

Extension: Revised expiry date	6 June 2023
'Hold Date'	

Bristol City Council Development Management

Delegated Report and Decision

Application No: 22/02909/FB **Registered:** 11 August 2022

Type of Application: Full Planning (Regulation 3)

Case Officer: Alex Hawtin **Expiry Date:** 6 October 2022

Site Address:

The Marchioness
Building
Commercial Road
Bristol
BS1 6TG

Description of Development:

Installation of security fencing and gates.

Ward: Central

Site Visit Date:

Date Photos Taken:

Consultation Expiry Dates:

**Advert
and/or Site
Notice:**

Neighbour: 4 Oct 2022

SITE DESCRIPTION

The application site consists of an area of hardstanding located on the southern side of Commercial Road, which includes access to the Marchioness Building from Commercial Road, and is lined by seven mature trees. The application site includes low black railings which separate the footway and the River Avon (New Cut) from the application site.

The application site is bounded to the north by Commercial Road, to the south by the River Avon (New Cut). To the north of Commercial Road is Bathurst Basin, the Lower Guinea Street car park, and residential blocks forming part of the 'General Hospital' development. To the west of the site is the Marchioness Building, which includes some existing black metal palisade fencing and a gate at the end of the access road. The new Bathurst Road bridge and cycle track are recent additions to the local highway infrastructure as part of the Metrobus project.

The application site is within the Redcliffe and City Docks Conservation Areas. The site lies within the setting of a number of Listed buildings and structures; the walls surrounding the application site are part of a wider Grade II Listing of the walls, quays and bollards to Bathurst Basin. The shared footway and cycleway is designated as a Quayside Walkway. The River Avon (New Cut) is

DEVELOPMENT CONTROL () DELEGATED
The Marchioness Building Commercial Road Bristol BS1 6TG

designated as a Site of Nature Conservation Interest.

The site is predominantly within Flood Zone 3.

RELEVANT HISTORY

The following applications have been submitted in reference to the site:

19/01925/F - Reinstatement of historic landing stage for use associated with Marchioness site (revision to 17/03268/F). REFUSED

17/03268/F - Reinstatement of historic landing stage for use associated with the Marchioness site. REFUSED

The current application site partially overlaps with the application site identified under: 13/05648/FB - Land Between The A370 Long Ashton Bypass In North Somerset And Cater Road Roundabout Cater Road Bristol) Revision to the route of the rapid transit scheme authorised by the Ashton Vale to Temple Meads and Bristol City Centre Rapid Transit Order (the Order). The development comprises construction of a new junction with Cumberland Road, a new bridge at Bathurst Basin, flood protection measures, demolition and reconstruction of walls, realignment of highway, crossings, traffic signals and temporary construction areas, bus stops and shelter. GRANTED subject to condition(s).

The original Metrobus route was amended by way of planning application in 2014 to pass along Commercial Road. (Amended layout and associated works approved by planning committee in 2014, under application 13/05648/FB.)

It is understood that the Metrobus works required compulsory purchase of land from the owner of the Marchioness Building by the Council, in order to provide the new Bathurst Basin road bridge.

15/05276/CE - (relating to Car Park, The Marchioness Building, Commercial Road) Application for a Lawful Development Certificate for an existing use of the application site as an unrestricted commuter car park. Certificate of lawfulness issued.

06/02971/LC - The Marchioness Building, Commercial Road Demolition of existing building. REFUSED

06/02972/P The Marchioness Building, Commercial Road - Outline planning application for proposed redevelopment of site to provide 24 residential units (Class C3). REFUSED

06/03501/Z The Marchioness Building, Commercial Road - Appeal on enforcement notice ref. 05/30616/OTHER against 'Long-term erection of scaffolding on land to north-east of Marchioness Building adjoining south side of swing-bridge'. Appeal dismissed.

05/03246/CE - The Marchioness Building, Commercial Road - Certificate of Lawfulness to allow for continuation of use as single dwelling house - Certificate of lawfulness issued.

APPLICATION

The proposed development consists of palisade fencing running along the southern side of the application site, and would include the erection a 10m wide, 1.5m high single leaf in-swinging gate across the existing access to the Marchioness Building. To the west of this access point, the security fence would be 35m long and would have a height of 1.8m above the footway. The fencing would be located on the roadside of the existing post and railing and would be attached to the retaining wall on which the existing railings sit. To the east of the access point, the fencing would be

DEVELOPMENT CONTROL () DELEGATED

The Marchioness Building Commercial Road Bristol BS1 6TG

45m long and 1.5m above the footway. In this location the fencing would be located behind the existing.

The fencing and the gate would be black metal, the gate post would be red brick.

