

## PLANNING COMMITTEE

### Minutes of the Meeting held

Wednesday, 21st October, 2020, 2.00 pm

**Councillors:** Matt McCabe (Chair), Sally Davis (Vice-Chair), Vic Clarke, Sue Craig, Lucy Hodge, Duncan Hounsell, Shaun Hughes, Eleanor Jackson, Hal MacFie and Manda Rigby

#### 48 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence.

#### 49 DECLARATIONS OF INTEREST

The following members made declarations of interest:

- Cllr Manda Rigby declared an interest in planning application no. 20/01893/LBA – Cleveland Bridge, Bathwick, Bath. Cllr Rigby stated that she would not take part in the debate or vote on this item. She would be addressing the committee in her capacity as a local ward member.
- Cllr Manda Rigby declared an interest in planning application no. 20/02921/FUL – Site of Former Ministry of Defence Offices, Warminster Road, Bathwick, Bath. Cllr Rigby stated that she had attended the exhibitions relating to this development along with the Planning Case Officer.
- Cllr Eleanor Jackson declared an interest in planning application no. 18/05623/OUT – Co-operative Store A, Wells Road, Westfield as she is a member of the co-operative and holds a very small number of shares. She stated that she would not take part in the debate or vote on this item.

#### 50 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN

There was no urgent business.

#### 51 ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS

The Democratic Services Officer informed the meeting that there were a number of people wishing to make statements on planning applications and that they would be able to do so when these items were discussed.

#### 52 MEMBER/OFFICER PROTOCOL

Cllr Jackson apologised for an inadvertent breach of the member/officer protocol following a comment she made at the August Planning Committee meeting.

## 53 MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 23 September 2020 were confirmed and signed as a correct record.

## 54 MAIN PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE

The Committee considered:

- A report by the Head of Planning on various planning applications.
- An update report by the Head of Planning on items 1, 2 and 6 attached as *Appendix 1* to these minutes.
- Oral statements by members of the public and representatives. A copy of the speakers' list is attached as *Appendix 2* to these minutes.

**RESOLVED** that in accordance with the delegated powers, the applications be determined as set out in the decisions list attached as *Appendix 3* to these minutes.

### Item No. 1

#### Application No. 20/02854/FUL

**Site Location: 43 Elliston Drive, Southdown, Bath – Change of use from a 4-bedroom dwelling (Use Class C3) to a 6-bedroom House in Multiple Occupation (HMO) (Use Class C4).**

The Case Officer reported on the application and her recommendation to permit.

The applicant spoke in favour of the application.

Cllr Dine Romero, Local Ward Member, spoke against the application. She felt that it would have an adverse impact on the local area. She also stated that parking is already difficult in this area and an HMO property was likely to exacerbate this. It would also undermine the viability of schools and community facilities due to the loss of a family home.

Cllr Paul Crossley, Local Ward Member, spoke against the application. He highlighted the negative impact of the spread of HMO properties on the functioning of the city leading to the loss of family homes. Students do not pay Council Tax and the increase in student accommodation would have an adverse economic impact and could result in the loss of community facilities.

Officers then responded to questions as follows:

- The application passes stage 1 of the test for HMO properties and is acceptable and in line with policy H2 of the Placemaking Plan (2017) and the HMO SPD (2017).
- The provision of double yellow lines in the area would be a matter for the Highways Team.
- A footpath upgrade can be secured by a legal agreement where it is

necessary and relevant to the development, however, this development does not generate a need for such work.

- Very little weight, if any, can be given to emerging policies.
- An HMO property would not necessarily be occupied by students.
- The room sizes for the property would be 8.7sqm, 8.6sqm, 6.54sqm, 7.1sqm, 6.9sqm and 9sqm. The communal space would be 23.71sqm and the kitchen would be 12.66sqm. These measurements are in line with the HMO space standards.
- There would be parking for 2 cars using the garage and the driveway.
- There is a need in Bath for both HMO properties and family homes.

Cllr Jackson moved the officer recommendation to permit stating that there was no policy reason to refuse. She pointed out that there would be no external changes to the property. Cllr Davis seconded the motion and stated that the application was policy compliant and that a refusal would be difficult to defend on appeal.

