

Decision Notice and Statement of Reasons

Site visit made on 16 April 2024

By Bhupinder Thandi BA (Hons) MA MRTPI

A person appointed by the Secretary of State

Decision date: 29 May 2024

Application Reference: S62A/2024/0040

Site address: Promenade House, Clifton Down, Clifton, Bristol BS8 3NE

- The application is made under section 62A of the Town and Country Planning Act 1990.
 - The site is located within the administrative area of Bristol City Council.
 - The application dated 26 March 2024 is made by Stride Treglown and was validated on 4 April.
 - The development proposed is installation of tensile stretch tent with associated minor hard and soft landscaping works.
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Decision

1. Planning permission is refused for the development described above, for the following reasons:
 - 1) The proposal by reason of its overall size and appearance would not preserve the character or appearance of the Clifton and Hotwells Conservation Area and would not preserve or enhance the setting of Grade II* listed Promenade House. The proposal would lead to less than substantial harm to their significance and there is no clear and convincing justification for this harm and it is not outweighed by any public benefits. The proposal is therefore contrary to Policies BCS21 and BCS22 of the Bristol Development Framework Core Strategy (2011); Policies DM26 and DM31 of the Site Allocations and Development Management Policies Local Plan (2014) and paragraphs 205, 206 and 212 of the National Planning Policy Framework.

Statement of Reasons

Procedural matters

2. The application was made under Section 62A of the Town and Country Planning Act 1990, which allows for applications to be made directly to the Planning Inspectorate where a Council has been designated by the Secretary of State. Bristol City Council have been designated for non-major applications since 6 March 2024.

3. Consultation was undertaken on 11 April 2024 which allowed for responses by 14 May 2024. Responses were received from the parties listed in Appendix 1 of this statement. A number of interested parties and local residents also submitted responses.
4. I carried out an unaccompanied site visit on 16 April 2024, which enabled me to view the site, the surrounding area and nearby roads.
5. I have taken account of all written representations in reaching my decision.

Background

Planning history

6. There is no planning history directly relevant to the proposal.

The proposal

7. It is proposed to install a tensile stretch tent in the garden of Promenade House sited along its northern boundary on an area currently occupied by raised planters. The tent would measure 6m in width and 10m in length with the height ranging between 2.7m to 4m.
8. The tent would be sand/chino in colour with steel posts providing structural support sitting on a buff colour bound gravel base.
9. The application proposes a mix of native and perennials shrub and tree planting to compensate for the removal of three trees.
10. The tent would provide an outdoor space for staff to have lunch, hold meetings, workshops and outdoor events.

Main Issues

11. Having regard to the application, the consultation responses, comments from interested parties, the Council's report, together with what I saw on site, the main issues for this application are:
 - the effect of the proposed development upon the setting of Grade II* listed building, Promenade House, and whether it would preserve or enhance the character or appearance of the Clifton and Hotwells Conservation Area;
 - the effect on nearby trees;
 - the effect on the safe and efficient operation of the local highway network; and
 - the effect upon the living conditions of existing occupiers with regard to noise.

Reasons

The effect upon the historic environment

12. The Clifton and Hotwells Conservation Area (CA) is influenced by local topography as streets follow the contours of the steep slopes that rise above the river Avon. The CA is composed of imposing formal Classical terraces, areas of grand Victorian villas, interspersed with intimate mews, artisan and shopping streets giving it a village feel.
13. Clifton Down is characterised by grand villas set within extensive grounds dating back to the nineteenth century. Promenade House is one of these grand properties and forms part of a row of statutory listed mini mansions. The majority of these buildings have been converted from residential to office use. The use of ashlar Bath stone and their ornate and grand designs, deep manicured frontages and the presence of planted boundaries contribute to the splendor and spacious and verdant feel of the area.
14. The application site forms part of the garden area of Promenade House that sits on the junction of Clifton Down and Percival Road. The property is an imposing villa set within generous grounds. The garden area formed of an ornamental lawn, vegetation and large cedar tree provides an important green setting for the building and acts as a boundary against the wilder natural environment of the Downs.
15. Given the above, I find that the significance of Promenade House is derived from its architectural grandeur and its status as an ambitious urban villa. This significance in turn positively contributes to the character of the CA.
16. The introduction of the stretch tent and associated infrastructure due to its overall size and site coverage would unacceptably erode the open and verdant aspect of the garden.
17. Its temporary appearance would jar with the ornate design and grandeur of the building resulting in an uncomfortable juxtaposition with Promenade House. Overall, on account of its position, scale and materiality the tent would diminish the contribution the garden makes to the setting and significance of Promenade House.
18. The stretch tent would be a relatively sizeable structure visible from Percival Road and Clifton Down. It would be discernable from localised viewpoints drawing the eye due to its width, height and appearance. In my view, it would appear as an incongruous feature eroding the spacious and verdant aspect that currently exists failing to preserve or enhance the character or appearance of the CA. This harm would not be overcome through new planting.
19. Whilst the proposed development would be positioned in an area currently occupied by planters, they are inconspicuous features that do not undermine the prevailing sense of openness. As such, this aspect of the applicant's case does not overcome the harm that I have identified.

