 - The action authorised will not be detrimental to the maintenance of the population of the species.

The application provides details of the proposed new roost, supporting habitat and lighting controls around the roost. This provides sufficient information for the Local Planning Authority to be confident that the proposal would be likely to meet the third tests of the Habitats Regulations, ie that there will be no harm to the favourable conservation status of the affected species (lesser horseshoe bats) and that the proposal would be likely to obtain an EPS licence.

Final details of the bat mitigation and compensation scheme can be secured by condition.

The river and adjacent habitat are recognised as providing supporting habitat for the Bath and Bradford on Avon Special Area of Conservation (SAC). As such, development must demonstrate no likely significant effect upon the SAC. The additional measures now proposed to reduce light spill from the office, which include use of 1m high fully opaque spandrel rails for the first floor office windows and 40 % light transmittance glazing for the office riverside, have secured significant reductions in light spill to the riverside such that no significant effect upon the SAC either alone or in combination with other projects are considered likely. In addition light spill avoidance measures have been modelled for the residential blocks involving use of 50% light transmittance glazing. These show that acceptable light levels can be achieved (as modelled for Vertical D within the Illumination Impact Profile 16-02433-09317-CC-Bath Quays South Ilp-01-P3 March 2017 Final issue), and that no significant effect upon the SAC either alone or in combination with other projects are considered likely. Therefore, subject to full implementation of the light spill mitigation measures now proposed for the office building, and delivery of the light spill performance for the residential development, the scheme would not raise concerns under the Habitats Regulations.

Amended Conditions

6 Construction Management Plan

Prior to any works on site including demolition details of a Construction Management Plan for all works of construction shall be submitted to and approved in writing by the Local Planning Authority. The Management Plan

shall include details of the location of the site compound and details of deliveries (including storage arrangements and timings), contractor parking, traffic management for vehicles associated with the construction and demolition works (including details of mitigation from vehicle emissions). The Management Plan shall also comply with the guidance contained in the Council's Code of Construction Site Noise practice note and the BRE Code of Practice on the control of dust from construction and demolition activities. The details so approved shall be fully complied with during the construction of the development.

Reason: To ensure the safe operation of the highway and protect the amenities of the occupants of nearby properties in accordance with Policies T.24 and D.2 of the Bath and North East Somerset Local Plan.

12 Archaeology WSI

No development shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with the submitted Written Scheme of Investigation (Cotswold Archaeology CA Project: 6087, Revision B March 2017). The programme of archaeological work shall be carried out by a competent person and completed in accordance with the Written Scheme of Investigation.

Reason: The site is within an area of significant archaeological interest and the Council wish to protect and record any archaeological remains disturbed by the development.

13 – deleted as field evaluation complete

14 The development shall not be brought into use or occupied until the applicant, or their agents or successors in title, has secured the implementation of a programme of post-excavation analysis in accordance with a publication plan which has been submitted to and approved in writing by the Local Planning Authority. The programme of post-excavation analysis shall be carried out by a competent person(s) and completed in accordance with the approved publication plan, or as otherwise agreed in writing with the Local Planning Authority.

Reason: The site may produce significant archaeological findings and the Council will wish to publish or otherwise disseminate the results.

27 Wildlife Protection and Enhancement (Pre-commencement)

No development shall take place until full details of an Ecological Enhancement Scheme and Management Plan have been submitted to and approved in writing by the local planning authority. These details shall include:

- (i) A timetable of delivery to show implementation of the recommendations and mitigation measures set out in the Combined Ecology Report: Bath Quays South (Nicholas Pearson Associates, December 2016 Update: 8 Feb 2017) including:
 - an ecological method statement for site works

- replacement otter holt and habitat enhancements prior to demolition of the existing resting site, proposed conservation management objectives for the otter holt site, and;
 - new bat roost structure and tile and ridge access points to achieve a net enhancement in bat roosting opportunities on the site
 - bankside habitat replacement and enhancements
- (ii) Prescriptions and timescale for their on-going monitoring, maintenance and management

All works within the scheme shall be carried out in accordance with the approved details.

