



## Decision Notice and Statement of Reasons

Site visit made on 14 November 2024

**By C Shearing BA(Hons) MA MRTPI**

**A person appointed by the Secretary of State**

**Decision date: 18 December 2024**

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**Application Reference: S62A/2024/0063**

**Site address: Cotham School, Cotham Lawn Road, Cotham, Bristol BS6 6DT**

- 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 27 September 2024 is made by Cotham School and was validated on 23 October 2024.
  - The development proposed is works to install 3 no. CCTV poles and cameras.
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### Decision

1. Planning permission is granted for 3no.CCTV poles and cameras in accordance with the terms of the application dated 27 September 2024, subject to the conditions set out in the schedule below.

### 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 (the Council) have been designated for non-major applications since 6 March 2024.
3. Consultation was undertaken on 25 October 2024 which allowed for responses by 25 November 2024. A number of interested parties and local residents have submitted responses. I have taken account of all written representations in reaching my decision.
4. I carried out a site visit on 14 November 2024, which enabled me to view the site, the surrounding area and the nearby roads.
5. A new National Planning Policy Framework (the Framework) was published on 12 December 2024, during the course of the application. The policies most relevant to this proposal have not been subject to any substantive

changes and I am satisfied that no party has been prejudiced by my taking it into account.

## **Main Issues**

6. Having regard to the application, comments from interested parties, together with what I saw on site, the main issues for this application are the effects of the proposal on:
  - the character and appearance of the Cotham and Redland Conservation Area, including existing trees, and;
  - the living conditions of occupants of nearby properties.

## **Reasons**

### *Cotham and Redland Conservation Area*

7. The application site lies within the Cotham and Redland Conservation Area (the CA) and the Character Appraisal and Management Proposals 2011 (the CAMP) describes the special interest of the area and the attributes which contribute positively to its character. It describes the CA as principally residential, comprising a leafy suburb characterised by individually developed urban streets and a high-quality Victorian townscape.
8. The CAMP identifies distinct character areas, of which Cotham School lies centrally within the Upper Cotham area. It identifies the school's main building, which addresses Cotham Lawn Road, as a landmark building, being a largely intact inter-War composition in limestone with brick details. I understand that building to be locally listed. The majority of the buildings behind it are, however, more modern buildings, of varying design and form, which surround sports pitches enclosed by substantial fencing. This area is characterised by modern structures and paraphernalia associated with the school use.
9. The north-eastern part of the school site, and the area to which the application relates, comprises an area of open grassland used as a playing field. It is bound by the school buildings and sports pitches, as well as post-War housing on Cotham Park. This open space, as well as the trees and foliage around it, contribute positively to the verdant character of this part of the CA.
10. The proposal would introduce three new free-standing and wind-down poles each accommodating a CCTV camera. These would be positioned close to the existing structures at the edge of the playing field, including one close to the flank elevation of no.27 Cotham Lawn Road, and two adjacent to the existing tall wire mesh fencing which encloses one of the sports pitches.
11. Despite their utilitarian appearance and height, their proximity to existing structures would allow their integration into the established character of this part of the site. The poles would be relatively slim in profile and of a simple design, finished in a dark green colour, which would similarly reduce their contrast with the more green and verdant features on this part of the

site. The growth of the adjacent trees would also assist in providing a degree of screening and softening the visual effects of the poles over time. For these reasons together, the proposal would sit comfortably within this context. Given the location of the installations and presence of modern intervening buildings, they would also preserve the setting of the locally listed main building and the way in which it is experienced.

12. The CAMP also identifies this part of the CA as having a strong verdant quality owing to the number of mature trees, including those on the private green spaces of Cotham School playing fields. The proposed poles would be close to a number of existing trees on the site. While some of these are relatively young trees, they have high amenity value alongside those others in and surrounding the playing field, and contribute positively to the character and appearance of the CA.
13. The applicant has provided an Arboricultural Impact Assessment which demonstrates that the existing trees are capable of being retained without damage and can be adequately protected from damage during the construction process. I have no reason to disagree with those findings, and the proposal would maintain those trees and their important contribution to the CA.
14. In conclusion on this main issue, the proposed development would preserve the character and appearance of the CA. It would comply with policies BCS21 and BCS22 of the Bristol Development Framework Core Strategy 2011 (the CS), and policies DM31, DM26 and DM17 of the Site Allocations and Development Management Policies 2014 (the ADMP) insofar as they require high quality urban design which responds positively to the area's character, the conservation of heritage assets, and integration of trees.

