

AGENDA ITEM NO. 4B

BRISTOL CITY COUNCIL

CENTRAL AREA DEVELOPMENT CONTROL COMMITTEE

16 March 2005

Report of : ..

Director of Environment, Transport and Leisure

Title: McArthurs Warehouse – Update
(Planning Application Nos. 03/01463/X/C and 03/01464/F/C refer)

Ward: Cabot

Officer presenting report: Ian White
Team Manager, Central Area Planning Team
Department of Environment, Transport and Leisure

Contact telephone number: (0117) 922 2963

RECOMMENDATION

That no material considerations have arisen which would justify the Committee making a decision that differs from its resolution at its meeting on 21 January 2004 and that accordingly that resolution be now confirmed unaltered

SUMMARY

Applications for the redevelopment of McArthurs Warehouse were supported by the Development Control (Central) Committee Meeting on 21 January 2004, and were subsequently “called in” by the Secretary of State. The “call in” has now been cancelled, and jurisdiction over these applications has been returned to the Council.

The Bristol Civic Society, other interested parties and the applicants have all approached the Council and various Committee Members with a view to influencing the completion of the Council’s decision making on these applications. Officers informed the Development Control (Central) Committee on 9 February 2004 of the present state of affairs, and the intention to complete drafting a S106 Agreement and conditions of approval. The 9 February 2004 discussion was presented as intended as an item of oral information, not an oral report that required a Committee decision.

Since then, further representations have been received from interested parties and there has been some confusion over the status of the Committee’s discussion and the resulting Minutes. The various pieces of information that have come to light since the Secretary of State’s decision to cancel the “call in” do raise new material issues, which in the view of officers are not sufficiently significant to change the decision previously made by the Committee. Whilst under the Constitution there is no automatic requirement for a determination on the materiality of these issues to be made by the Committee, it is however an issue of interest to the public and important that the

interested parties can share their views with the Committee.

The significant issues in the report are:

- ▼ The identification of changes in circumstance which are material to the determination of the applications
- ▼ Assessment of the weight to be given to these changes in circumstance
- ▼ A determination that whilst new material issues have arisen, and thus that the planning circumstances have developed, there are no matters that would lead to the Council making a decision that differs from that made on 21 January 2004 by the Development Control (Central) Committee Meeting.

SITE DESCRIPTION

The application site is located on the west side of Gasferry Road and is bounded to the north by the Great Western Dockyard and associated Wickham Norris timber yard, to the west by the Graving Dock, and to the south by the Georgian House and associated yards. East of Gasferry Road is a large open car parking area and a series of commercial buildings.

The site encompasses the brick clad McArthurs Warehouse and associated simple timber framed storage and industrial buildings, a derelict late-Victorian or early-Edwardian dwelling house, a public footpath linking Gasferry Road and Hanover Place, and the adjacent Bristol Diving School building.

The application site is located within the City Docks Conservation Area, though none of the buildings on the site are Listed. The adjacent Graving Dock is a Grade II Listed structure and The Georgian House to the south of the application site is a Grade II Listed building. Within the Great Western Dockyard to the north, the Great Western Dry Dock and Drawing Office are both Grade II* Listed. The *ss Great Britain* is positioned within the Great Western Dry Dock, but has no statutory protection.

BACKGROUND AND RELEVANT PLANNING HISTORY

Application Nos. 00/00200/F/C and 00/00201/LC/C sought planning permission and Conservation Area Consent for the demolition of McArthurs Warehouse, the diving school and all associated outbuildings/structures and the subsequent redevelopment of the site as three buildings providing a mixed use scheme of residential units, workshops, office suites, retail and food and drink units (Use Classes B1, B2, C3, A1 and A3), with associated car parking, landscaping and public space. Officers recommended the refusal of both planning permission application and the Conservation Area Consent application. At the Development Control (Central) Committee Meeting on 27 September 2000, Members determined that the applicant had put a satisfactory case forward in order to justify the demolition of the existing buildings and structures, but that further work was required on the replacement buildings in order to reduce the scale and visual impact.

Revisions to the scheme were considered at the Development Control (Central) Committee Meeting on 31 January 2001, where Members resolved to grant planning permission (subject to conditions and a S106 Agreement) and Conservation Area Consent (subject in part to a condition that limited its implementation to the redevelopment scheme of Application No. 03/01464/F/C). The Conservation Area Consent was duly issued, whilst drafting the S106 Agreement commenced.

