

BIRMINGHAM CITY COUNCIL

**PLANNING COMMITTEE
15 APRIL 2021**

MINUTES OF A MEETING OF THE PLANNING COMMITTEE HELD ON THURSDAY, 15 APRIL 2021 AT 1100 HOURS AS AN ON-LINE MEETING

PRESENT:- Councillor Karen McCarthy in the Chair;

Councillors Bob Beauchamp, Maureen Cornish, Diane Donaldson, Mohammed Fazal, Kath Hartley, Mohammed Idrees, Julie Johnson, Zhor Malik, Saddak Miah, Gareth Moore, Simon Morrall, Mike Ward and Martin Straker Welds.

INTRODUCTION

7892 The Chair notified the Committee, this was a quasi-judicial meeting and no decisions had been made in advance of the meeting. She highlighted Members who sat on this Committee were representatives of the Council as a whole and not as ward Councillors.

NOTICE OF RECORDING

7893 The Chair advised, and the Committee noted, that this meeting would be webcast for live or subsequent broadcast via the Council's Internet site (www.civico.net/birmingham) and members of the press/public could record and take photographs except where there were confidential or exempt items.

DECLARATIONS OF INTEREST

7894 The Chair reminded Members that they must declare all relevant pecuniary and non-pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared, a Member must not speak or take part in that agenda item. Any declarations will be recorded in the Minutes of the meeting. The Chair noted that Members should also express an interest if they had expressed a view on any of the applications being considered at the meeting and take no part in the consideration of the item.

APOLOGIES

7895 An apology was submitted on behalf of Councillor Peter Griffiths for his inability to attend the meeting. In addition, Councillor Zhor Malik would be leaving the meeting early.

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The Chair highlighted if there were any technical problems particularly around the voting, the decision would be taken based on the actual circumstances. She added the meeting was conducted via MS Teams where the chat facility would only be used for technical problems or for members to indicate they wish to speak. No side conversations would take place during this meeting.

At this point in the meeting, the Chair took a roll call of members present and reminded Members that they must be connected for the whole debate of an item in order to be able to vote on that item.

CHAIR'S ANNOUNCEMENTS

7896 The Chair advised the following meetings were scheduled to take place on the 29 April 2021 (virtual meeting), 13 May 2021 and 27 May 2021.

Members were notified the arrangements for the May meetings were not yet finalised or confirmed. The Chair notified Members, in the coming week, a court case was due to be heard around Councils' powers to conduct virtual meetings after April 2021.

In addition, the Chair noted Members had concerns around arrangements of the meeting; travel; moving around building safely etc. Members would have to be physically present in the room in order to vote.

At this juncture, the Chair proposed for Members to stay behind after the Committee finishes so that they could highlight any points of concerns. These would then be shared with those making provisional arrangements.

MINUTES

7897 The Minutes of the meeting of the Committee held on 18 March 2021, having been circulated, were confirmed by the Committee and signed by the Chair.

The business of the meeting and all discussions in relation to individual planning applications including issues raised by objectors and supporters thereof was available for public inspection via the web-stream.

REPORTS OF THE DIRECTOR, INCLUSIVE GROWTH (ACTING)

The following reports were submitted:

(See Document No. 1)

PLANNING APPLICATIONS IN RESPECT OF THE SOUTH AREA

REPORT NO.6 - NORTHERN HALF OF THE FORMER BIRMINGHAM BATTERY SITE, LAND TO THE EAST OF ASTON WEBB BOULEVARD AND WEST OF THE WORCESTER AND BIRMINGHAM CANAL, SELLY OAK, BIRMINGHAM, B29 - 2020/09978/PA

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The Area Planning Manager (South Area) notified the Members, four late letters of objections had been received. The objections were around issues of potential harmful impact on protected bird species and concerns around the new access on the roundabout would cause be unsafe for pedestrians and cyclists. The Area Planning Manager (South Area) added both issues had been covered fully within the report to the Committee.

