



Decision Notice and Statement of Reasons

Site visit made by R Dickson BSc (Hons) MSc MRTPI on 10 April 2025

Decision By Zoe Raygen DipURP MRTPI

A person appointed by the Secretary of State

Decision date: 15 May 2025

Application Reference: S62A/2025/0094

Site address: Building 11, Explore Lane, Bristol BS1 5TY

- 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 4 March 2025 is made by Canada Life Asset Management and was validated on 19 March 2025
 - The development proposed is for the use of part of the roof area as an outdoor terrace, comprising the provision of a metal canopy frame with retractable sunshade, glass balustrade and acoustic screen along with the provision of biodiverse green roof to part of roof top plant room.
-

Decision

1. Planning permission is granted for the “the use of part of the roof area as an outdoor terrace, comprising the provision of a metal canopy frame with retractable sunshade, glass balustrade and acoustic screen along with the provision of biodiverse green roof to part of roof top plant room.” in accordance with the terms of the application dated 4 March 2025, subject to the conditions set out in the attached schedule.

Statement of Reasons

Procedural matters

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the application.
3. 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 (BCC) have been designated for non-major applications since 6 March 2024.

4. Publicity of the application has been carried out in the Bristol Evening Post. Consultation was undertaken on 28 March 2025 which allowed for responses by 24 April 2025. Responses were received from a local resident and other interested parties. I have taken account of all written representations in reaching my recommendation.
5. Bristol City Council (BCC) submitted comments on 24 April 2025 which indicated that they object to the planning application, however also included a list of conditions.
6. I carried out a site visit on 10 April 2025, which enabled me to view the site internally and externally as well as the surrounding area.

Main Issues

7. Having regard to the application, the consultation responses, comments from interested parties and the information from BCC, together with what I saw on site, the main issues for this application are:
 - whether the proposal would preserve or enhance the character or appearance of the City Docks Conservation Area (CDCA), and its effect on the setting of nearby listed buildings;
 - the effect of the proposal on the living conditions of neighbouring residential occupiers with particular regard to noise and disturbance, and overlooking; and
 - the effect of the proposal in respect of biodiversity.

Reasons

Relevant Planning History and Background

8. The site comprises a unit within Building 11. The building is currently used as a Casino, however at the time of my site visit it did not appear to be functioning.
9. The unit has permission for change of use from a casino to a new flexible unit, for use as a restaurant, drinking establishment and/or comedy club. The permission also provided a mezzanine floor, and other external alterations¹. In order for BCC to approve the application, part of the proposal was removed, which included the removal of the roof terrace. More recently, an application was approved on 24 September 2024 by the Planning Inspectorate under the section 62A route for a use of part of the roof area as an outdoor terrace, comprising the provision of a metal canopy frame with retractable sunshade, glass balustrade and acoustic screen and provision of biodiverse green roof to part of roof top plant room².
10. Planning permission is sought for the conversion and use of part of the roof area of Building 11 as an outdoor terrace. The proposal includes a metal canopy frame with retractable sunshade which would cover the entire terrace, along with glass

¹ 24/02543/F

² 24/02698/PINS (S62A/2024/0053)

balustrades around the perimeter and acoustic barriers. A green roof would also be provided.

