

NOTTINGHAM CITY COUNCIL**DEVELOPMENT CONTROL COMMITTEE****MINUTES**

of meeting held on **21 SEPTEMBER 2011** at

Loxley House from 2.38 pm to 4.42 pm

- ✓ Councillor Gibson (Chair)
- ✓ Councillor Malcolm (Vice-Chair)
- ✓ Councillor Ali (substitute for Councillor Neal)
- ✓ Councillor Arnold
- ✓ Councillor Chapman (for minutes 64 to 68 and 70 to 72 inclusive)
- ✓ Councillor Choudhry
- ✓ Councillor Clark
- Councillor Dewinton
- Councillor Jeffrey
- ✓ Councillor Khan
- ✓ Councillor Klein
- ✓ Councillor Longford
- ✓ Councillor Morley
- Councillor Neal
- Councillor Steel

Also Present

Councillor Urquhart (Observer, minutes 64 to 69 inclusive)

- ✓ indicates present at meeting

64 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Dewinton, Neal and Steel.

65 DECLARATIONS OF INTERESTS

Councillor Chapman advised the Committee that, with regard to agenda item 4(c) – Planning Application – Broad Marsh Centre, Lister Gate (minute 69), his role as a member of the City Council's Executive had led to greater involvement in the pre-application process associated with such a significant application, including the making of supportive statements in the public media, than would normally have been the case. In view of this he did not consider it appropriate that he should be involved in determining this matter and would, therefore, withdraw from the meeting at the appropriate time.

Councillor Arnold declared a personal interest in agenda items 4(a) and 4(b) – Planning Applications, Nottingham Trent University, Byron House, Shakespeare Street and Car Park, Gill Street (minutes 67 and 68), as the parent of a daughter who currently attended the University, which did not preclude her from speaking or voting.

Councillor Clark declared a personal interest in agenda item 4(c) – Planning Application – Broad Marsh Centre, Lister Gate (minute 69), in that he was a City Council appointed Director and Chair of EnviroEnergy Limited, which would be involved in aspects of the development, which did not preclude him from speaking or voting. He also declared the same interest subsequently in agenda item 4(a) – Planning Application, Nottingham Trent University, Byron House, Shakespeare Street (minute 67), at the point at which he became aware of it, which did not preclude him from speaking or voting.

Councillor Khan declared his attendance at meetings with the local community associated with agenda item 5(a) – Proposed Enforcement Action – The Jester Public House, Sneinton Dale (minute 72) which did not preclude him from speaking or voting.

66 MINUTES

RESOLVED the minutes of the last meeting held on 17 August 2011, copies of which had been circulated, be confirmed and signed by the Chair.

67 BYRON HOUSE, NOTTINGHAM TRENT UNIVERSITY, SHAKESPEARE STREET

Consideration was given to report of the Head of Development Management, copies of which had been circulated on application 11/01686/PFUL3 submitted by Harris Lamb Limited on behalf of Nottingham Trent University for planning permission to demolish the existing Byron House and Medical Centre and erect a new building complex of student facilities including student union accommodation; cafe and lounge; venue space and bar; sports hall; exercise and fitness studios and retail accommodation over three floors and student accommodation of 559 rooms over four blocks ranging from four to nine floors above the student facilities and including a management suite, launderette, two warden flats and 146 cycle spaces.

The Head of Development Management reported three further responses to consultation on the application as follows:

Freeth Cartwright on behalf of DHP Group suggested that, to ensure adequate control, venue management should form an element of any agreement under Section 106 of the Town and Country Planning Act 1990, rather than by way of condition as currently proposed.

The Head of Development Management commented that, although the current suggestion of a planning condition and approved venue management statement could provide suitable control over the management of the venue, this matter was also capable of being included within a section 106 agreement. The applicant had subsequently agreed that they would accept such a clause requiring that a venue management agreement be prepared and agreed prior to the occupation of the venue on the same terms as indicated in existing Condition 12 of the draft planning permission appended to the report. An amendment to recommendation 1(a) of the report, together

with deletion of Condition 12 from the draft planning permission was, therefore, proposed to reflect this.