Cllr Hodge felt that the application represented the unacceptable loss of a family property and was incompatible with the character and amenity of the area which consists of family housing. This was contrary to Policy H2.

The Deputy Head of Planning explained that, if the Committee was minded to refuse the application they should specify how the proposal would be harmful.

Cllr Rigby stated that more data would be helpful when assessing the need for HMO properties. She acknowledged that the application was policy compliant.

The motion was put to the vote and it was RESOLVED by 7 votes in favour, 2 votes against and 1 abstention to PERMIT the application subject to the conditions set out in the report.

## **Item No. 2**

### **Application No. 20/01893/LBA**

#### **Site Location: Cleveland Bridge, Bathwick, Bath – The refurbishment, repair and strengthening of a Grade II\* listed structure.**

The Chair noted that there were widespread public concerns about the use of this bridge for traffic and how this proposal fits into the wider context of the management of the road network. He clarified that the committee's remit was relatively limited. The application was for listed building consent and the law states that the Committee's focus has to be on the desirability of preserving the bridge or its setting or any features of special architectural or historic interest which it possesses. In law, members had to concentrate on the effect of the proposed works on the historic bridge and this was not the forum in which to have a wider debate about the highways network. That was not to say that such issues were unimportant, but simply that the Committee had to follow the law and these matters were not before members at this meeting. However, there were other Council forums in which they could be debated.

The Case Officer reported on the application and her recommendation to grant consent. She referred members to the responses to questions submitted by Cllr Dine Romero and by Bath Preservation Trust which were set out in the update

report. She confirmed that the application could be determined at this meeting.

A representative of Pulteney Estates Residents' Association, Cleveland Bridge Residents and the Federation of Bath Residents' Associations spoke against the application. A local resident also spoke against the application.

Cllr Yuktेशwar Kumar, local ward member, spoke against the application. Local residents did not want heavy goods vehicles to use the bridge and allowing this would appear to be at odds with the Council policy regarding the Clean Air Zone. There were concerns for the health and wellbeing of people in this area. He stated that a weight limit should be imposed on the bridge.

Cllr Tom Davies, local ward member, spoke against the application. He stated that a number of residents were concerned about this proposal. He noted that additional information had been provided at the last minute including the engineering assessment. He was keen to conserve and enhance the structure of the bridge and was concerned at the potential return of heavy goods vehicles which could cause further damage.

Cllr Manda Rigby, pointed out that there are residential dwellings on Cleveland Bridge and that the proposed repairs were no longer like for like. The kerbs had been extended to prevent water ingress but this was also to allow the use of the bridge by heavy goods vehicles rather than to conserve and enhance this Grade II\* listed bridge. She was concerned that people, including Historic England, had not had sufficient opportunity to comment on the new information provided in the update report. She felt that this was a highways application and that highways matters should be taken into consideration. She asked the Committee to either refuse or defer the application to enable external expert legal advice to be provided.

*(Note: At this point Cllr Rigby was moved to the virtual waiting room).*

Cllr Hounsell stated that it was not for the Planning Committee to decide on the weight limit for the bridge. Not all the repairs would be like for like but the works would strengthen the bridge. Just because the bridge would be able to take greater weight did not necessarily mean that it would be compelled to do so. He moved the officer recommendation to grant listed building consent. This was seconded by Cllr Jackson.

Cllr Craig stressed the difficulties of weighing the public benefit against the harm in this case. She queried the approach that was being taken and felt that the asset could be repaired for long-term light use to avoid any further damage.

Cllr Jackson pointed out that, whilst it was right to raise transport issues, this was a listed building application. It was important to save the bridge, and the concerns relating to the use of the bridge by lorries and the need for a weight restriction could be considered at other forums. If only general repairs were carried out, then further work may still be required at a later date.

Cllr Hodge stated that this matter must be considered in context taking into account the future-proofing of the bridge. She was concerned that members were being put under pressure not to consider certain issues. It was important to consider the concrete elements of the repair which go beyond conservation. She felt that the

application should come back to the Committee at a later date with a clear future use of the bridge in mind.