#### *Living Conditions*

15. The proposed cameras would allow visibility towards the neighboring properties on Cotham Park. This is a row of terraced properties set across three storeys and with gardens which extend to the rear and directly adjoin the school's playing fields. I observed that the rear of those properties include a number of windows and openings facing towards the school, including those which appear to serve bedrooms and living rooms. At the ground floor level the boundary treatments provide a degree of screening between the properties and the school, and these include combinations of close board timber fencing, hedgerows and planting of varying heights. No.27 Cotham Lawn Road is also close to the proposed installations, and similarly has a number of windows in its side and rear elevations as well as a private garden which extends to the south, along the boundary of the playing field. While these properties already experience a degree of overlooking from the school grounds, this is intermittent and limited to certain times of day, and their occupants nonetheless have a reasonable expectation of privacy.
16. The applicant has detailed that the cameras are intended to extend the CCTV coverage of the existing systems which cover the school, to include the boundary areas of the school playing fields. The applicant has provided

view diagrams to show the camera visibility splays and ranges, and this shows all three cameras would have the ability to point towards the boundary with the Cotham Terrace properties. While there are other CCTV installations on the site, the proposal would introduce new ones closer to these neighbouring properties.

17. The applicant has detailed the School's CCTV Policy, which includes measures relating to access and disclosure of recorded images, and that cameras are sited only to capture images relevant to the purpose for which they are installed with care taken not to violate privacy expectations. The School's Data Protection Impact Assessment reiterates training requirements for CCTV operators and states that it seeks to maintain legitimate expectations for privacy by measures including directing cameras away from private property. A privacy zone feature could also be installed to the cameras to obscure areas outside the school's boundary, set up by a system manager.
18. These measures, together with external legislation, provide some reassurances that measures would be in place to protect the privacy of the adjoining occupiers. Nonetheless, I am not convinced that these are measures which could reasonably be secured as part of the planning process. I have therefore adopted a precautionary approach, that some loss of privacy to those neighbouring occupiers could occur. This would be in conflict with Policy BCS21 of the CS insofar as it requires new development to safeguard the amenity of existing development, and the Framework where it states decisions should ensure, among other things, a high standard of amenity for existing and future users.
19. While the proposed installations would be visible from the windows and gardens of those neighbouring properties, including those on Cotham Lawn Road, given their profile and position, they would not cause unacceptable harm to the outlook of those properties. For the reasons set out above, I have found the proposal to be acceptable in terms of its visual effects.

### **Other Matters**

20. I have had regard to the concerns raised by third parties, in addition to those discussed above and which I return to below. The proposal before me does not include lighting and, if planning permission were granted, this would not form part of the approved drawings. Matters relating to the treatment of any recordings would also be a matter for the school. I appreciate that there are concerns relating to the quality of information provided with the application and for the extent of pre-application discussions. However, the information provided has been adequate for my assessment and these do not amount to reasons to withhold planning permission.
21. Under the statutory framework for biodiversity net gain (BNG), every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met, subject to exemptions. The applicant considers the proposal meets the BNG de minimis exemption because less than 25 square metres of onsite habitat would be affected. I

have no reason to reach a contrary view and note that the areas of underground ducting would be beneath mown grass of low ecological value.

## **Planning Balance**

22. 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.
23. The information provided with the application describes that Cotham School accommodates over 1,300 students between 11 and 19 years old, and sets out that the proposal is necessary to ensure the safeguarding of children in line with the school's statutory and legislative requirements. It describes that the proposed CCTV would cover an area of the school grounds where it is difficult for staff to monitor activity and which amounts to an area of weakness or vulnerability of the school where there is a risk of pupils leaving the school, unauthorised persons entering, or items passed in or out of the site's boundaries. As such, the lack of surveillance of this area affects the ability of the school site to be secure.
24. In light of these factors, I have no strong reason to believe that the proposal would not be in the best interests of the children attending the school, particularly in terms of their safety, welfare and education through providing a safe learning environment. Article 3(1) of the UNCRC<sup>1</sup> provides that 'in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.' The merits of the proposal presented are such that I afford the benefits of the development to the best interests of the children substantial weight.
25. In addition, the Framework includes that decisions should aim to achieve, among other things, safe and accessible places, so that crime and disorder, and fear of crime, do not undermine the quality of life or community cohesion. It also refers to the provision of safe and accessible green infrastructure and sports facilities. The proposal would therefore adhere to those objectives of the Framework and this adds weight in favour of the development.
26. Those benefits, however, must be weighed against the potential effects of the proposal on the privacy of the adjoining occupiers discussed above, and their rights under Article 8<sup>2</sup> in respect of their private and family life and home. Granting planning permission could result in a degree of overlooking of those homes and their private spaces, causing interference with those rights. I also acknowledge that those affected may include children although there is little information before me surrounding that matter. Nonetheless, this is a matter of great importance. I have had regard to the distance of the proposed cameras from the properties, presence of some