Nottingham Civic Society expressed the view that the present building provided an appropriate 'end-stop' to Shakespeare Street and that the proposed building would not enhance the Arboretum Conservation Area and would impact detrimentally on the setting of the listed Waverley Building and Terrace Royal. It stated that the proposed development appeared to be too intensive and too tall and would be bad neighbours to University's adjacent historic buildings.

The Head of Development Management stated he considered that issues raised by Nottingham Civic Society had been adequately addressed in the report.

Nottinghamshire Disabled People's Movement commented that lift access throughout the building was positive and inclusive, but drew attention to very limited parking spaces for Blue Badge holders in the area and urged an increase in designated spaces for Blue Badge holders on Hampden Street.

The Head of Development Management commented that Blue badge holders were currently permitted to park with no time constraints in all pay and display spaces, and the applicant had confirmed that further accessible parking within the proposed development on Gill Street/Hampden Street (minute 68 below) would be allocated where a need arose from the occupants of accessible rooms.

Members of the Committee expressed their support for the principle of the development, though they had concerns about the design, materials and relationship to the street scene of Block D (the part of the proposed development furthest from the Waverley Street/Goldsmith Street junction).

RESOLVED

- (1) that planning permission be granted, subject to the indicative conditions listed in the draft decision notice (excluding Condition 12) appended to the report and to the completion of an agreement under Section 106 of the Town and Country Planning Act 1990, to include the following:**
 - (a) A student management agreement**
 - (b) local employment and training opportunities during the construction of the development plus a financial contribution of £53,351 towards pre-employment training costs;**
 - (c) a venue management agreement;**
- (2) that the Committee was satisfied that Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 was complied with, in that the planning obligation sought was:**
 - (a) necessary to make the development acceptable in planning terms;**
 - (b) directly related to the development; and**

- (c) **fairly and reasonably related in scale and kind to the development;**
- (3) **that the Head of Development Management, after consultation with the Chair, Vice-Chair and Opposition Spokesperson, be authorised to determine the design and materials of Block 'D' of the scheme and its relationship to the street at ground level;**
- (4) **that power to determine the final details of the both the Section 106 Planning Obligation and conditions of the planning permission be delegated to the Head of Development Management.**

**68 CAR PARK SOUTH OF NOTTINGHAM TRENT UNIVERSITY,
GILL STREET**

Consideration was given to report of Head of Development Management, copies of which had been circulated, on application 11/01687/PFUL3 submitted by Harris Lamb Limited on behalf of Nottingham Trent University, for planning permission to redevelop the surface car park, to provide five storey student accommodation buildings with 352 student bedrooms, together with support staff accommodation, a 96 space basement car park and 88 cycle parking spaces.

The Head of Development Management reported two further responses to consultation on the application:

Nottingham Civic Society expressed concerns regarding views across to University historic and iconic buildings and hoped that the proposed buildings would maintain views of the chimneystack of the listed Arkwright Building and tower of the listed Newton Building.

The Head of Development Management responded that the comments of Nottingham Civic Society were noted. The redevelopment of the surface car park was considered appropriate in principle. The local context included the neighbouring 4/5 storey student accommodation on Gill Street, and the proposed development was no greater in height than this accommodation. Views towards the University's landmark buildings would not be affected.

Nottinghamshire Disabled People's Movement expressing concern that the absence of lift access above the podium level would exclude anyone with a mobility impairment who could not climb stairs, from living in or visiting friends on upper floors. Provision of wheelchair accessible rooms could be improved by designing at least one further room to be easily adaptable. The staircase route from Gill Street to Hampden Street indicated provision for a platform lift if needed, implying that this would only be added at a later date if required/requested. This short cut should be fully accessible and would benefit many people who may find the steep slope of Gill Street and Dryden Street inaccessible. Parking spaces for Blue Badge holders in the area were limited and there should be an increase in designated spaces for Blue Badge holders on Hampden Street.