Prior to the completion of the S106 Agreement, the Government Office for the South West (GOSW) called in the planning application for determination by the Secretary of State. Following a public inquiry, the Secretary of State subsequently refused the application for planning permission.

CURRENT APPLICATION AND SITUATION

Application No. 03/01464/F/C was submitted in May 2003, again seeking the comprehensive redevelopment of the site to allow for the erection of three (3) buildings, a landscaped courtyard, and basement parking area. The buildings would provide retail, food and drink, B1 employment and residential space. Application No. 03/01463/X/C was submitted alongside the application for planning permission, and sought the variation of 00/00201/LC/C, to make the extant Conservation Area Consent applicable to any planning permission. The applications were reported to the Development Control (Central) Committee Meeting on 21 January 2004, where Officers recommended deferral in order that a full consideration can be given to the principle of demolition. At the time, English Heritage had advised that a report assessing the viability for retention and conversion of the building was in preparation, but that they required additional time to complete their analysis.

Members debated whether deferral should be granted in view of the facts that the building's demolition had previously been given Conservation Area Consent, and that development of the site had been long awaited and any further delay might result in the loss of regeneration opportunities and businesses in the local area. Members resolved that deferral was inappropriate for these reasons, and resolved (i) that Conservation Area Consent be granted subject to planning permission being granted and Section 106 objectives being met; and (ii) the planning permission be agreed subject to conditions and the entering into a Section 106 agreement.

The GOSW subsequently placed a holding direction upon the issue of the planning permission and Conservation Area Consent, suspending the Council's decision making powers over the applications. In April 2004, the GOSW confirmed that the applications had been "called in" for determination by the Secretary of State following a public inquiry scheduled to be held in February 2005.

Since April 2004, the Council (utilising consultants), the applicant, English Heritage and various local organisations (including the Civic Society) began preparing evidence for the public inquiry. During this period, English Heritage undertook more detailed investigations into the potential for the conversion of the building. Following a partial collapse within the building, in December 2004 English Heritage came to the conclusion that retention and conversion of the building would be marginal at best. English Heritage subsequently withdrew all their objections to the demolition and the planning application.

In the light of English Heritage's action to withdraw, the Secretary of State reconsidered the call in and concluded that the proposals no longer raised issues of more than local importance. Accordingly, the Secretary of State decided to return jurisdiction of these applications to Bristol City Council in January 2005. The Secretary of State has advised that this decision solely relates to jurisdiction, and was not a decision based on the merits of the applications.

The decision making process has effectively been returned to the point where the Development Control (Central) Committee resolved to approve the applications in January 2004. Since the return of jurisdiction to the Council, the Bristol Civic Society, other interested parties and the applicants have all approached the Council and various Committee Members with a view to influencing the completion of the Council's decision making on these applications. Officers informed the Development Control (Central) Committee Meeting on 9 February 2005 of the Secretary of State's decision and the intention to complete drafting the S106 Agreement in line with the January 2004 Committee resolution. This was presented as intended as an item of oral information, not an oral report that required a Committee decision.

Following the Committee Meeting, further representations have been received from interested parties and there has been some confusion over the status of the Committee's discussion and the resulting Minutes. The various pieces of information that have come to light since the Secretary of State's decision to cancel the "call in" do raise new material issues. Whilst under the Constitution there is no automatic requirement for a determination on the materiality of these issues to be made by the Committee, it is however an issue of interest to the public and important that the interested parties can share their views with the Committee. It is therefore desirable for a formal report to be presented to the Committee in order that members of the public can make representations prior to the taking of this decision.

COMMUNITY RESPONSES

Following notification of the Secretary of State's decision and the 9 February 2005 Committee Meeting, representations have been received from the Civic Society and a number of other interested individuals. No formal consultation has been conducted however. The representations received to date incorporate extracts from the English Heritage viability assessments and issues over the height and scale of the proposals. The correspondents consider that these matters raise new material considerations which should influence the Council's determination. The detailed content of these documents is summarised in Key Issue (A) below.

KEY ISSUES

- (A) HAVE NEW MATERIAL CONSIDERATIONS ARISEN SINCE THE COMMITTEE'S RESOLUTION IN JANUARY 2004 TO APPROVE THE SCHEMES, AND IF SO, TO WHAT EXTENT DOES THIS IMPACT UPON THE EXISTING COMMITTEE RESOLUTIONS?

