

# BIRMINGHAM CITY COUNCIL

**PLANNING COMMITTEE  
19 NOVEMBER 2020**

## **MINUTES OF A MEETING OF THE PLANNING COMMITTEE HELD ON THURSDAY, 19 NOVEMBER 2020 AT 1100 HOURS AS AN ON-LINE MEETING**

### **PRESENT:-**

Councillor Karen McCarthy in the Chair;

Councillors Bob Beauchamp, Maureen Cornish, Diane Donaldson, Mohammed Fazal, Peter Griffiths, Julie Johnson, Zhor Malik, Saddak Miah, Gareth Moore, Simon Morrall, Lou Robson, Mike Ward and Martin Straker Welds.

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### **INTRODUCTION**

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The Chair indicated that meeting would be hosted on teams but would be web streamed and indicated that, because the Committee was a quasi-judicial one, no decisions had been made in advance of the meeting. She reiterated the online meetings will be taking place for a while and they were delivered as close to face to face meetings. The main difference was the Committee were unable to take speakers in objection or support of an application at present. This had been replaced with statements which were read out by an officer. All other aspects were delivered in the same format i.e. ordering of the reports and conduct of business. Members would be using the chat function in teams to indicate a wish to speak and to notify of technical problems. No side conversations would take place.

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### **NOTICE OF RECORDING**

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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](http://www.civico.net/birmingham)) and members of the press/public could record and take photographs except where there were confidential or exempt items.

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### **DECLARATIONS OF INTEREST**

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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

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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.

Councillor Gareth Moore confirmed that as he had made representations to Item 9 on the agenda and as result of this would not be taking part in any discussion regarding the item.

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### APOLOGIES

7731 There were no apologies submitted.

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### CHAIR'S ANNOUNCEMENTS

7732 The Chair informed Members that the following meetings were scheduled to take place on the 3 December, 17 December 2020 and 7 January 2021.

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### MINUTES

7733 Following a correction to the Minutes of the Meeting of the Committee held on 22 October 2020: Page 5 Item 7709 (ii) which should read **approved** and not **deferred** as reported, that the Minutes be confirmed and signed.

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**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 - HARBORNE ACADEMY, HARBORNE ROAD, EDGBASTON, BIRMINGHAM, B15 3JL - 2020/04401/PA**

The Area Planning Manager (South) updated the Committee that there had been an additional objection from Preet Gill, MP requesting that members reject the application. At a meeting, she and residents had had with the academy, stated that the academy had not been able to provide a business case for the development. She believes there are other pitches in the area that were not being used to full capacity and would like members to have a site visit and a meeting with residents before any decision was made on the application.

The Area Planning Manager (Pete Barton) read a statement on behalf of the objector (David Jones on behalf of Highpoint Residents).

The Area Planning Manager (Pete Barton) read a joint statement on behalf of the applicant and agent in support of the application.

At this junction, the Chair highlighted the difficulty in site visits being currently undertaken due to Covid-19 and therefore would only consider a site visit if the site could not be clearly seen from the information provided in the report. She added that following legal advice, opinions were no longer taken from residents during site visits.

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

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

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**RESOLVED:**

That the application be approved subject to the conditions listed in the report.

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**PLANNING APPLICATIONS IN RESPECT OF THE CITY CENTRE AREA**

**REPORT NO. 7 - 58-66 DARWIN STREET, HIGHATE, BIRMINGHAM, B12  
OTP – 2019/03469/PA**

The Area Planning Manager (City Centre Area) reported on the updates.

It was noted that 8.1 A) the resolution refers to both rental and for sale. The application proposes for sale units and therefore should read:

“a) The provision of 12 open market sale dwellings of a proportionate mix at a 25% discount on normal market values in perpetuity”

In addition, a further representation from a neighbouring landowner had been received reiterating issues relating to the conflict with the adjacent commercial enterprises, inadequate parking, design, poor amenity and loss of an employment site previously raised.