Character and appearance and heritage assets

11. Building 11 is within the Cannons Marsh area of the CDCA. The CDCA Character Appraisal and Management Proposals (2011) document identifies the area as being mixed-use including offices, residential, entertainment and shops. The significance of the CDCA is derived from its maritime history reflected in the architecture and the relationship of the Floating Harbour to the city. Although many of the buildings are modern within the CA they retain the commercial use near to the harbourside. The host building is one of the many modern buildings around the harbour, and contains a number of different leisure, restaurant and bar operations within it, contributing to the vibrancy and significance of the CA.
12. The host building, like many others within the CDCA, has a modern industrial design which includes elements such as the brises soleil that runs around the perimeter of the building. Above the main bulk of the building, and above the brises soleil, there is an additional floor which is set back from the facades of the building, with a service area on top. From street level near to the building, it is not possible to see the inset top floor owing to the viewing angle. From further away within Millenium Square, views of the top floor and service area above are possible, however they are not prominent and would likely go unnoticed amongst the vibrant street scene.
13. Around the existing inset top floor is a grass roof, and a paved fire exit route. There is a small parapet around the perimeter of this roof. The proposed terrace would be positioned at the corner of the building which faces Canons House and Millenium Square. It would be set back from the corner and sides of the main bulk of the building. From street level near to the building, the roof terrace would not be seen given the angle at which it would be viewed. Further back into Millenium square, the roof terrace would only be partly visible owing to its siting away from the edge of the building. Even then, it is likely that only the edge of the retractable sunshade would be visible, with any viewing angle within Millenium Square being too low to see any furniture, planters or other outdoor paraphernalia on the terrace.
14. The host building is largely symmetrical at present. The addition of the roof terrace would cause a slight unbalance to the top floor; however, it is unlikely that this would be a noticeable difference when viewing the building as a whole either at street level or from further afield.
15. The Council has suggested that the retractable sunshade could be conditioned to have a translucent roof which would reduce the visual impact of the proposal. Given that the roof terrace and sunshade structure would not materially harm the character and appearance of the area and significance of the CA as applied for, I do not find that there would be a significant benefit to having a translucent roof, which would not offer protection from the sun, over a grey opaque roof as applied for.

16. The host building sits beside the Grade II listed Canons House, and contributes to its setting. The significance of Canons House lies in its strong civic presence which is seen as a beacon in the post-industrial redevelopment of Bristol's dock, as well as its shape, form and design.
17. As discussed, the host building has a modern industrial design which extends to its materials. The modern design and similar materials of the terrace, particularly the sunshade and its frame would be in keeping with the existing features and distinctiveness of the host building. Given the existing harmonious relationship between the host building and Canons House, the use of similar materials and design, in addition to the terrace only being partly visible from longer views, the proposal would preserve the setting of Canons House.
18. Bristol Cathedral, a Grade I listed building, is sited on higher ground to the north some distance from the proposal. Its significance lies in its age, materials, plan form, prominent towers and the richly decorated architectural detailing and features. There are a number of buildings between the application site and the cathedral, and from street level it is difficult to view the two buildings in the same context and as such the host building forms part of the wider setting of the cathedral. Given the distance from the cathedral, the terrace would represent a small change to the roofscape of the surrounding buildings. Taking into account the in keeping modern design and materials proposed of the terrace, together with the distance from the cathedral, it would have an overall neutral effect on the cathedral's setting and features of special interest.
19. Accordingly, the proposal would preserve the setting of Canon's House and would have a neutral effect on the setting of Bristol Cathedral. Additionally, it would have a neutral effect on the character and appearance of the CA, thus preserving its significance. Therefore, the proposal is in accordance with policies BCS21 and BCS22 of the Bristol Development Core Strategy (2011) (CS) and policies DM26, DM27, DM30 and DM31 of the Bristol Local Plan – Site Allocations and Development Management Policies (2014) (LP). The policies collectively seek to ensure that development respects the character and appearance of the area and conserves or enhances the heritage assets and their setting.

Living conditions

20. The proposed terrace would be positioned at the corner of the building, and would extend to around half the length of the host building along the southern side. There are some residential flats nearby at Waverley House, and within Building 8 there are bedrooms relating to the Ibis Hotel. Given the location of the flats and hotel within the mixed-use area, it is likely that residents already experience a level of noise and activity resulting from the surrounding uses.
21. Although the terrace would be at an elevated level compared to other units with outdoor areas, it would be a considerable distance from the nearest properties, particularly those at Waverley House. The proposal includes the provision of acoustic screens, the details of which are to be submitted to and approved prior to first use of the terrace, which would mitigate any additional noise and disturbance experienced by the residents. The Applicant and Council have also

agreed with the proposed hours of operation, which would also mitigate any noise and disturbance experienced by the residents.