In making a planning decision, the Council is required to properly take into account all material considerations and reject those that are immaterial. This includes taking into account matters which might result in a different conclusion to that which would be reached if such matters were not considered. So, if it is possible that any additional material information which has now arisen could change the Council's decision, it is important for the Council to take these documents into consideration in order to avoid making a decision in an improper fashion.

Since January 2004, the legislative and national policy positions have shifted, following the partial bringing into force of the *Planning and Compulsory Purchase Act 2004* and the publication of *PPS 1 – Delivering Sustainable Development*. There has been no shift in Local Plan Policy on land use, affordable housing, design or movement. Some additional material regarding the viability of retaining and converting the McArthurs Warehouse building has also emerged.

(1) LEGISLATIVE AND POLICY CONSIDERATIONS

Only parts the new act have commenced to date. These provisions amend the existing planning acts, introduce requirements for spatial planning, and obligate LPAs to contribute to the achievement of sustainable development when preparing new Development Plans. It also incorporates existing regional planning guidance (such as RPG10) into the Development Plan. The remaining provisions are primarily administrative.

PPS1 was issued in early February 2005, replacing *PPG 1 – General Policy and Principles (1997)*. The PPS has shifted the direction of planning to focus upon the delivery of sustainable development in an integrated manner, thus tying into the provisions of the new act. It also reinforces the "plan led" system, whereby applications for planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise. The PPS emphasises community involvement in all aspects of the planning process, including opportunities for the local community to say what sort of place they want to live in at a stage when this can make a difference.

A key principle of the new PPS1 is that developments must make a positive contribution to an area, replacing the previous guidance that development should cause no harm. Additionally, the PPS has an objective to achieve high quality and inclusive design, which should include considerations of function, adaptability and durability. Paragraphs 18 and 34 promote this aspect of the planning system:

18. *Planning should seek to maintain and improve the local environment and help to mitigate the effects of declining environmental quality through positive policies on issues such as design, conservation and the provision of public space.*
34. *Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted.*

PPS1 urges Local Planning Authorities to promote good design through the inclusion of design objectives in the Development Plan. It is considered that the current Bristol

Local Plan meets this goal, and that the design assessment undertaken in January 2004 satisfies the objectives of PPS1 as the proposals were analysed against Local Plan Policy and *By Design*, both of which remain current. Therefore, it is considered that the existing Committee resolution to support the redevelopment scheme was reasonably made, and that the new considerations endorsed by PPS1 have been satisfied.

(2) SITE SPECIFIC CONSIDERATIONS

Material has also come to light specifically regarding McArthur's Warehouse, largely through the work undertaken by all parties who had expressed a desire to present evidence at the public inquiry. These additional pieces of information relate to:

- ▼ The contribution of the building to the Conservation Area
- ▼ English Heritage's viability studies
- ▼ English Heritage's consequential withdrawal
- ▼ The proposals being brought forward by the *ss Great Britain Trust*
- ▼ Building heights of the development and those proposed by the *ss Great Britain Trust*

In dealing with the various planning applications on this site, officers have consistently held the view that the McArthur's Warehouse itself (but not the ancillary buildings) makes a positive contribution to the character and the appearance of the City Docks Conservation Area. As such, officers have considered that the case for demolition of the existing buildings should be justified in the light of the criteria set out at paragraphs 3.16 to 3.19 of PPG15. These require

- ▼ consideration of the condition of the building – the costs and difficulties of repair and maintenance against its importance and the value of contribution to the Conservation Area
- ▼ efforts to retain the building in use or find alternative uses
- ▼ the merits of the redevelopment proposals including community benefit.

PPG15 takes a general stance that consent should not be given for demolition without clear and convincing evidence that all reasonable efforts have been made to sustain existing uses or find new viable uses that would enable restoration and continued maintenance, and that these efforts have failed. The advice also rules out arguments that redevelopment is economically more attractive to a developer.

The Council employed planning consultants to undertake the preparation and presentation of evidence at the public inquiry. Whilst this was not completed, the consultants employed a group of specialists (The Conservation Consultancy) to consider the merits of the existing building. This report is attached as a Background Paper. In summary, following a thorough and detailed assessment of the character of the City Docks Conservation Area, undertaken utilising guidance documents entitled "Conservation Area Practice" and "Conservation Area Appraisals" produced by English Heritage, the report concludes that the

McArthurs building does not make a positive contribution to the Conservation Area. Paragraph 6.27 of The Conservation Consultancy's report states

As has been seen in the analysis above, a buildings age and presence in the area is not sufficient reason to retain it. It is clear that McArthur's Warehouse is not preserved in anything like its original form nor can it any longer be read as bearing a relationship to a harbour related function. When assessed in relation to an appraisal of the character and appearance of the City Docks Conservation Area prepared in line with the governments advice in PPG15, it is evident that McArthur's Warehouse does not make a positive contribution and in fact detracts from the character of the area."