In relation to the report, she proposed additional wording to be included in the heritage section at point 6.33. These were noted as;

Section 66(1) of the Listed Building and Conservation Areas Act states in summary that “In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting .Considerable importance and weight has been given to this statutory duty in the consideration of the proposal.

The final line in paragraph 6.33 should be updated to state:

Taking in account the level of separation and lack of impact on important views it is considered that on balance the proposal does not impact on the setting and thereby significance of these designated heritage assets.

Additional comments to make in the conclusion;

“The conclusion and recommendation in this report has been reached following reasoned consideration of the significant effects of the proposed development as reported within the submitted Environmental Statement.

Mitigation measures identified within the Environmental Statement are controlled via the proposed planning conditions, including Condition 51 which requires the scheme to be in accordance with the Environmental Statement.”

The Area Planning Manager (South Area) gave the following summary to the application;

- This was a hybrid application (i.e. part outline and part full application).
- Outline – For office, research and development and multi-story carpark. This included a parameter plan to set out the footprint of the buildings which ranges between 6 – 8 storeys in the new buildings.
- Full application – This was phase 1 of the development – including 7 storey office and research/ development and temporary carpark. Part of the building would be occupied by University of Birmingham for Precision Health Technology Accelerator. This was a part of the former Battery Site in Selly Oak.
- There would be a new access coming off the Queen Elizabeth roundabout and new pedestrian link put in up to the canal.

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- The temporary carpark in phase 1 would go once other phases are built out (inc. new multi-storey carpark on site).
- This was part of a larger site – Battery Site which was given permission in 2013.

Members commented on the application and the Area Planning Manager (South Area) responded thereto.

In addition, it was noted the application was within Councillor Johnson's ward, however she confirmed she had not engaged in any conversation with this application outside of this meeting.

Upon being put to a vote it was 13 in favour, 0 against and 0 abstention.

7898

RESOLVED:-

That planning permission be granted subject to the conditions set out in the report.

REPORT NO.7 - LAND AT HUNTS ROAD/RIPPLE ROAD, STIRCHLEY, BIRMINGHAM, B30 2PW - 2020/09122/PA

The Area Planning Manager (South Area) notified Members there was a slight correction at para. 6.9, last sentence should say 'no **adverse** impact on the setting....'

In addition, Members were reminded an outline consent to the site for residential where access point was approved. The developers wanted to add an additional small access point into a parking court of Hunt's Road. However, they have been advised to submit a full application relating to this otherwise this would be a 'reserve matters'. All other areas had remained the same including the S106 for affordable housing and mix of dwellings

No comments were made by Members.

Upon being put to a vote it was 13 in favour, 0 against and 0 abstention.

7899

RESOLVED:-

- (i) That planning permission be granted subject to the completion of a Section 106 legal agreement and conditions as set out in the report.
 - (ii) that in the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by **14th May 2021**, or such later date as may be authorised by officers under powers hereby delegated, planning permission be refused for the reason(s) set out in the report.
 - (iii) that the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.
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The Chair indicated speakers would be in attendance for this item and she welcomed them to the Committee. The Interim Assistant Director Planning would manage the time allocated to speakers.

The Chair made the following introductory comments. She informed the Committee, this was a returning application and the previous decision had been quashed therefore, the application was being considered afresh at this meeting. She highlighted since the original decision was made, new Members had joined the Committee. However, having listened to all the updates and speakers' presentations at this meeting, any new Members were able to take part in the vote. She reminded the running order of the presenters to the Committee.

PLANNING APPLICATIONS IN RESPECT OF THE CITY CENTRE AREA

REPORT NO.8 - FORMER CEAC BUILDING CORNER OF JENNENS ROAD & JAMES WATT QUEENSWAY CITY CENTRE, BIRMINGHAM, B4 7PS - 2019/04239/PA

The Area Planning Manager (City Centre Area) notified the Committee, there were a series of updates to the report.