In addition, they draw attention to the River Rea SPD which encourages comprehensive development and this speculative development will encourage further speculative development in the area and contrary to the green infrastructure aspirations of the document. The scale is at odds with the SPD and therefore on balance does not weigh in favour of the application.

Following comments from Councillor Gareth Moore relating to noise, the Area Planning Manager (City Centre Area) referred to the work that had been undertaken to address this issue.

Upon being put to the vote it was 12 in favour 1 against and 0 abstention.

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**RESOLVED:**

- (i) That application 2019/03469/PA be APPROVED subject to the prior completion of a Section 106 Legal Agreement to secure the following:
  - (a) The provision of 12 open market sale dwellings of a proportionate mix at a 25% discount on normal market values in perpetuity
  - (b) Payment of a monitoring and administration fee associated with the legal agreement of 3.5% of the value subject to a maximum of £10,000
- (ii) In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by the 20th December 2020 or such later date as may be authorised by officers under delegated powers, planning permission be refused for the following reason:-
  - (a) In the absence of a legal agreement to secure any on-site affordable market sale dwellings the proposal conflicts with Policy TP31 of the Birmingham Development Plan and the National Planning Policy Framework.
- (iii) That the City Solicitor be authorised to prepare, complete and seal an appropriate agreement under Section 106 of the Town and Country Planning Act.
- (iv) That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority by the 20th December 2020 planning permission for application 2019/03469/PA be APPROVED, subject to the conditions listed in the report.

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**REPORT NO. 8 - LAND BOUNDED BY LIONEL STREET, LIVERY SREET, GREAT CHARLES STREET AND LUDGATE HILL, JEWELLERY QUARTER, BIRMINGHAM, B3 – 2020/02556/PA**

The Area Planning Manager (City Centre Area) reported that there were no updates.

Councillor Lou Robson and Councillor Gareth Moore stated they were unable to support the application due to the heritage concerns.

Councillor Martin Straker-Welds and Councillor Simon Morrall made known their support for the application.

In response to members' comments, the Area Planning Manager (City Centre Area) and the Assistant Director, Inclusive Growth responded thereto

Upon being put to the vote it was 9 in favour 4 against and 0 abstention.

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**RESOLVED:**

- (i) That application 2020/02556/PA be APPROVED subject to the prior completion of a Section 111 Agreement which requires the applicants to enter into a Section 106 Legal Agreement immediately following their acquisition of the site to secure the following: a) 36 (5%) on-site affordable private rent dwellings at a 20% discount to Market Rent for 18 x 1 bed 2 person apartments and 18 x 2 bed 4 person apartments in perpetuity b) The provision of high quality landscaping of the amenity spaces including for the public arrival space on Livery Street opposite the entrance to Snow Hill Station to a value of approximately £960,000 (index linked from the committee resolution date) c) The repaving the pavements around the perimeter of the site to Ludgate Hill, Lionel Street and Livery Street in traditional Staffordshire blue brick and repaving of Great Charles Street in concrete blocks to a value of £605,000 (index linked from the committee resolution date) d) A Contribution of £30,000 (index linked) towards improvements to and/or maintenance of the Great Charles Street subway e) Provision of CCTV across the development, including external coverage of the Great Charles Street/Livery Street exit of the Great Charles Street subway. f) Creation of service laybys for use by all businesses in the vicinity and taxi drop off area and signage/street furniture for use by local community to a value of £210,000 (index linked from the committee resolution date) g) Payment of a monitoring and administration fee associated £10,000.
- (ii) In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority on or before 15 February 2021, or such later date as may be authorised by officers under delegated powers, planning permission be refused for the following reasons:
- (iii)
  1. In the absence of a legal agreement to secure any on-site affordable market rent dwellings the proposal conflicts with Policy TP31 of the Birmingham Development Plan and the National Planning Policy Framework.
  2. In the absence of any legal agreement to secure new areas of public realm and improvements to the existing footways adjacent to the site the development is contrary to Policies PG3, TP12, TP27 and TP39 of the Birmingham Development Plan and the National Planning Policy Framework.
  3. In the absence of any legal agreement to secure the creation of service laybys and a taxi drop off area the contributions towards improvements to the subway adjacent to the site the development is contrary to Policies PG3, GA1.3 and TP39 of the Birmingham Development Plan and the National Planning Policy Framework
- (iv) That the City Solicitor be authorised to prepare, complete and seal an appropriate agreement under Section 106 of the Town and Country Planning Act.
- (v) That in the event of the Section 111 agreement being completed to the satisfaction of the Local Planning Authority on or before 15 February 2021, or such later date as may be authorised by officers under

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delegated powers, planning permission for application 2020/02256/PA be APPROVED, subject to the conditions listed in the report.