These conclusions suggest therefore that as the building does not make a positive contribution to the Conservation Area, its demolition does not need to be rigorously assessed in line with PPG15. This is considered to be a new material consideration, but in the view of officers, is not a matter that would lead to the Council making a different decision from the existing resolution.

Nonetheless as Members may disagree with this conclusion, and in order to take into account all matters that may influence the LPA's decision, it is considered appropriate to also consider other material that has been presented regarding the viability of the building and neighbouring developments.

Although no party formally produced evidence, the Civic Society and Applicant have obtained copies of English Heritage's viability studies and supporting documentation, and have both made comment upon these articles. The Council's consultants had been provided with a copy during the call-in process – this is now held on the planning file and has been used as the basis for the following assessment.

The English Heritage viability feasibility study was undertaken by Architecton, and completed in November 2003. Press and Starkey completed a valuation assessment and quantity surveyors report in January 2004 (a "Cost Plan"). None of these documents had been reviewed sufficiently by English Heritage to allow them to submit them to the Council in time for consideration at the 21 January 2004 Development Control (Central) Committee Meeting. This is why officers recommended deferral at that Committee Meeting.

The January 2004 Cost Plan indicates that two options were financially viable, to varying degrees of profitability. These assessments were based on estimated repair costs, a mixed-use conversion and anticipated yields. The verbal description of the conversion was for retail/ restaurant uses on the ground floor, 12 maisonettes, 36 flats and four penthouses. These options include significant alterations to the building's roof form in order to include the penthouses, achieved by extending it to five and six storeys. The indicative scheme also involves the creation of an atrium space within the building achieved by removing the central section of each floor. The assessment notes that floor to ceiling heights are low in part, but that the building is structurally capable of conversion. The proposals also indicate the potential for the development of a stand-alone office building within the site, but do not resolve car parking issues for the residential uses. These are material to the decision making process.

The Civic Society has obtained and passed to the Council Press and Starkey's reassessment of the conversion costs undertaken in November 2004. This reassessment follows a further site visit undertaken by consultants on English

Heritage's behalf, which found that there had been a partial collapse of the central section of the second floor level. No analysis of this assessment undertaken by English Heritage has been submitted, though the figures contained within the report conclude that works to consolidate the building make its retention and conversion more costly but ultimately still financially viable. This financial appraisal is a material consideration.

In the light of the deterioration of the building and in particular the collapse, English Heritage reconsidered their position and, referring to cost implications, came to a view in that the viability of any scheme retaining the building would be marginal at best. English Heritage's letter dated 3 December 2004 refers, whilst their subsequent letter of 16 December 2004 reiterates the organisation's withdrawal of all their representations relating to both the demolition issues and redevelopment scheme.

A letter from the applicants was received on 25 February 2005, enclosing a draft of evidence consultants acting on behalf of the applicant had prepared for the public inquiry. This evidence in summary contends that the views and costs expressed by Architecton on the remediation and conversion of the building were unrealistic in relation to the work required. Additionally, the applicant is of the view that the viability of the Architecton scheme would be undermined by the absence of parking and the additional costs imposed through S106 obligations and the need to provide affordable housing on the site.

These two financial appraisals are material, and should influence the Council's decision. Similarly, English Heritage's conclusions about the viability of retention and conversion are material. English Heritage's role in the planning system is to advise on the protection of the historic environment: Officers take English Heritage's advice in formulating recommendations on applications for planning permission, Listed Building Consent and Conservation Area Consent, and do not lightly diverge from English Heritage's judgements.

In the light of English Heritage's comments and withdrawal of their objections, Officers are of the professional opinion that given the present condition of the building, the costs and difficulties of repair and conversion, the building cannot reasonably be retained. Accordingly, whilst there are new material considerations relating to demolition, the assessment of documentation and the advice of English Heritage confirms that case for demolition is sufficiently strong and satisfies the requirements of PPG15.

It is considered that the matters raised by the financial appraisals would not lead to the Council making a different decision from the existing resolution. English Heritage's ultimate conclusions confirm the Committee's approach.