- Paragraph 1.4 – The total gross internal area should read 54, 334 sqm not 52, 560 sqm.
- Paragraph 1.5 – The flat sizes range up to 75.3 sqm.
- Paragraph 1.8 – Should include reference to the reports listed in 6.2 where there was slight variation in titles
- Paragraph 2.2 – The second half of the last sentence should read 'has been demolished'
- Paragraph 4.14 – she clarified this was the view of the Victoria Society.

In addition, since the report was finalised, a further 50 objections had been received in relation to this application and the duplicate 2020 application.

Most of the objections followed a standard template response where objections were listed or selected. This was the same format for most of the previously reported objections and no new issues were raised.

One of the additional objections was a non-standard form which sought to reiterate their previous concerns and their opinion that the heritage assessment in relation to a particular view was incorrect.

It was noted that members would be aware of an email circulated to them direct by the applicant and that the applicant's advisors had responded to the further objection.

It was noted that the 'non standard' objection was considered by the Conversation Officer and it raised no new issues to those which had already been submitted and supported the application.

She added the applicant's heritage assessment was considered correct, robust, proportionate and in line with guidance.

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The Area Planning Manager (City Centre Area) notified Members Historic England were satisfied with the information submitted. Furthermore, the applicants Heritage Advisors; Conservation Officer and Historic England all reached the same view regarding the five asset settings which are to be harmed, the level of harm was less than substantial in NPPF in National Planning Policy and should be weighed against any public benefits.

In addition, a further legal representation had been received from the objector in which 13 points were raised.

A comprehensive overview and response were given by the Area Planning Manager (City Centre Area) to the 13 points of objection. The following key points were noted;

- 1) Involvement of applicant in drafting of the report – It was confirmed the applicant had no input into or early sight of the report before publication.
- 2) Raised concerns of objectors not allowed to speak - The objector and applicant had been allowed to speak at the Chair's discretion at the Committee.
- 3) Judicial Review (JR) - The JR was conceded and quashed on ground 7 only. Whilst permission was given of the JR to proceed on grounds 1-6, because they were arguable, the Council defended these and there was no determination of these. However, since the decision was quashed the Committee had to consider the application afresh notwithstanding it had made a prior decision.
- 4) Environmental Impact Assessment (EIA) Screening - Following the submission of a fresh screening report by the applicant, the Officers considered it was appropriate to rescreen the application. That opinion was issued, April 7th, 2021 and concluded the development was not EIA development.
- 5) Loss of daylight/ sunlight - The report highlighted there would be negative impact to loss of sunlight/ daylight for certain properties and locations, but this would be considered in the planning balance. Further detailed breakdown was shared around this and she confirmed all the issues had been considered and fed into the assessment section of the report.
- 6) Historic England (HE) consultation response – This was not misrepresented in the report and accurately conveyed Historic England's response. The report addressed all the HE concerns. She confirmed HE conclusion, of less than substantial harm was the same conclusion as the Conservation Officer and Officers had. HE had concerns around harm to heritage assets which was less than substantial. Details around this was shared.
- 7) Victorian Society Objection - This was referred to in paragraph 4.14; 6.32 - 6.35 of the report. She referred to paragraph 6.34, where the Conservation Officer had taken the objections fully into account and into the analysis of the heritage impact of the scheme. In the report, the Conservation Officer agreed with the concerns raised would cause some harm to heritage assets however, the Conservation Officer did not agree with harm to other assets such as the Children's Hospital; Bartholomew Row and Curzon Street Station. It was considered the applicants assessment of these assets to be accurate, evidence and soundly justified.

The Victorian Society objection still stands as they consider the scheme to be unacceptable. The scheme had not been amended to the specific concerns raised by the Victorian Society however, this would be considered by the Committee.