The Head of Development Management commented that:

- whilst it was appropriate to encourage lift access and the provision of wheelchair accessible rooms within developments, this was not presently a matter which either the Planning or Building Control regimes could require in developments of this nature;
- the applicant had advised that there were 559 rooms within the proposed redevelopment of Byron House and 91 rooms within the proposed redevelopment of Gill Street, which were accessible to able bodied and ambulant individuals, equating to 72% of rooms in the overall development being accessible. The applicant had advised that this level of provision was far in excess of the known demand for students with access needs since, nationally, only 1 per cent of students were registered as disabled, of whom only some 0.15 per cent were wheelchair users;
- five disabled parking bays would be provided within the proposed car park, in accordance with the Local Plan recommended standard. The applicant had also confirmed that accessible parking within the proposed car park would be allocated where a need arose from the occupant of the accessible room, in which case the space closest to the car park entrance would be allocated. Blue badge holders were currently permitted to park with no time constraints in all pay and display spaces.
- the applicant had advised that the dual requirement of solar water heating and photovoltaics to meet the Council's 10% sustainability target was considered unnecessary as the target may now be achieved through the use of solar water heating alone.

Subject to the confirmation of these calculations, it was therefore recommended that Condition 7 of the draft planning permission attached to the report be amended to delete reference to b) Photovoltaics.

Members of the Committee expressed their support for the development in principle, but were concerned that the appearance of the proposed building, as submitted, was not sympathetic or attractive.

RESOLVED

- (1) that planning permission be granted, subject to the indicative conditions listed in the draft decision notice (with the amendment detailed above) appended to the report and subject to the completion of an agreement under Section 106 of the Town and Country Planning Act 1990 to include the following:**
 - (a) a student management agreement**
 - (b) local employment and training opportunities during the construction of the development plus a financial contribution of £31,875 towards pre-employment training costs;**

- (2) that the Committee was satisfied that Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 was complied with, in that the planning obligation sought was:
 - (a) necessary to make the development acceptable in planning terms;**
 - (b) directly related to the development; and**
 - (c) fairly and reasonably related in scale and kind to the development;****
- (3) that, after consulting the Chair, Vice-Chair and Opposition Spokesperson, the Head of Development Management be authorised to determine details of the design and materials of the proposed building;**
- (4) that power to determine the final details of both of the Section 106 Planning Obligation and conditions of the planning permission be delegated to the Head of Development Management.**

Councillor Chapman withdrew from the meeting during consideration of the following item.

69 BROAD MARSH CENTRE, LISTER GATE

Further to minute 6 dated 25 May 2011, consideration was given to report of Head of Development Management, copies of which had been circulated on application 11/02546/PFUL3 submitted by Indigo Planning on behalf of Westfield Shoppingtowns Ltd for planning permission for alterations to the Broad Marsh Centre including demolition of the structure above Lister Gate Square, formation of an open north-south pedestrian street with remodelling of the service bridge and the corner of unit 1 / 2 on the corner of the new north-south street and Stanford Street; installation of mezzanines in unit 13/17 fronting Broadwalk and unit MSUC1A fronting the new north-south street and installation of new shop fronts to units on Broadwalk and the new north-south street with remodelled elevation to Collin Street and installation of new shop fronts together with removal of the ramp and closure of the subway, and associated hard and soft landscaping.

The Head of Development Management reported receipt of a letter from an agent on behalf of Argos Ltd in relation to their store at Units 5 and 6 Lister Gate Square.

The submission expressed surprise that, in view of the store's part in the retail offer within the Broad Marsh Centre, detail on the future of the current Argos store or its relocation was absent from the application. This should have been a material consideration and the employment implications should have been properly assessed in relation to Planning Policy Statement 4, and concern that achievement of a comprehensive scheme could be placed at potential risk by the granting of a series of stand alone full planning permissions comprising the Phase 1 works, which could result in the loss of the significant benefits which would be secured by the section 106 Agreement to be entered into as part of the outline planning permission. However, as no details of the Section 106 for the current application had been made public it was not possible to ascertain whether this has been addressed.