22. Given that the site has extant permission for its change of use from a casino to a restaurant, drinking establishment and/or comedy club, which included internal alterations, it is likely that these uses will take place indoors most of the time. The proposed roof terrace is unlikely to be used daily throughout the year, and even with the proposed sunshade, it is only likely to be used on days with good weather.
23. As discussed, the terrace would be a considerable distance from the nearest properties and would include acoustic barriers. Given these factors, the proposal would not harm the living conditions of the neighbouring occupiers, with respect to overlooking.
24. As such, the proposed development would not cause harm to the living conditions of the neighbouring occupiers within Waverley House or the Ibis Hotel, with regard to noise and disturbance, and overlooking. It therefore accords with Policy BCS23 of the CS and Policy DM33 of the LP, which seek to ensure that developments do not adversely impact upon amenity.

Biodiversity

25. The Applicant has submitted a Biodiversity Net Gain (BNG) Assessment, which sets out that the biodiversity value that the proposal aims to achieve is a net gain of 11.87%. This would be provided through an enhancement of the existing sedum roof, including the use of additional substrate, and the sowing of a mix of wildflowers.
26. The Planning Practice Guidance (PPG) advises that the statutory framework for BNG has been designed as a post-permission matter to ensure that the BNG objective of achieving at least a 10% gain in biodiversity value will be met for development granted planning permission. Therefore, a subsequent Biodiversity Gain Plan must be submitted and approved prior to the commencement of development.
27. Accordingly, the Applicant has demonstrated that the biodiversity gain objective can be met. The biodiversity gain condition is necessary to ensure that the site delivers at least the required 10% biodiversity gain, and that it is managed accordingly. As such, the proposal would have a positive effect on biodiversity.

Conditions

28. I have considered the planning conditions suggested by BCC and the Applicant and I have imposed those that meet the tests for conditions as set out in the Framework at paragraph 56. I have amended the wording where appropriate in the interests of precision and clarity and to prevent the use of unnecessary pre-commencement conditions. The reasons for imposing undisputed conditions are clearly and precisely set out under each condition imposed in the decision notice, therefore I shall not repeat them here.

29. I have used the Applicants suggested condition restricting the hours of use, as the hours suggested by BCC would have prevented its use throughout the day.
30. The suggested condition requiring the submission of a management plan for placing of structures on the terrace is not necessary given my findings above on their effect on the character and appearance of the area and heritage assets.
31. The Council suggested a condition requiring the sunshade to be a translucent material. My findings above demonstrate that this is not necessary. I instead attached the Applicants suggested condition which requires the sunshade to be finished in a grey colour.
32. The biodiversity gain condition is deemed to apply to every planning permission granted for the development of land in England unless exemptions on transitional provisions apply. There are separate provisions governing the biodiversity gain plan. Due to this separate statutory basis the Planning Practice Guidance makes it clear that this is not necessary to include the biodiversity gain condition in the list of conditions imposed in the written notice when granting planning permission. A paragraph on biodiversity gain is included within the list of informatives.
33. The onsite habitat enhancement resulting from the proposal will be required to be maintained for at least 30 years after the development is completed. The applicant has suggested the same condition thus indicating their agreement to the use of pre-commencement conditions where these meet the tests of Paragraph 56 of the National Planning Policy Framework in accordance with Section 100ZA of the Town and Country Planning Act 1990. I have attached this condition in the interests of securing habitat benefits.

Conclusion

34. For these reasons, and having regard to all other matters raised, the proposal accords with the development plan and therefore I conclude that planning permission should be granted.

R Dickson

Appeal Planning Officer

Inspector and Appointed Person's Decision

35. I have considered all the submitted evidence and my representative's recommendation and on that basis planning permission is granted.