Six of the seven existing trees on the site would be removed, with the tree closest to the access point being retained. The applicant has suggested that a contribution towards off-site planting could be secured in accordance with the Bristol Tree Replacement Standards but has not provided details of the number of replacement trees required.

RESPONSE TO PUBLICITY AND CONSULTATION

PUBLIC COMMENTS

Eighteen comments were received from members of the public, all in objection to the proposed development. The planning related reasons for objecting were:

- Concerns that the fencing would be visually intrusive, overbearing and diminish views from Commercial Road of the River Avon.
- Concerns that the fencing would have a negative impact on views of the New Cut from the Conservation Areas, and would detract from these areas.
- Concerns that the red brick gate post would not contribute to the character of the area.
- Concerns that the proposed development is not necessary on security or safety grounds.
- Concerns regarding the removal of the trees and the associated impact on the environment, wildlife and air pollution.
- Concerns that the fencing could inhibit the access of emergency services to that part of the embankment.
- Concerns that the proposed development would damage the biodiversity of the river bank, especially as this is a Site of Nature Conservation Interest.
- Concerns that the proposed development does not match the standard fence used by Bristol City Council for the waterways.
- Concerns that the proposed development does not benefit existing road and footway users, or the surrounding community.
- Concerns that the construction to erect the fencing could negatively impact the structural soundness of the supporting wall, which will then require maintenance using public funds.
- Concerns regarding the maintenance of the fencing, and whether public funds will be required for this.

The following non-planning related reasons were also raised:

- Concerns regarding illegal parking in the area.
- Concerns regarding the Council paying for both the land required for the MetroBus scheme, and for the proposed development, and whether this is an appropriate use of public funds.
- Concerns that approving the proposed development could lead the owner of the Marchioness Building to apply again for planning permission for a marine landing stage.
- Concerns that allowing fencing in this area will lead to an application to change the land use of the site to car parking.

COMMUNITY GROUP COMMENTS

Two community groups also responded to the public consultation.

Friends of Bathurst Basin objected to the proposed development for the following reasons:

- High security fencing is not required along the New Cut for safety or for security.
- The proposed development would have a negative visual impact on the Conservation Areas and would restrict views of the New Cut.

DEVELOPMENT CONTROL () DELEGATED
The Marchioness Building Commercial Road Bristol BS1 6TG

- The proposed development could inhibit access for the emergency services to the New Cut.
- Biodiversity on the site would be negatively impacted by the removal of the trees and the construction work.
- The eastern extent of the fencing is not necessary to provide perimeter fencing to the Marchioness Building site.
- Concerns that the application could lead to a change in land use application for the Marchioness Building site to car parking.
- Concerns that public funds should be spent maintaining the New Cut river banks.

Redcliffe West Residents' Association also objected to the proposed development, for the following reasons:

- The proposed development would damage the setting and views of the Conservation Areas and the various nearby heritage assets.
- The removal of trees from the site appears to be contrary to the Council's declaration of a climate and ecological emergency, and concerns that the replacement trees would not be nearby to the site.
- Concerns that the proposed development is not necessary for security.
- Concerns that there are no benefits of the proposed development for local people.

EXTERNAL CONSULTEE COMMENTS

The Environment Agency:

"The Environment Agency raises concerns that the proposed development must be properly maintained to ensure that debris and vegetation are cleared, to avoid the risk of water being impeded and flooding neighbouring properties during an extreme flood event or high tide. It is noted that a permit may be required for the works."

INTERNAL CONSULTEE COMMENTS

Transport Development Management - Objection (Surgery Item)
Conservation officer - Objection (Surgery Item)

RELEVANT POLICIES

National Planning Policy Framework – July 2021

Bristol Local Plan comprising Core Strategy (Adopted June 2011), Site Allocation and Development Management Policies (Adopted July 2014) and (as appropriate) the Bristol Central Area Plan (Adopted March 2015) and (as appropriate) the Old Market Quarter Neighbourhood Development Plan 2015 and the Hengrove and Whitchurch Park Neighbourhood Development Plan 2019.

In determining this application, the Local Planning Authority has had regard to all relevant policies of the Bristol Local Plan and relevant guidance.

KEY ISSUES

A. **WOULD THE PROPOSED DEVELOPMENT BE OUT OF SCALE OR CONTEXT WITH THE CONSERVATION AREA?**

Paragraph 199 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm.

Paragraph 202 of the NPPF states that where a development proposal will lead to less than

DEVELOPMENT CONTROL () DELEGATED
The Marchioness Building Commercial Road Bristol BS1 6TG

substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

Paragraph 206 of the NPPF states that development within Conservation Areas which enhance or better reveal their significance should be treated favourably.