Cllr Davis pointed out that this was a listed building application and that the Committee has a clear remit with regard to this decision.

Cllr McCabe stated that heavy goods vehicles were not desirable on the bridge but that there were other forums where the weight limit and use of the bridge can be debated. Any proposals would then need to be considered by the Secretary of State.

The motion was then put to the vote and it was RESOLVED by 7 votes in favour and 2 votes against to GRANT listed building consent subject to the conditions set out in the report.

*(Note: At this point Cllr Rigby returned to the meeting).*

### **Item No. 3**

#### **Application No. 20/02921/FUL**

**Site Location: Site of former Ministry of Defence Offices, Warminster Road, Bath – Proposed construction of 42 new dwellings and 2 new blocks of apartments to provide a total of 70 new homes on part of the former MOD site at Warminster Road (Resubmission of ref: 19/03838/FUL).**

The Case Officer reported on the application and his recommendation to permit. He clarified that the delegation to enter into a legal agreement should be to the Director of Legal and Democratic Services, that the reference to a Deed of Variation should be changed to a s106 agreement, and that the legal agreement should include all obligations from the original s106 agreement with the exception of the original affordable housing obligations which would be replaced.

A representative from the Bath Preservation Trust spoke against the application.

The agent spoke in favour of the application.

Officers responded to questions as follows:

- Under the current policy 14 visitor parking spaces are required and this application provides 8 spaces. The existing development was approved prior to the adoption of the minimum standards in the Placemaking Plan and the difference is marginal and is therefore considered to be adequate.
- There is not a specific policy relating to building height, but the development must preserve and enhance the area and landscape character of the city. The design has been reviewed by the landscape officer who considers this to be an improvement over the existing approved scheme.
- The area is considered to be a suburban location. The site has been allocated for at least 150 dwellings which dictates the density required. The style of dwellings in this area has already been accepted and some building has already taken place.
- The site is on the main A36 road and is well served by bus services.
- The area will be enhanced through the inclusion of landscaping conditions. If

additional trees were included in the development, then this would have to be at the expense of dwellings or parking spaces.

- If required, the Committee could add a condition requiring electric car charging points.
- The affordable housing would encompass a range of products. This would include rental properties and the social discount market/shared ownership. In the context of the viability statement the current offer of 20 discount market units was in excess of what is considered to be viable.
- The affordable housing would be contained within a single apartment block and the building would be of a similar quality to the other blocks.
- The discounted properties would be available to those people on the home-search register for affordable housing.

Cllr Rigby, local ward member on the committee, stated that the application has now attempted to obtain a more acceptable target for affordable housing. It was disappointing that the expansion of the local primary school had not happened and that the proposed shop was now considered to be unviable. The development was originally intended to be a mixed community. The development is already part-built but she felt that the developer could have followed the contours of the hill.

Cllr Jackson stated that this was the best proposal that could be obtained and moved the officer recommendation to permit. This was seconded by Cllr Hounsell.

Cllr MacFie proposed the inclusion of a condition requiring electric car charging points and the mover and seconder of the motion accepted this proposal. The motion would therefore be to delegate to permit the application.

Cllr Clarke supported the proposal for the affordable units to be located in one place rather than spread throughout the development.

Cllr McCabe hoped that the lack of visitor parking could be addressed in the next application for this site and that more trees could be included on site.

Cllr Rigby stated that the viability assessment had been completed and that 25% affordable housing would be better than none, however, this was still a good deal less than the policy requirement of 40%.

Cllr Hodge noted that this was a crucial site in the city and hoped that the Council would not have to keep compromising on developments in this way.

The motion was put to the vote and it was RESOLVED by 8 votes in favour, 1 vote against and 1 abstention to DELEGATE TO PERMIT the application subject to:

- the conditions set out in the report
- entering into a s106 Agreement as set out in the report (and subsequently clarified by the case officer)
- the inclusion of a condition to provide electric car charging points for the apartments
- Holding further discussions to attempt to increase the number of trees on the site.