In terms of the relationship to neighbouring development sites, the Civic Society has presented sketches that provide a comparison of building heights. The design and buildings heights proposed on the McArthurs site have not changed since the Committee Meeting in January 2004. At the time of writing, the *ss Great Britain* Trust have brought forward proposals to a detailed pre-application stage, with a formal application expected to be submitted during spring 2005. The key design concerns raised by the *ss Great Britain* Trust's proposals are likely to relate to scale and form, along with movement patterns. Issues of scale and form are liable to require the siting and massing of development in a fashion that preserves the visual prominence of the ship's masts. The separation between the ship and the McArthurs site is such that the relationship between an as-yet unfinalised development format on an intervening site and the McArthurs proposals is not considered to be a new material consideration.

Pedestrian and cyclist linkages into the ss *Great Britain's* development site are secured through the McArthurs S106 Agreement.

CONCLUSION

The preceding assessment indicates that since the Committee resolution there has been an evolution of policy that is material to the consideration of the proposals. More detailed assessments of aspects of the proposals have also been undertaken in the past year.

These changes in circumstance should be taken into account in order to make an appropriately balanced decision. The evolution of planning policy has not diverged considerably from the Development Plan, as the Local Plan presently includes criteria based design objectives, the one element of PPS1 that entails most change. English Heritage's conclusions upon the viability of retention and conversion ultimately show that it is marginal, whereas the January 2004 Committee resolution was based upon regeneration benefits achievable through the redevelopment. In addition, an assessment of the Conservation Area undertaken during the preparation of the public inquiry evidence suggests that the building does not make a positive contribution to the character and appearance of the area.

For these reasons, it is considered that whilst there has been some development in the planning circumstances, in officers' view there are no new matters that would lead to the Council making a decision that differs from the resolution of the Development Control (Central) Committee Meeting on 21 January 2004.

RECOMMENDATION

That no material considerations have arisen which would justify the Committee making a decision that differs from its resolution at its meeting on 21 January 2004 and that accordingly that resolution be now confirmed unaltered

ACCESS TO INFORMATION

(A) BACKGROUND PAPERS

Architecton: English Heritage Report on the Suitability of the Building for Conversion	November 2003
Architecton: English Heritage Report on the Suitability of the Building for Conversion – Appendix 1 Cost Plan	January 2004
Committee Report, Background Papers, Minutes and associated documents	21 January 2004
Government Office for the South West: Holding Direction	22 January 2004
Government Office for the South West: Call-in Letters	8 April 2004
Bristol City Council: Rule 6 Statement	June 2004
Quada: Rule 6 Statement	June 2004
English Heritage: Rule 6 Statement	June 2004
CSJ: Bristol City Council and Quada Statement of Common Ground (1 st Draft)	1 November 2004
CSJ: Bristol City Council and Quada Statement of Common Ground (2 nd Draft)	November 2004
The Conservation Consultancy: Bristol City Council Evidence (Appendix: A Report on Conservation Considerations) (Draft)	December 2004
English Heritage letter	3 December 2004
White Young Green: Bristol City Council Evidence (Draft)	8 December 2004
English Heritage letter	16 December 2004
Government Office for the South West	23 December 2004
Government Office for the South West	14 January 2005
Planning Inspectorate	19 January 2005
Bristol Civic Society	21 January 2005
Richard Bellman, Quada	25 January 2005
Stephen MacFarlane, Bristol Civic Society	31 January 2005
Wayne Window, CAT, BCC	2 February 2005
Bristol Civic Society	3 February 2005
John Flack, Legal Services, BCC	3 February 2005
Wayne Window, CAT, BCC	4 February 2005
Development Control (Central) Committee Meeting – Draft Minutes	9 February 2005
Cllr Richard Eddy	10 February 2005
Dave Sutton	16 February 2005
Dave Sutton	16 February 2005
John Flack, Legal Services, BCC	16 February 2005
Dave Sutton	17 February 2005
Ian White, CAT, BCC	22 February 2005
Richard Bellman, Quada	23 February 2005
Richard Bellman, Quada (enc Peter Stone: Draft Evidence)	24 February 2005
John Flack, Legal Services, BCC	25 February 2005
Ian White, CAT, BCC	25 February 2005
Stephen Macfarlane	27 February 2005
Cllr Richard Eddy	1 March 2005
Dave Sutton	2 March 2005