The Head of Development Management commented that he considered that the implications of the loss of the Argos store and the question as to whether it would be accommodated elsewhere within the Broad Marsh Centre were not material planning considerations. New retail floorspace would be created by the proposal which could potentially accommodate the store, but such a decision was a commercial one to be taken by the applicant. He further commented that the application was for full planning permission, rather than a reserved matter submission as the outline planning permission had yet to be issued pending the final resolution of the section 106 agreement. He noted that Westfield Shoppingtowns Limited were keen to include these proposals as part of their other Phase 1 works for which planning permission had already been granted. However, as set out in paragraph 7.1 of the report, the proposed works accorded with the wider plans to redevelop Broad Marsh Centre. It was now anticipated that any further applications would be reserved matters submissions and would bind Westfield Shoppingtowns Limited into delivering the full planning benefits secured by the section 106 agreement. In terms of this application, the report identified that there was to be a section 106 agreement entered into relating to the quality standards of the new street and to secure local employment and training opportunities.

Members of the Committee expressed support for the proposal and were keen to ensure that the redesigned service bridge (which needed to be retained) should be of a high quality design and materials.

RESOLVED

- (1) that planning permission be granted, subject to the indicative conditions listed in the draft decision notice appended to the report and to the completion of an agreement under Section 106 of the Town and Country Planning Act 1990, to include the following:**
 - (a) a “New Routes Agreement” to ensure quality standards for the new route to be created by the development;**
 - (b) local employment and training opportunities during both the construction and operational phases of the development and a financial contribution towards pre-employment training costs;**
- (2) that the Committee was satisfied that Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 was complied with, in that the planning obligation sought was:**
 - (a) necessary to make the development acceptable in planning terms;**
 - (b) directly related to the development; and**
 - (c) fairly and reasonably related in scale and kind to the development;**
- (3) that, after consulting the Chair, Vice-Chair and Councillor Morley, the Head of Development Management be authorised to determine details of the treatment of the proposed service bridge to the new north-south street;**

- (4) that power to determine the final details of both of the Section 106 Planning Obligation and conditions of the planning permission be delegated to the Head of Development Management.**

70 YEATES BUS AND COACH LIMITED, BEECHDALE ROAD

Consideration was given to report of Head of Development Management, copies of which had been circulated on application 11/00785/POUT, submitted by Stephen George and Partners on behalf of Mabec (Nottingham) Ltd, for outline planning permission to an amended scheme to erect a mixed development of thirty-six properties, seventy-one parking spaces and associated works.

The Head of Development Management reported continuing discussions between officers and the applicant regarding detailed arrangements for ongoing maintenance of on-site open space and recommended that the recommendation at paragraph 2.1 i) of the report (requiring a contribution of £10,161.60 towards open space in the section 106 agreement) be replaced by the following:

- ‘2.1 (i) a commuted sum for maintenance should the Council adopt and maintain the land, or, if the land stays in the control of the applicant, a management and maintenance plan to be submitted and agreed by the Local Planning Authority;’

The Head of Development Management further reported the receipt of recommendations from the Highways Division that an additional condition be imposed, as follows:

‘The development shall not be commenced until details of a street lighting scheme, including the details of the lighting columns and luminance levels has been submitted to and approved by the Local Planning Authority.

Reason: To ensure the appearance of the development is satisfactory and to prevent light pollution in accordance with Policies BE3 and NE9 of the Local Plan.’

Members of the committee welcomed the provision of family housing and the layout offered by the scheme, and requested that the future enclosure of carports be controlled.

RESOLVED

- (1) that planning permission be granted, subject to:**
- (a) the imposition of the indicative conditions listed in the draft decision notice appended to the report and the additional proposed condition detailed above regarding street lighting and a further condition preventing the carports from being enclosed without approval of the Council, by removing permitted development rights in this regard (Reason: to protect the appearance of the development in accordance with Local Plan policy BE3); and**
 - (b) the completion of an agreement under Section 106 of the Town and Country Planning Act 1990, to include the following:**

- (i) a commuted sum for maintenance should the Council adopt and maintain the land, or, if the land stays in the control of the applicant, a management and maintenance plan to be submitted and agreed by the Local Planning Authority;
 - (ii) a requirement to provide 20% affordable housing;
 - (iii) local employment and training opportunities during the construction of the development and a financial contribution of £10,536 towards pre-employment training costs;
- (2) that the Committee was satisfied that Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 was complied with, in that the planning obligation sought was:
- (a) necessary to make the development acceptable in planning terms;
 - (b) directly related to the development; and
 - (c) fairly and reasonably related in scale and kind to the development;
- (3) that power to determine the final details of both of the Section 106 Planning Obligation and conditions of the planning permission be delegated to the Head of Development Management.