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**REPORT NO. 9 - PRIORY HOUSE, GOOCH STREET NORTH/KENT STREET, BIRMINGHAM, B5 6QU – 2020/04784/PA**

At this juncture, the Chair highlighted that Councillor Gareth Moore had made representation on this item and therefore would not be partaking in the discussion.

The Area Planning Manager (City Centre Area) reported that in addition to the consultation exercise detailed in section 4 of the report, site and press notices had also been displayed.

He further reported that a late objection had been received from the owner of the Nightingale Club stating that they do not object in principle of development, but have concerns for the future of the Nightingale Club which is a long-established nightclub that is at the heart of the LGBTQ+ community. The introduction of residential dwellings could result in complaints that could threaten the future of the club. They are involved in detailed discussions regarding the neighbouring site, 16 Kent Street, and are concerned that this would be undermined by this application. They conclude that if there is the slightest doubt that the plans submitted may give rise to complaints that are detrimental to the vibrant gay village and specifically the Nightingale, then the application must be refused.

The Area Planning Manager (City Centre Area) suggested that Sean Hannaby be brought in the subject of a proposed condition that would require sellers of apartments within the development to draw attention to the presence of late-night opening entertainment venues within the vicinity.

Following comments from members, Sean Hannaby, Interim Assistant Director, Inclusive Growth and the Committee Lawyer, explained the reasons why it should be accepted as an informative rather than an additional condition attached to the report.

Upon being put to the vote it was 9 in favour 3 against and 0 abstention.

Members resolved to add an informative to the decision notice stipulating the developer/owner must inform prospective occupiers of the nearby night-time entertainment uses.

The Chair proposed a vote to the application:

Upon being put to the vote it was 9 in favour 2 against and 1 abstention.

7737

**RESOLVED:**

- (i) That application 2020/04784/PA be APPROVED subject to the prior completion of a Section 106 Legal Agreement to secure the following:

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- a) A contribution of £200,000 (index linked) towards public realm improvements within the vicinity of the application site and/or the Gay Village.
- b) Payment of a monitoring and administration fee associated with the legal agreement of 3.5% of the value subject to a maximum of £10,000.
- (ii) In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by the 20th December 2020 or such later date as may be authorised by officers under delegated powers, planning permission be refused for the following reason:-
- In the absence of a legal agreement to secure off-site public open space provision the proposal conflicts with Policy TP47 of the Birmingham Development Plan and the National Planning Policy Framework.
- (iii) That the City Solicitor be authorised to prepare, complete and seal an appropriate agreement under Section 106 of the Town and Country Planning Act.
- (iv) That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority by the 20th December 2020 planning permission for application 2020/04784/PA be APPROVED, subject to the conditions listed in the report.

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### **PLANNING APPLICATIONS IN RESPECT OF THE NORTH WEST AREA**

#### **REPORT NO. 10 - 41 BRITWELL ROAD, SUTTON COLDFIELD, BIRMINGHAM, B73 5SW – 2020/06176/PA**

The Area Planning Manager (North West Area) reported that further representation had been received expressing disappointment that the collective opinions and objections from members of the local community were ignored. It was asked whether there is a requirement for noise insulation to be installed between nos. 39 and 41 given that the buildings adjoin at ground level.

The Area Planning Manager (North West Area) subsequently explained the reasoning why the condition relating to the noise would remain unchanged.