Policies BCS22 and DM31 expect that new development should either preserve or enhance the character of heritage assets, such as Listed buildings and Conservation Areas.

Policies DM26-29 (inclusive) of the Site Allocations & Development Management Policies require development to contribute to the character of an area through its layout, form, public realm and building design.

Paragraph 10.6 of the City Docks Conservation Area Character Appraisal encourages the design of railings and safety measures to have a minimal impact on the character or appearance of the local environment.

Paragraph 10.22 of the City Docks Conservation Area Character Appraisal requires new development to be sensitive to the character and appearance of the area due to the negative impact of the loss of views.

Paragraph 8.11 of the Redcliffe Conservation Area Character Appraisal notes that the main routes through the area have a high degree of street furniture which detracts from the visual aesthetic of the Conservation Area.

The existing railing within the site area is of a scale and type consistent with other railings in the Conservation Area and the wider use of the area supporting Bristol's function as a dock. Although the existing railings themselves are not Listed, the identical railings surrounding Bathurst Basin are Grade II Listed structures. This sets out their importance to the character of the Conservation Area.

The proposed development would install 1.8-metre-high palisade fencing adjacent to the existing railings. Concerns are raised by officers that this would be out of scale and context of the Conservation Area, contrary to Policy BCS21 and Policy DM26. This would also be contrary to Paragraph 10.6 of the City Docks Conservation Area Character Appraisal.

The type and construction not recognised along key routes in the Conservation Area. There is also concern that the proposed fencing and gate would block views into the Conservation Area towards Bathurst Basin from the southern side of the New Cut. As a result, the proposed development is contrary to Policies BCS22 and DM31 which require development to preserve and enhance the character of Conservation Areas, and Policies DM26-29 which require development to contribute to the character of an area.

Paragraph 8.11 of the Redcliffe Conservation Area Character Appraisal notes the negative impact of the prevalence of street furniture on main routes in this Conservation Area, erecting new and large fencing would exacerbate this negative impact.

The level of harm proposed to the Conservation Area is considered to be less-than-substantial. Paragraph 202 of the NPPF requires the public benefits of the proposal to be weighed against this harm. The application sets out that the benefits would be to public safety via the increased security of the Marchioness Building. Officers do not concur with this as a benefit as the Marchioness Building already has secure fencing around the main part of the property and as private land it would not be expected for members of the public to access this space. There would be a public disbenefit as a result of the proposed development blocking views into the Conservation Area and

DEVELOPMENT CONTROL () DELEGATED
The Marchioness Building Commercial Road Bristol BS1 6TG

harming legibility and wayfinding.

The proposed development would result in the loss of six trees. Whilst these trees are Category C and of 'low quality', their loss would detract from the Conservation Area, which in this riverside location, has a verdant character.

It is concluded that the proposed development would be out of scale and context with the Conservation Area, and as such would fail to preserve or enhance its character. This would be contrary to Policies BCS22, DM26 and DM31. No public benefits are identified that would outweigh the harm to the heritage asset, contrary to paragraph 202 of the NPPF.

B. WOULD THE PROPOSED DEVELOPMENT RESULT IN ANY UNACCEPTABLE IMPACTS UPON BIODIVERSITY OR GREEN INFRASTRUCTURE?

Paragraph 174 of the National Planning Policy Framework (NPPF) states that planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.

Policy BCS9 states that individual green assets should be retained wherever possible and integrated into new development.

Policy DM17 sets out that where tree loss or damage is essential to allow for appropriate development, replacement trees of an appropriate species should be provided, in accordance with the tree compensation standard.

The proposed development would lead to the removal of six out of the seven trees on the development site, as they are within the footprint of the proposed development. Funds towards off-site planting would be provided instead. The tree survey schedule (part of the Arboricultural Impact Assessment, December 2021) sets out that the trees proposed for removal are Category C, of "low quality".

Policy BCS9 states that loss of green infrastructure will only be acceptable where it is allowed for as part of an adopted Development Plan Document or is necessary, on balance, to achieve the policy aims of the Core Strategy, however the proposed development does not accord with the aims of or support the delivery of any of the policies set out in the Local Plan. This would also be contrary to paragraph 174 of the NPPF calls for the impacts on biodiversity to be minimised, removing the trees would not do this.

Due to the lack of support for the delivery of local plan policies, it is not considered appropriate to trigger Policy DM17 which does allow for off-site planting should it be "essential for appropriate development". As the proposed development would detract from the local area and provides an increase on existing fencing, it is not deemed to justify the removal of the trees under this policy.

It is concluded that the proposed development would have an unacceptable impact on green infrastructure via the loss of six trees, contrary to Policy BCS9.