Reason: To safeguard local species and their habitats in accordance with policy NE.9 and NE.10 of the Bath and North East Somerset Local Plan and policy NE3 of the emerging Placemaking Plan. This must be done prior to development as any works have the potential to harm wildlife.

28 Lighting (Office)

The office building shall not be occupied until the mitigation measures for that building set out in Illumination Impact Profile -Bath Quays South (Office and Residential Developments) 16-02433-090317-CC-Bath Quays South IIP-01 - P3 MARCH 2017 Final Issue have been implemented in full and shall remain for the duration of the development.

Reason: To avoid unacceptable light spill from the development and to avoid harm to wildlife and bats which are protected species.

29 Lighting (Residential Buildings)

Reserved Matters for the residential buildings shall be accompanied by full details of proposed light spill avoidance measures, lighting design and specification. The scheme shall:

- (i) Provide an updated lighting assessment to include details of predicted light spill levels onto the river Avon and adjacent bankside habitats arising from proposed external and internal lighting of the buildings. Predicted light spill levels will need to achieve as a maximum the light lux levels shown in the River Avon Vertical cross section 'D' in Illumination Impact Profile -Bath Quays South (Office and Residential Developments) 16-02433-090317-CC Bath Quays South IIP-01 -P3 MARCH 2017 to demonstrate sufficient darkness to avoid harm to bat activity and to the ecology of the River Avon SNCI.
- (ii) Provide details and plans showing inherent and embedded design solutions for internal light spill mitigation; and numbers, specifications, positions, and heights of luminaires for external light spill mitigation; designed to minimise impacts on bats and other wildlife and achieve the necessary levels of darkness over the water and bankside.

The approved details shall be implemented in full and shall remain for the duration of the development.

Reason: To avoid unacceptable light spill from the development and to avoid harm to wildlife and bats which are protected species.

30 Lighting Monitoring Scheme

Prior to occupation of the office or residential buildings on the site a programme for monitoring of operational light spill levels, including the collection of lux level data for two years from the date of first occupation of each building, at times when peak bat activity and light usage coincide, shall be submitted to and approved by the Local Planning Authority.

The Light Spill Monitoring Programme shall provide data showing operational post-occupancy light levels above and adjacent to the River Avon at heights and positions coincident with the light spill levels predicted in the approved Illumination Impact Profile -Bath Quays South (Office and Residential developments) - 16-02433- 090317-cc-Bath Quay South IIP-01-P3 March 2017, and in respect of the residential buildings the details approved under Condition 29. The Light Spill Monitoring Programmes shall include proposed reporting dates to the Local Planning Authority and specify timescales and frequency of monitoring.

In the event that operational light spill levels exceed the predicted light spill levels a scheme of further mitigation and remedial action shall be submitted to the Local Planning Authority in accordance with the agreed programme. Any necessary remedial action or further mitigation required shall be implemented in accordance with specifications and timescales to be agreed in writing with the Local Planning Authority and a further light spill monitoring report shall be produced and approved in writing by the Local Planning Authority to demonstrate the effectiveness of any necessary further mitigation. The Programme for Monitoring of Operational Lighting Spill Levels shall thereafter be implemented in accordance with the approved details.

Reason: To avoid unacceptable light spill from the development and to avoid harm to wildlife and bats which are protected species.

16/04818/REG13

Revised Conditions

4 Prior to occupation of any part of the Newark Works buildings (East Machine Shop, Offices, Smithy, West Machine Shop) a Signage Design Code for those buildings shall be submitted to and approved in writing by the Local Planning Authority and any signage applied for thereafter shall be carried out in accordance with the Code.

Reason: To safeguard the character and appearance of the listed building

5 External lighting and signage (Bespoke Trigger)

No external lighting or signage shall be installed on the Newark Works buildings until full details of external lighting or signage have been submitted to and approved in writing by the Local Planning Authority. The works shall

thereafter be carried out in accordance with the approved details and any other consent required.

Reason: To safeguard the character and appearance of the listed building.