Following comments from Members relating to 4.4 of the report regarding placement termination, Sean Hannaby, Interim Assistant Director, Inclusive Growth reminded the Committee that this was not within the remit of Planning to consider and would be picked up through the regulatory channels.

Upon being put to the vote it was 9 in favour 3 against and 1 abstention.

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#### **RESOLVED:**

That the application be approved subject to the conditions listed in the report.

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**REPORT NO. 11- WESTERN BUSINESS PARK, GREAT WESTERN CLOSE, WINSON GREEN, BIRMINGHAM, B18 4QF – 2020/03216/PA**

At this juncture, the Chair reported on the recent social media interest regarding this application in the last 24 hours. She stated that this was not something that could be identified at this meeting and that members of the public would always be encouraged to make representation through the normal channels.

The Area Planning Manager (North West Area) reported that representations had been made in the last 24 hours which had also been sent to members of the Planning Committee on behalf of several organisations:

Winston Green Residents Association, Lodge Road Community Association, New Bigin Community Trust, **Seedbeds** Learning, Soho Albion Football Club, Lodge Road Community Church, Bishop Latimer United Church, Friends of Black Patch Park, Handsworth Helping Hands, Birmingham Christian Homelessness Forum and Acorn Birmingham Community Union.

He stated that the points raised in their representation, was that they were only made aware of the application as a result of an article in the local media. They emphasise the need for more and better family housing and although, they recognise the site has potential for development and is projected to make £10m profit, there is no affordable housing or Section 106 receipts.

They emphasise that there is a desperate need for affordable social housing and priority should be given to that, as part of any approved development, asked that the local community is adequately consulted, and the developer works with the local community to deliver affordable housing and Section 106 receipts.

They also ask whether a claw-back clause can be included in terms of reviewing viability, and if the land is to be built on, as opposed to the preferable option of it remaining as green space, then planning permission should be refused until a time that a scheme is put forward that does include an appropriate number of family homes and a level of affordable housing.

The Area Planning Manager (North West Area) referred to the issue of consultation and confirmed that it was undertaken in accordance with BCC Statement of Community Involvement and the adopted registration manual.

He highlighted that a total of 241 dwellings and business premises in the locality were consulted and in addition; Brook Area Residents and Shop Keeper Group, Lodge Park Residents Association and Brook Area Soho Neighbourhood Forum were also consulted and they are particular individual organisations that have made themselves aware to BCC that they wish to be consulted on planning applications within particular areas.

The MP and local councillors were also consulted, a press notice was put in the Birmingham Mail and a site notice was displayed on Handsworth New Road.



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He added that regarding the other factors, the report does discuss issues include housing type, loss of open space, ecology, affordable housing, public open space and viability within the context of the wider planning balance exercise.

Councillor Lou Robson made known her concerns for the lack of detail in many areas of the report; the need for more valued engineering, the possibility of affordable housing and the acquisition of a grant, all of which were echoed by Councillors Julie Johnson, Peter Griffiths and Martin Straker Welds.

Councillor Lou Robson therefore proposed, which was seconded by Councillor Julie Johnson that the item was deferred on the grounds of further detail being provided.

The Area Planning Manager (North West Area) responded to members' comments addressing the concerns raised and highlighted that whilst there was no affordable housing, it was important to note, the significant planning gains to the scheme. The site holds ecological value which is being eroded due to flytipping and anti-social behaviour and the development of the site is a means to safeguard the habitats.

In response to the Chair's reference to the Motion of deferral, Sean Hannaby, Interim Assistant Director, Inclusive Growth, drew Members' attention to the fact that if deferral of the application was agreed, then they must be clear on what is being requested. He added that based on the discussion that had taken place, was not convinced that there was a reasonable reason for deferral.

The Chair highlighted that they were looking at deferral on engagement and consultation.

Members discussed the vote for deferral, and it was agreed, that the vote was refused albeit Councillor Lou Robson strongly believed that the application should provide more information before it was accepted, adding that in no way was this any reflection on our officers from BCC.

Upon being put to the vote it was 9 in favour 4 against and 0 abstention.