71 SHERWOOD WORKS, NOTTINGHAM ROAD

Further to minutes 127 and 128 dated 23 March 2011, consideration was given to report of Head of Development Management (incorrectly dated 21 December 2011), copies of which had been circulated, on application 11/01612/PVAR3 submitted by Allan Joyce Architects Ltd on behalf of SQP International Plc for permission to a variation of existing condition 9 of planning permission reference 11/00285/PFUL3 to permit opening of the premises from 09.00 to 02.00 every day.

RESOLVED that, subject to the indicative conditions listed in the draft decision notice attached to the report, planning permission be granted and power to determine the final details of the conditions be delegated to the Head of Development Management.

72 ENFORCEMENT ACTION - THE JESTER PUBLIC HOUSE, SNEINTON DALE

Further to minute 55 dated 17 August 2011, consideration was given to a report of the Head of Development Management, copies of which had been circulated, on application 11/01486/PFUL3, submitted by Molyneux Smith Chartered Architect on behalf of Jamia Masjid Sultania, for planning permission to convert and extend a former public house into a mosque with prayer halls over two floors at the rear, ancillary toilet and ablution areas, a library and a small charity shop to the front of the building, with living accommodation at first floor level. Determination of the application had been deferred by the Committee on 17 August 2011 to enable further consultation on amended plans.

The Head of Development Management reported concerns that the inclusion of a minaret within the development could result in the use of sound amplification system as a means of calling worshipers to prayer and recommended the following additional condition to address this:

‘Notwithstanding the details submitted, detailed particulars of any sound amplification equipment to be used at the premises, including times of operation, shall be submitted to and approved in writing by the local planning authority before being brought into use.

Reason: In the interests of the amenities of the occupiers of nearby properties to comply with policy NE9 of the Nottingham Local Plan.’

RESOLVED

- (1) that, subject to the indicative conditions listed in the draft decision notice attached to the report and the additional proposed condition detailed above, planning permission be granted and power to determine the final details of the conditions be delegated to the Head of Development Management;**
- (2) that unless within three months of 21 September 2011 the single storey extension adjacent to Kenwood Road had been reduced in size to make its impact on adjacent houses acceptable, then subject to the Solicitor for the Council being satisfied as to the evidence available, enforcement action be authorised under Section 172 of the Town and Country Planning Act 1990.**

73 ENFORCEMENT ACTION - 55 ROBINS WOOD ROAD

Consideration was given to report of Head of Development Management, copies of which had been circulated on application 11/02283/PFUL3, submitted by Mr Jamie Foot on behalf of Mrs G Sanghera for retrospective planning permission to retain a residential dwelling which had been constructed not in accordance with approved plans.

The Head of Development Management reported receipt of an additional statement from the applicant, together with a petition with 42 local resident signatures in support of the application.

Whilst noting the statement and petition, the Head of Development Management considered that the proposal to take enforcement action did not conflict with the applicant's rights under article 8 of the Human Rights Act to have respect for private and family life. The material planning issues raised were addressed within the Appraisal section of the report and remain applicable.

The Head of Development Management now proposed to remove the four month delay in serving the taking of enforcement action, but to extend the period for compliance to nine months to allow sufficient time for a revised application to be prepared, considered and approved works to be completed.

RESOLVED

- (1) that planning permission be refused for the reasons set out in the draft decision notice attached to the report;**
- (2) that, subject to the Solicitor for the Council being satisfied as to the evidence available, enforcement action be authorised under Section 172 of the Town and Country Planning Act 1990 including a prosecution if necessary, to cease residential use, secure demolition and restore the site to a satisfactory state within nine months of the notice being served, unless the dwelling was satisfactorily modified in accordance with a planning permission.'**