20. Given the above, I find that the proposal would fail to preserve the special interest of the listed building and the significance of the CA. As such, I give this harm considerable importance and weight in the planning balance.
21. The National Planning Policy Framework (the Framework) advises, at paragraph 205, 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. Paragraph 206 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have clear and convincing justification.
22. In this particular instance I find that the harm to be less than substantial but nevertheless of considerable importance and weight. Under such circumstances, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
23. The proposed stretch tent would be for private use by the applicant, but I recognise it would have value in being used by employees as an alternative work and meeting space. Any benefit, in my view, would be private rather than public. Moreover, these points do not offer clear and convincing justification for the scheme in the face of the harm identified. There may be economic benefits during its construction and ongoing maintenance, but this would be limited.
24. Taking the above into consideration and in the absence of any defined public benefit, I conclude that, on balance, the proposal would fail to preserve the setting of the Grade II* listed building and the character or appearance of the Clifton and Hotwells Conservation Area. This would fail to satisfy the requirements of the Act, paragraphs 205, 206 and 212 of the Framework and conflict with Policies BCS21 and BCS22 of the Bristol Development Framework Core Strategy (2011) and Policies DM26 and DM31 of the Site Allocations and Development Management Policies Local Plan (2014) that, amongst other things, seek developments to contribute positively to an area's character and identity and conserve or enhance heritage assets and their setting. As a result, the proposal would not be in accordance with the development plan.

The effect on nearby trees

25. Positioned in the garden close to the Clifton Downs road frontage is a Cedar tree protected on account of being located within a CA. Due to its position, size and form it is highly visible and positively contributes to the visual amenity of the area. The scheme partially sits under its canopy and almost entirely within its Root Protection Area (RPA).
26. The applicant is also proposing a series of tree works including the removal of three trees of low quality and value, removal of part of a hedge and crown lifting a moderate quality Yew tree.
27. The potential effect on trees is a significant consideration given the immediate setting, the extent of the proposed hard surfacing and the proximity of the proposed development to the tree and its major roots.

28. I have paid regard to the applicant's Arboricultural Impact Assessment. In terms of the works within the RPA the applicant is proposing hand dug foundations for the steel posts, under arboricultural supervision, and the use of a 'no-dig' sub base.
29. Based on the evidence before me and taking into account that only a small number of intrusions into the ground would be required to support the tent, I am satisfied that the proposed development would not negatively affect the roots and in turn the health of the Cedar tree.
30. I am satisfied that subject to ongoing maintenance and in the absence of any compelling information to suggest otherwise there is nothing to indicate that there would be a pressing need to reduce the crown of the Cedar or remove it.
31. Subsequently, I find that the proposed development would not undermine the tree's health in the short or long term thereby unduly affecting the visual amenity of the area.

Safe and efficient operation of the local highway network

32. Third parties have expressed concerns that the proposal would result in additional parking pressures on surrounding streets. However, I note many of the concerns raised by local residents are regarding existing on street parking pressures in the area.
33. Taking into consideration the proposal is to provide an alternative working area for existing staff and visitors it is unlikely to intensify vehicle movements or parking pressures. Whilst the tent would be used for workshops and work events there is nothing to suggest that these events would take place on a regular basis and therefore lead to a persistent demand for parking spaces locally.
34. As such, I am satisfied that the proposed stretch tent would not prejudice the safe and efficient operation of the local highway network.

Living conditions of existing occupiers

35. I acknowledge that the proposal would result in an alternative outdoor work space. However, it is unlikely to be used on a daily or regular basis but rather during periods of fair and good weather and is likely to generate relatively low levels of noise associated with normal office activities. Furthermore, taking into account the position of the tent in the front garden of Promenade House and the distance of dwellings in the area noise is unlikely to be noticeably audible from nearby dwellings.
36. As such, the proposed development would not substantially diminish the living conditions of occupiers in this regard.

Other matters

37. The applicant contends that the proposed development would be more sustainable than erecting gazebos in the garden for meetings and events.

However, there is no evidence before me to substantiate this. Therefore, I give this aspect of their case negligible weight in coming to my decision.

The Planning Balance

38. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is such a material consideration.
39. I have found that the proposal would not preserve the character or appearance of the Clifton and Hotwells Conservation Area and would not preserve or enhance the setting of Grade II* listed Promenade House, causing less than substantial harm to their significance as designated heritage assets.
40. In the absence of any clear and convincing justification for this harm and as it is not outweighed by any public benefits, I conclude that the proposal conflicts with the development plan, when read as a whole. There are no other considerations that outweigh that harm.

Conclusion

41. For these reasons, and having regard to all other matters raised, the proposal does not accord with the development plan and therefore I conclude that planning permission should be refused.

B Thandi

Inspector and Appointed Person

Schedule

Informatives:

- i. In determining this application, the Planning Inspectorate has worked with the applicant in a positive and proactive manner to seek solutions to problems arising in relation to dealing with the planning application. In doing so, the Planning Inspectorate gave clear advice of the expectation and requirements for the submission of documents and information, ensured consultation responses were published in good time, gave clear deadlines for submissions and responses, and accepted further evidence submitted by the applicant in response to the matters raised during consultation.
- ii. The decision of the appointed person (acting on behalf of the Secretary of State) on an application under section 62A of the Town and Country Planning Act 1990 ("the Act") is final, which means there is no right to appeal. An application to the High Court under s288(1) of the Town and Country Planning Act 1990 is the only way in which the decision made on an application under Section 62A can be challenged. An application must be made within 6 weeks of the date of the decision
- iii. These notes are provided for guidance only. A person who thinks they may have grounds for challenging this decision is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655) or follow this link: <https://www.gov.uk/courts-tribunals/planning-court>

Appendix 1

List of consultee responses

Bristol City Council including:

- Conservation section
- Arboriculture
- Pollution control

Historic England