C. WOULD THE IMPACT OF THE PROPOSED DEVELOPMENT UPON TRANSPORT AND HIGHWAYS ACCEPTABLE?

Policy BCS10 states that developments should be designed and located to ensure the provision of safe streets. Development should create places and streets where traffic and other activities are integrated and where buildings, spaces and the needs of people shape the area.

DEVELOPMENT CONTROL () DELEGATED

The Marchioness Building Commercial Road Bristol BS1 6TG

Policy DM23 outlines that development should not give rise to unacceptable traffic conditions and will be expected to provide safe and adequate access onto the highway network.

Transport Development Management was consulted on the application and raised concerns about the safety of the access should the proposed development be implemented. The proposed development would create a visual barrier between those using the shared footway. This is particularly concerning for cyclists who may be using the shared space at higher speeds than pedestrians.

The proposed addition of a gate onto Commercial Road is also problematic. Vehicles would be required to either wait within the highway or across the footway whilst the gate opens. This would create conflict with pedestrians and cyclists using the footway, buses and private vehicles using Commercial Road, or both.

It is concluded that the proposed development would be contrary to the Development Principles set out in Policy BCS10 by prioritising private access over more sustainable forms of travel and Policy DM23 by failing to provide safe and adequate access to the site.

C. DOES THE PROPOSED DEVELOPMENT GIVE SUFFICIENT CONSIDERATION OF FLOOD RISK AND DRAINAGE?

Policy BCS16 requires that all development incorporates water management measures to reduce surface water run-off and ensure that it does not increase flood risks elsewhere.

The Environment Agency (EA) was consulted as part of this application on the basis of their remit to respond to matters that affect Main Rivers.

The EA has identified that the proposed development could increase flood risk to neighbouring properties should it not be maintained correctly, as debris and vegetation could build up along the fencing and prevent the flow of water during an extreme weather event or high tide.

This risk could be managed by the implementation of a planning condition for the maintenance / management of the fencing. The EA has also indicated that the development may require a further permit due to the proximity to the River Avon, and as such an information is also recommended to be attached to any consent.

The proposed development is considered to be acceptable in relation to flood risk and drainage if sufficient conditions and informatives are applied.

CONCLUSION

It is recommended that this application is refused due to the proposed harm to the City Docks and Redcliffe Conservation Areas, on the basis of the proposed loss of green infrastructure onsite and due to concerns from Transport Development Management in relation to the safety of the access.

EQUALITIES ASSESSMENT

During the determination of this application due regard has been given to the impact of this scheme in relation to the Equalities Act 2010 in terms of its impact upon key equalities protected characteristics. These characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. There is no indication or evidence (including from consultation with relevant groups) that different groups have or would have different needs, experiences, issues and priorities in relation this particular

DEVELOPMENT CONTROL () DELEGATED
The Marchioness Building Commercial Road Bristol BS1 6TG

proposed development. Overall, it is considered that this application would not have any significant adverse impact upon different groups or implications for the Equality Act 2010.

RECOMMENDED REFUSED

The following reason(s) for refusal are associated with this decision:

Reason(s)

1. The proposed development would be out of scale and context with the Conservation Area, and as such would fail to preserve or enhance its character. This would be contrary to Policies BCS22, DM26 and DM31.
2. The proposed development is insufficiently justified to warrant the loss of six trees and would therefore have an unacceptable impact on green infrastructure contrary to Policy BCS9.
3. The proposed development would be contrary to the Development Principles set out in Policy BCS10 by prioritising private access over more sustainable forms of travel and Policy DM23 by failing to provide safe and adequate access to the site.

Advice(s)

1. Refused Applications Deposited Plans/Documents

The plans that were formally considered as part of the above application are as follows:-

Flood Risk Assessment, received 11 August 2022

5203359-ATK-HGN-ZZ-DR-C-04000 Site Location plan, received 11 August 2022

5203359-ATK-HGN-ZZ-DR-C-05000 Existing elevations and sections, received 11 August 2022

5203359-ATK-HGN-ZZ-DR-C-05100 Proposed sections and elevations, received 11 August 2022

5203359-ATK-HGN-ZZ-DR-CH-01001 Swept path - rolling gate, received 11 August 2022

5203359-ATK-HGN-ZZ-DR-CH-01002 Swept path - swinging gate, received 11 August 2022

5203359-ATK-HGN-ZZ-DR-CH-01003 Swept path - car and boat, received 11 August 2022

Agricultural impact Assessment, received 11 August 2022

5203359-ATK-ARB001 Tree Protection Plan, received 11 August 2022

Heritage Statement, received 11 August 2022

Planning Statement, received 11 August 2022

Case Officer: Alex Hawtin

Authorisation: Peter Westbury

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