Zoe Raygen

Inspector and Appointed Person

Schedule of Conditions

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:

3716-HAR-SRA-XX-XX-DR-A-PL-300- P01 – Site Location Plan.
3716-HAR-SRA-XX-XX-DR-A-PL-301- P01 – Block Plan.
3716-HAR-SRA-XX-XX-DR-A-PL-302- P01 – Site Plan.
3716-HAR-SRA-XX-XX-DR-A-PL-330- P01 – Level 3 Mezzanine Proposed.
3716-HAR-SRA-XX-XX-DR-A-PL-331- P01 – Level 4 Proposed.
3716-HAR-SRA-XX-XX-DR-A-PL-332- P01 – Roof Plan Proposed.
3716-HAR-SRA-XX-XX-DR-A-PL-335- P01 – East and South Elevations Proposed.
3716-HAR-SRA-XX-XX-DR-A-PL-336- P01 – East and South Elevations Proposed Large scale
3716-HAR-SRA-XX-XX-DR-A-PL-340- P01 – Section BB Proposed

Reason: To ensure the development is built in accordance with the approved plans and in the interests of the character and appearance of the area in accordance with policies BCS21 and BCS22 of the Bristol Development Framework Core Strategy (June 2011) and policies DM26, DM30 and DM31 of the Bristol Local Plan – Site Allocations and Development Management Policies (July 2014).

3. The development shall not commence until a 30 year Habitat Monitoring and Management Plan (HMMP), prepared in accordance with an approved Biodiversity Gain Plan, has been submitted to and approved in writing by the local planning authority. The approved HMMP shall be strictly adhered to and implemented in full for its duration and shall contain the following:
 - a) Description and evaluation of the features to be managed;
 - b) Ecological trends and constraints on site that may influence management;
 - c) Aims, objectives and targets for management - links with local and national species and habitat action plans;
 - d) Description of the management operations necessary to achieving aims and objectives;
 - e) Prescriptions for management actions;
 - f) Preparation of a works schedule, including annual works schedule;
 - g) Details of the monitoring needed to measure the effectiveness of management;
 - h) Details of the timetable for each element of the monitoring programme;
 - i) Details of the persons responsible for the implementation and monitoring;

- j) mechanisms of adaptive management to account for necessary changes in work schedule to achieve the required targets; and
- k) Reporting on year 1, 2, 5, 10, 20 and 30, with biodiversity reconciliation calculations at each stage.

Reason: To enhance biodiversity in accordance with the National Planning Policy Framework.

- 4. Prior to the first use of the terrace hereby approved, details of the acoustic screen shall have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to first use and retained thereafter.

Reason: To protect the amenity of neighbours in accordance with Policy BCS23 of the Bristol Development Framework Core Strategy (June 2011) and Policy DM33 of the Bristol Local Plan – Site Allocations and Development Management Policies (July 2014).

- 5. Prior to the first use of the terrace hereby approved, the upgraded green roof, which shall be carried out and maintained in accordance with an approved Biodiversity Gain Plan and Habitat Monitoring and Management Plan, shall be implemented in full and retained thereafter.

Reason: To enhance biodiversity in accordance with The National Planning Policy Framework

- 6. The retractable sunshade shall be finished in a grey colour and retained thereafter as such.

Reason: In the interests of the character and appearance of the area in accordance with policies BCS21 and BCS22 of the Bristol Development Framework Core Strategy (June 2011) and policies DM26, DM30 and DM31 of the Bristol Local Plan – Site Allocations and Development Management Policies (July 2014).

- 7. The terrace hereby approved shall not be open to customers for the consumption of food or beverages between 23.00 and 08.00 daily.

Reason: To protect the amenity of neighbours in accordance with Policy BCS23 of the Bristol Development Framework Core Strategy (June 2011) and Policy DM33 of the Bristol Local Plan – Site Allocations and Development Management Policies (July 2014).

END OF CONDITIONS

Informatives:

- i. 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 solutions.
- 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. 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 ("the 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 require the approval of a biodiversity net gain plan before development is begun.

- v. Responsibility for ensuring compliance with this Decision Notice rests with Bristol City Council.