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- 8) Details of objections - Objections had been addressed in the update and greater weight should be attached to amenity groups.
- 9) Reasons for heritage assessments - The report performs a correct balance in exercise as the harm was detailed in the Conversation Officers report and Officers report. She reiterated the Officers, Conservation Officer and Historic England all agreed the harm was less than substantial. Further detail was provided around this to the Committee.
- 10) Insufficient Cycle provision – This was detailed in paragraph 6.61 and cycle provision was below the identified within the carparking Supplementary Planning Document (SPD). The provision of 20% was appropriate for this scheme.
- 11) Insufficient affordable housing – Paragraph 6.66 – Financial appraisal had been assessed and the scheme was considered policy compliant.
- 12) Planning history – In relation to the previous report being quashed, this was dealt with in the report itself.
- 13) Proposal contrary to high places Supplementary Planning Guidance (SPG) – This is dealt with within the Officer's report, paragraph 6.83, 6.14 and the proposal is considered to be in accordance with the SPG.

The Chair reminded Members, a speaker in objection and in speaker support were in attendance.

Mr Hurn, LaSalle Investment Management spoke against the application.

Ms Arnall, Turleys (the Agent), spoke in favour of the application.

The Area Planning Manager (City Centre) responded to comments made by the objector and the supporter.

At 1158 hours, Councillor Malik left the meeting.

The Committee Lawyer clarified two points made by the speakers:

- 1) Reference and comments made by the speakers around the Judicial Review - He clarified whilst the court (at the initial) stage gave permission for the JR to proceed on 7 grounds, there was never any determination of majority of the ground due to the previous decision being quashed. It was quashed on the basis of one ground only, the omission in relation to the Victorian Society. There had never been any determination by the Court in respect of the other 6 grounds.
- 2) Costs Awarded as part of JR proceedings – This cost was awarded on one ground in which the decision was quashed. Whilst this was correct there were a number of grounds the decision was challenged. Again, there was no determination or findings by the Court that the decision was flawed.

The Committee Lawyer was satisfied the Committee had heard all the relevant information to come to a decision.

Members commented on the application and the Area Planning Manager (City Centre Area), Committee Lawyer and the Interim Assistant Director Planning responded thereto.

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Upon being put to a vote it was 12 in favour, 0 against and 0 abstention.

7900

RESOLVED:-

- (i) That planning permission be granted subject to the completion of a Section 106 legal agreement and conditions as set out in the report.
 - (ii) that in the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by **30th April 2021**, or such later date as may be authorised by officers under powers hereby delegated, planning permission be refused for the reason(s) set out in the report.
 - (iii) that the City Solicitor be authorised to prepare, seal and complete the appropriate legal agreement.
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OTHER URGENT BUSINESS

7901

Councillor Moore followed up to a question he had previously raised to the Chair at City Council around purpose-built student accommodation. He noted this was being decommissioned and this was not referenced in the Supply and Demand Report.

The Chair thanked Councillor Moore for highlighting this question again and agreed the understanding of the student accommodation market should be clear. Since the last City Council meeting, she had been made aware of three separate sites. Two sites were at the Five Ways, in which one had withdrawn the application to change its purpose. Currently, there was no application for the second site, however this would be followed up with Officers. The Third site, Bristol Road (opposite the McDonald's), temporary consent for approximately a third of the accommodation to be serviced accommodation was given.

The Chair noted there were challenges within this area over the last year, and following Government guidance, students should not be returning until middle of May 2021. In the past, residents had suggested student accommodation should be built so that it can respond flexibly to the market. It was important to understand the student accommodation market.

Members were encouraged to share information of any other sites where similar conversations were taking place as this links to all aspects of housing within the City. The position on the concerns around the sites would be shared in the future.

The Chair reminded Members to stay in the meeting once the webcasting had ended to discuss any concerns, they had on face to face meetings.

AUTHORITY TO CHAIR AND OFFICERS

7902

RESOLVED:-

That in an urgent situation between meetings the Chair, jointly with the relevant Chief Officer, has authority to act on behalf of the Committee.

The meeting ended at 1208 hours

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CHAIR