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<sup>1</sup> United Nations Convention on the Rights of the Child 1989

<sup>2</sup> Article 8 of the European Convention on Human Rights

intervening structures together with the measures which the school has set out which would affect the way in which the installations would operate and the presence of other cameras around the school. Taking account of those factors I give considerable weight to the adverse effects of the proposal.

27. I appreciate that third parties consider the cameras should be positioned elsewhere, or that surveillance from the school buildings is adequate. However, there is not substantive evidence to suggest that repositioning the cameras would necessarily improve privacy given the need to survey the boundaries, or that alternatives, including a temporary permission, would offer the same level of security as the proposal in the future. Based on the evidence, I am not satisfied that an alternative option exists which would be less intrusive, given the circumstances set out.
28. Having considered all the circumstances, I find that the benefits of the proposal including the best interests of the children in the school environment here would outweigh the harm identified. Overall, I am satisfied that any interference with Article 8 is in accordance with the law and necessary in a democratic society, and it would be proportionate and necessary to grant planning permission.

### **Conditions**

29. As above, given they would rely on external measures and software, I am not satisfied that a planning condition to implement measures to protect privacy would be enforceable. For this reason, the assessment above adopts a precautionary approach and accounts for the absence of such measures. Other conditions are imposed below, having regard to the advice contained in the Planning Practice Guidance. The condition requiring implementation of tree protection measures is required to be pre-commencement as a later trigger would limit the effectiveness of the protection measures.

### **Conclusion**

30. The proposal would conflict with part of the development plan. However, there are material considerations of sufficient weight which indicate a decision should be made other than in accordance with it. Having regard to all matters raised, planning permission is granted.

*C Shearing*

Inspector and Appointed Person

# Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.

Reason: As required by section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: 23-00812\_SLP01, 23-00812\_SP02, 23-00812\_ELV01.

Reason: To provide certainty.

3. The poles hereby approved shall be coloured dark green and shall be so maintained at all times.

Reason: To preserve the character and appearance of the area, to comply with policies BCS21 and BCS22 of the Bristol Development Framework Core Strategy 2011, and policies DM31 and DM26 of the Site Allocations and Development Management Policies 2014.

4. Prior to the commencement of development, the existing trees on the site shall be protected in accordance with the measures detailed in Chapter 3 and associated Appendices 2 and 3 of the Arboricultural Impact Assessment and Tree Protection Plan by Bosky Trees, dated 16 October 2024. Those protection measures shall remain in place until such a time that the construction process is complete.

Reason: To ensure appropriate protection of the existing trees on the site and to comply with Policy DM17 of the Bristol Site Allocations and Development Management Policies 2014.

## End of Schedule

## **Informatives:**

- i. In determining this application the Planning Inspectorate, on behalf of the Secretary of State, has worked with the applicant in a positive and proactive manner. 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 and gave clear deadlines for submissions and responses. In determining this application no substantial problems arose which required the Planning Inspectorate, on behalf of the Secretary of State, to work with the applicant to seek any changes.
- 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>
- iv. Responsibility for ensuring compliance with this Decision Notice rests with Bristol City Council and any applications related to the compliance with the conditions must be submitted to the Council.
- v. Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition 11 (biodiversity gain condition) that development may not begin unless:

(a) a Biodiversity Gain Plan has been submitted to the planning authority, and

(b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be Bristol City Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before



development is begun because one or more of the statutory exemptions or transitional arrangements are considered to apply – in this case the exemption below:

Development below the de minimis threshold, meaning development which:

- i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
- ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).