**Item No. 4**

**Application No. 18/05623/OUT**

**Site Location: Hybrid planning application for the mixed-use redevelopment of the Co-Operative store and associated car park in Radstock comprising – 1. Full planning permission for the demolition of existing store and construction of 1795sqm retail floorspace including replacement store (Class A1), 722sqm office floorspace (Class B1) and 28 dwellings (Class C3) with associated car and cycle parking, works to existing access, landscaping, public realm, drainage and infrastructure.**

**2. Outline planning permission for 26 dwellings with associated car parking, landscaping, drainage and infrastructure (access, scale and landscaping determined; all other matters reserved).**

The Case Officer reported on the application and his recommendation to delegate to permit.

A representative from Radstock Town Council spoke in favour of the application.

The applicant spoke in favour of the application.

Cllr Eleanor Jackson, local ward member and Westfield Parish Councillor, spoke in favour of the application. She stated that local residents were keen for the development of this site to progress. There is a demand for housing in the area, the development accords with the Local Plan and this is also a crucial employment site. The Co-op answers to its shareholders and new modern premises are crucial for its viability. She also declared an interest regarding donations made by Radco staff to Radstock in Bloom, of which, she is Secretary.

*(Note: Having declared an interest in this application Cllr Jackson took no further part in the debate and did not vote).*

Cllr Davis moved the officer recommendation to delegate to permit. This was seconded by Cllr Hodge.

The motion was put to the vote and it was RESOLVED unanimously to DELEGATE TO PERMIT the application as per the officer recommendation.

**Item No. 5**

**Application No. 20/02727/FUL**

**Site Location: 24 Broadway, Widcombe, Bath, BA2 4JA – Change of use from a three-bed dwelling house (Use Class C3) to a five-bed House in Multiple Occupation (HMO) (Use Class C4).**

The Case Officer reported on the application and his recommendation to permit.

Cllr Alison Born, local ward member, spoke against the application. Cllr Born raised concerns regarding the number of HMO properties in this area, the adverse impact on the local community and the suitability of this particular house for the purpose of an HMO.

Officers then responded to questions as follows:

- The Supplementary Planning Document (SPD) guidance states that the central point of the property must be used when calculating the number of HMOs within a particular radius. There is no level of tolerance or discretion when carrying out this calculation.
- The Stage 2 Test regarding HMO properties refers to more than 10% of households within a 100-metre radius of the application property.
- An HMO property would not necessarily be occupied by students.
- There are a number of HMO properties in this vicinity, however, guidance must be taken from the SPD, and the trigger has not been reached, although the numbers are very close.

Cllr Hounsell noted that 9.6% of properties within the specified radius were HMOs and was surprised that there was no tolerance level as it was so close to the 10% figure specified in the policy.

Cllr MacFie felt that the spirit of the 10% threshold was clear and that the amount of HMOs in the area would have a disruptive effect. He pointed out that there were a number of such properties on the edge of the area covered by the radius.

Cllr McCabe pointed out that, in this case, the application was only 0.5% away from triggering the policy.

Cllr Hodge felt that the HMO use was unacceptable as it would lead to the loss of a family home in an area close to schools and community facilities. She felt that this was not compliant with Policy H2. She moved refusal for this reason. This was seconded by Cllr MacFie.

Cllr Jackson stated that she did not believe that there were grounds to refuse this application.

Cllr Clarke felt that the HMO policy was relevant in this case because the application was so close to the necessary trigger for refusal. The property would be cramped if it were to become an HMO and it would be detrimental to lose another family home in the area.

The motion was put to the vote and it was RESOLVED by 5 votes in favour, 4 against and 1 abstention to REFUSE the application for the following reasons:

- The application is close to the trigger of 10% set out in the HMO Supplementary Planning Document.
- The proposal is contrary to Policy H2, criterion 5.

#### **Item No. 6**

##### **Application No. 20/01408/VAR**

**Site Location: Building between The House and Old Orchard, The Street, Ubley – Variation of condition 2 of application 17/00295/FUL (Erection of detached dwelling house and detached garage).**

The Case Officer reported on the application and her recommendation to permit.

A representative from Ubley Parish Council spoke against the application.

Two local residents spoke against the application.

The applicant spoke in favour of the application.