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### **RESOLVED:**

- (i) That application 2020/03216/PA be APPROVED subject to the prior completion of a Section 106 Legal Agreement to secure the following:
  - In the event that any grant funding is secured towards the costs of the development, an updated financial appraisal shall be submitted for assessment by the Local Planning Authority. If that financial appraisal identifies that the development could sustain a planning obligation it shall take the form of affordable housing (on-site or an off-site financial contribution) totalling no more than 35% affordable housing.

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- The delivery of 0.9ha of on-site Public Open Space, including a children’s play area, and including a Plan for the management and maintenance arrangements thereof to ensure it is maintained to an agreed standard and be made available in perpetuity for the public to gain unfettered access. The POS and play area shall meet BCC recreational amenity standards and shall be fully accessible to both the residents of the proposed development and surrounding areas, safe for all users, secure from illegal vehicle incursion and no attenuation tanks or other SUDS facility shall be located within the POS in a manner which would detract from its recreational function or landscape design of the space. The equipment shall be robust and include at least one item of fully accessible inclusive play. Timing of laying out and bringing into use of the POS and junior play area to be agreed prior to the first occupation of any residential units.
  - Payment of a monitoring and administration fee associated with the legal agreement of 3.5% of the value subject to a maximum of £10,000
- (ii) In the absence of a suitable legal agreement being completed to the satisfaction of the Local Planning Authority by the 31st December 2020 or such later date as may be authorised by officers under delegated powers, planning permission be refused for the following reason:-
- In the absence of any suitable legal agreement to secure suitable public open space and play area provision and a mechanism to review the scheme’s financial viability to deliver affordable housing, the proposal would be contrary to policy TP9 and TP31 of the Birmingham Development Plan and NPPF.
- (iii) That the City Solicitor be authorised to prepare, complete and seal an appropriate agreement under Section 106 of the Town and Country Planning Act.
- (iv) That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority by the 31st December 2020 or such later date as may be authorised by officers under delegated powers, planning permission for application 2020/03216/PA be APPROVED, subject to the conditions listed in the report.

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### **REPORT NO. 12 - 144 HAMSTEAD ROAD, HANDSWORTH, BIRMINGHAM, B20 2QR – 2020/04626/PA**

At this juncture, Councillor Lou Robson submitted her apology for withdrawing from the meeting in order to attend a further meeting.

The Area Planning Manager (North West Area) reported there were no updates however stated that it was a revised scheme previously refused by the Planning Committee on the grounds of inadequate amenity space for the occupiers.

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The scheme is now an 8 bed HMO and can accommodate up to 9 occupants and provides a communal lounge, kitchen, internal games room and rear area of hard standing which was previously proposed to be used for parking.

In response to a member's comment the Area Planning Manager (North West Area) confirmed that it was a low-level support HMO.

Upon being put to the vote it was 7 in favour 0 against and 5 abstentions.

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**RESOLVED:-**

That the application be approved subject to the conditions listed in the report.

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**OTHER URGENT BUSINESS**

**BCC WEBSITE – DIFFICULTY LODGING COMPLAINTS**

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Following Councillor Mike Ward's concern relating to the above-mentioned difficulty, Sean Hannaby, Interim Assistant Director, Inclusive Growth briefly explained the necessity for a post code, how this could be obtained and if the incorrect post code was submitted, it would be picked up by officers when addressing the issue.

He stated that although there was the facility to upload photos when making a complaint it was not necessary, adding that there were also contact forms if people wanted to contact the department. He concluded by stating that he would re-visit the site to ensure that all was running smoothly.

**PLANNING WHITE PAPER**

7742

Following comments from Councillor Martin Straker Welds regarding the above-mentioned paper, the Chair stated that it was the Leader and Cabinet that were resolving what the contributions would be as a result of the enquiries.

She stated that she would check whether the response was publicly available, adding that she would pick this up at the next meeting and hopefully circulate something before then if available to do so.

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**AUTHORITY TO CHAIR AND OFFICERS**

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**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.

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The meeting ended at 1304 hours

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CHAIR