

## Public Question

### **The Use of 'No-car' clauses in relation to tenants of Purpose-Built Student Accommodation**

(Written questions to B&NES Development Management Committee ahead of 3<sup>rd</sup> May 2017 meeting.)

John Branston, Second Avenue, Bath

#### **Background**

My questions relate to the general principle of 'no car' policies in relation to purpose-built student accommodation development. I'd like to cite the example of the PBSA development known as 'Twerton Mill' on Lower Bristol Road. This was proposed and permitted based on undertakings that occupants would not bring a motor car to the site, or park within 3km of the site. This undertaking became the subject of a Section 106 agreement. See following excerpts from relevant documents:

#### **Undertakings in application documents, supporting reports etc.**

*"Management of on road car parking in a scheme such as this is vital and is one which is highly visible to our neighbours. At this site, where parking is not provided, and the bringing of cars is not allowed, we are highly conscious of the tenants' behaviour. We work with the relevant Council department to ensure that permits are not issued to any residents and if necessary terminate their tenancy"* (proposed Student Management Plan)

*"The tenancy agreement will prevent students from bringing a car to Bath"* (Item 6.2, Transport Statement, 14/05698/EFUL)

*"The predominantly non-car nature of the development will ensure that the development will have very little (if any) impact on the operation and functionality of the existing highway network in the vicinity."* (Item 6.4, Transport Statement, 14/05698/EFUL)

*"The Travel Plan will also highlight the strict tenancy agreement which bans student residents from bringing a motor vehicle to Bath."* (Point 9.5.5, Environmental Statement (Transport & Access), 14/05698/EFUL)

*"All [non-disabled] residents of the site will be reliant on non-car travel modes"* (Car Parking and Access Management Plan, 15/02152/COND)

*"It is considered that the proposed redevelopment of the Twerton Mill site for student accommodation is sustainable in transport terms and affords every opportunity to replace private car use with more sustainable forms of transport."* (Item 6.7, Transport Statement, 14/05698/EFUL)

*"All parking would be subject to a parking management regime, and students would be restricted from having cars, in the same way as other purpose-built student accommodation, and this would need to be secured through a Section 106 Agreement."* (Highways report, 14/05698/EFUL)

#### **Twerton Mill Car Parking and Access Management Plan**

*"8.1 The site is primarily 'car free' in nature with parking only being provided for the site management team (two spaces) and a small number of disabled students (three spaces). All other residents of the site will be reliant on non-car travel modes"*

## **Section 106: Schedule 1 (Owner's Covenant)**

*"The owner covenants with the council...*

*3.8 Not to permit the occupation of the development other than by persons who do not use or keep and agree in writing not to use or keep a motor vehicle in connection with their occupation of the development on the terms of the motor car condition.*

*3.9 To ensure that every occupier enters into a legally valid agreement which may include the letting agreement with the owner prior to his/her occupation of the development to abide by the motor car condition and continues during his/her period(s) of occupation of the development to comply with such agreement.*

(s106 Agreement between B&NES and Twerton Mill owners, 2014)

### **Twerton Mill Travel Plan (handbook for students)**

*"There is no parking available at Twerton Mill. In line with tenancy agreements, students are not permitted to park a vehicle within 3km of the site."*

### **Twerton Mill Welcome Handbook 2015-16**

*"Cars: Sorry but there isn't any parking available on site. Indeed, it is a clause in your tenancy agreement that you agree not to bring a car to Twerton Mill."*

## **Current Situation**

All the above undertakings, promises, plans, policies and legally-enforceable agreements notwithstanding, it is plainly evident that many tenants of the Twerton Mill development have brought cars to the city, that they park them in streets directly surrounding the development (most notably on the Lower Bristol Road itself, opposite the site) and that these cars are regularly used for journeys to and from the development site.

### **Legal (Point of view of PBSA operator, from experience)**

*"In order to terminate the tenant's rental contract, the PBSA operator would need to issue a 'Section 8' on the tenant in breach of the S106 clause in their Assured Shorthold Tenancy. The case would then go in front of a judge on 'DISCRETIONARY GROUNDS' (as opposed to a Section 21 which is Mandatory possession). The problem with 'discretionary grounds' is that it is highly unlikely a judge would side with the landlord and order eviction of a student (especially if they are paying their very high rent). In general, judges normally side with tenants and the case would either be thrown out or adjourned further. As a landlord, this is costly and a lot of unwanted hassle so I seriously doubt this procedure has ever been exercised on a student bringing a car."*

## **Questions to B&NES Development & Planning Committee**

a) Based on the experience of recent PBSA developments in Bath, and in particular the development at Twerton Mill, what is the Development and Management Committee's view of the effectiveness of the s106 measures put in place as a means of preventing car ownership by tenants of such purpose-built student accommodation?

b) Will the Development and Management Committee continue to accept these same undertakings from other developers of purpose-built student accommodation in future and rely on the same s106 condition as a means to preventing additional on-street parking in the vicinity of such a development?

c) Will the Development and Management Committee either

- i. seek more rigorous enforcement of s106 conditions with regard to parking in connection with PBSA?
- ii. support the idea of changing council policy to bring parking requirements for PBSA in line with those for any other residential development?

### **Response**

A written question has been submitted by Mr John Branston concerning the use and parking of cars by students occupying purpose built student accommodation contrary to the Section 106 Agreement that restricts these students from having the use of a private motor vehicle. Particular reference has been made to the cars that are being parked opposite the student accommodation at Twerton Mill, Lower Bristol Road, Bath and Mr Branston has asked whether this Committee supports the idea of changing Council policy to bring parking requirements for purpose built student accommodation in line with those for any other residential development.

It is not appropriate for this Committee to debate the merits of student accommodation in general having little or no off street parking provision, this should be debated as appropriate with specific regard to a planning application before it. In addition I cannot comment on the issue of cars parking on the Lower Bristol Road without the matter being looked into by officers to determine who these cars may belong to and whether any action can or should be taken by the Council. I have therefore asked the Group Manager of Development Management to look into this matter and reply direct to Mr Branston as soon as he can and to copy Committee members into this response.