Cllr Vic Pritchard spoke against the application stating that this was a complex site. He explained that there were concerns as to whether the correct plan had been used when considering the variation application and its footprint. The development would have a major impact on The House, which was the neighbouring property.

Officers then responded to questions as follows:

- An application cannot be made under section 73 of the Town and Country Planning Act 1990 if the proposal constitutes a fundamental alteration to the development which was originally permitted, or if it results in a change to the description of the development in the original planning permission. Officers have considered this application and accepted that, in their professional view, it can be made under s73.
- The application is for a 3-bedroom property. It is limited by the scale and envelope of the building.
- The Legal Advisor stated that there appears to be nothing to suggest that this application should not have been made under s73. He advised members to determine the application on its planning merits, otherwise the only other option was to defer.

Cllr MacFie stated that claims have been made that the original plans were different from the plans that have been used in the variation application. It was also important to look at the floor areas.

Cllr MacFie moved that consideration of the application be deferred pending a site visit. This was seconded by Cllr Jackson.

Members also asked that the following issues be clarified prior to the next meeting:

- Whether the correct plans had been used when considering this application.
- Clarification of the floor plans.
- Would it be open to the committee to refuse on the basis that this was not a valid s73 application?

The motion was put to the vote and it was RESOLVED by 8 votes in favour and 1 abstention to DEFER consideration of the application pending a SITE VISIT.

*(Note: Cllr Hounsell did not vote on the above application as he lost connection and missed part of the debate).*

*(Note: At this point Cllr Jackson left the meeting).*

**Item No. 7**

**Application No. 20/02738/FUL**

**Site Location: 91 Fairfield Park Road, Fairfield Park, Bath, BA1 6JR – Proposed off street parking.**

The Case Officer reported on the application and her recommendation to refuse.

The agent spoke in favour of the application.

Cllr Appleyard, local ward member, spoke in favour of the application. He explained that there were lots of requests for off-street parking in this area. The wall is substantial and does not enhance the street scene. The area has a mix of properties and frontages and a number of other properties have created off-street parking areas.

Officers then responded to questions as follows:

- There were no highway objections to the application. There had initially been some concern regarding the gradient of the garden, but this has now been addressed. Visibility was acceptable.
- The front garden is raised, and the wall adds to the street scene. Removing half of the garden to provide parking is considered to be harmful. There are currently no off-street parking spaces in this block of houses.
- Under permitted development rights a hardstanding can be created, however, as this is considered to involve engineering operations, then a planning application is required.
- Double yellow lines would not be appropriate in front of the property but, if necessary, a white keep-clear line could be provided.

Cllr Hounsell stated that personal circumstances are not a material consideration. He would welcome the provision of an electric vehicle charging point if the application were permitted. He did not feel that this would set a precedent. He then moved that the Committee delegate to permit the application subject to appropriate conditions, a requirement to provide a charging point for an electric vehicle and a requirement to re-use the stone for the retaining wall, as appropriate. This was seconded by Cllr Rigby.

Cllr Clarke felt that this could set a precedent which could reduce the number of on street parking spaces available for both residents and visitors.

Cllr Hodge stated that the dwelling was a prominent house in this location and did not support the proposal.

Cllr McCabe pointed out that due to the gradient of the garden and the need for engineering works planning permission was required, however, if the garden was at street level then off-street parking could be created under permitted development rights.

The motion was put to the vote and it was RESOLVED by 6 votes in favour and 3 votes against to DELEGATE TO PERMIT the application subject to appropriate conditions to include a requirement to provide a charging point for an electric vehicle

and a requirement to re-use the stone from the existing wall for the retaining wall, as appropriate.

**55 POLICY DEVELOPMENT**

The Chair informed the committee that the recommended change to the Planning Scheme of Delegation will be considered at the Special Council Meeting to be held on 21 January 2021.

**56 QUARTERLY PERFORMANCE REPORT - JULY TO SEPTEMBER 2020**

The Committee considered the quarterly performance report for July to September 2020.

RESOLVED: To note the report.

**57 NEW PLANNING APPEALS LODGED, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES**

The Committee considered the appeals report.

RESOLVED: To note the report.

The meeting ended at 7.40 pm

Chair .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**