

TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015

Application number:	21/01153/FUL
Validated on:	27 th October 2021
Site address:	The Old Log Pond Bristol Road
Proposal:	Variation of conditions 25 and 26 on planning permission ref. 20/00889/FUL for the erection of seven commercial units (comprising of class A1, A2, A3 and D2 uses), together with car parking, landscaping and associated external works. The variation relates to the sale of goods from unit 3.

In exercise of its powers under the above-mentioned Act and Order the City Council as the Local Planning Authority **GRANT PERMISSION** for the development described above in accordance with the terms of the application and the plan/s submitted therewith subject to the following conditions:

Condition 1

The development hereby permitted shall be begun 16th October 2022.

Reason

Required to be imposed by Sections 73 and 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Condition 2

The development hereby permitted shall be carried out in accordance with the application form, and drawing numbers listed below except where these may be modified by any other conditions attached to this permission:

- Site Location Plan. Dixon Architecture. May 2020. Drawing No. 0109-L02
- Unit 1 Floor Plan & Elevation. Dixon Architecture. Dec 2018. Drawing No. 0109/S27A.
- Unit 1 Elevations, Dixon Architecture. May 2020. Drawing No. 0109/S28A
- Units 2 to 4 Plans & Elevations. Dixon Architecture. Dec 2018. Drawing No. 0109/P11.
- Units 5 to 6 Plans & Elevations. Dixon Architecture. Dec 2018. Drawing No. 0109/P12-A.
- Unit 7 Elevations and Floorplan. Dixon Architecture. May 2020. Drawing No. 0109/S25.
- Unit 7 Elevations and Sections. Dixon Architecture. May 2020. Drawing No. 0109/S26.
- Proposed Site Plan. Dixon Architecture. September 2020. Drawing No. 0109/SK400E.
- Tree Protection Plan. Arbtech. Dec 2017. Drawing No. ArbtechTPP01.

Reason

To ensure that the development is carried out in accordance with the approved plans.

Condition 3

The external materials used in the development shall be in accordance with the Typical Materials drawing no. 0109/P15A, received 11th May 2020 unless details or samples of alternative materials are submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason

To ensure a satisfactory appearance of the development.

Condition 4

The boundary treatments shall be completed in accordance with:

- Boundary Treatment & Street Furniture, Drawing No. 0109/P16A, received 30th June 2020
- Typical Details, Drawing No. 3095 301 Revision B, received 30th June 2020
- Phasing Plan, Drawing No. 0109/BR10D, received on 1st December 2020.

Development shall be carried out in accordance with the approved details and thereafter maintained in a suitable condition.

Reason

In the interests of visual amenity

Condition 5

Unit 7 shall not be occupied until the replacement of the Whaddon Brook culvert has been completed in accordance with Drawing No. VIV-010 Revision P2 (New Culvert Diversion), received on 30th June 2020. The scheme shall be implemented in accordance with the agreed details and maintained thereafter.

Reason

To deliver flood risk benefits upstream and ensure that the integrity of the culvert is protected whilst allowing the development to proceed in accordance with the proposed plans.

Condition 6

Prior to the commencement of development, protective fencing shall be erected to safeguard the waterway infrastructure during the construction of the development in accordance with Drawing No. 0109/P16A (Boundary Treatment & Street Furniture) received on 30th June 2020. The approved temporary fencing shall be maintained on site in accordance with the approved details until the completion of the development.

Reason

To protect users of the adjacent canal towpath, waterway infrastructure and to comply with paragraph 170 of the National Planning Policy Framework as the ecological environment in this location is sensitive and should be protected from disturbance, dust, run off and waste, entering the canal.

Condition 7

The landscaping scheme as shown on the approved drawing numbers:

- Planting Plan 1 of 2, Drawing No. 3095 201 Revision I, received on 24th November 2020;
- Planting Plan 2 Of 2, Drawing No. 3095 202 Revision I, received 24th November 2020;
- Typical Details, Drawing No. 3095 301 Revision B, Received on 30th June 2020;

shall be carried out concurrently with the development hereby permitted, in accordance with the approved phasing plan (Drawing No. 0109/BR10D, received on 1st December 2020), and shall be completed no later than the first planting season following the completion of the development. The planting shall be maintained for a period of 5 years. During this time any trees, shrubs or other plants which are removed, die, or are seriously retarded shall be replaced during the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once, they shall continue to be replaced on an annual basis until the end of the 5-year maintenance period. No trees shall be planted within 5 metres of the watercourse.

Reason

To ensure a satisfactory and well-planned development and to preserve and enhance the quality of the environment.

Condition 8

All external lighting shall be installed in accordance with the specifications and locations as shown on the approved drawing numbers:

- External Lighting Plan – Drawing Number 192020-E01 Rev D
- Kingfisher Lighting Plan – Drawing Number D38852/LC/F

These shall be maintained thereafter in accordance with these details. Under no circumstances shall any other external lighting be installed.

Reason

Lighting at waterside developments should be designed to minimise the problems of glare, show consideration for bats and unnecessary light pollution should be avoided by ensuring that the level of luminance is appropriate for the location, is sustainable and efficient, and protect the integrity of the waterway infrastructure.

Condition 9

The development shall be carried out in accordance with the approved Biodiversity Enhancement Scheme prepared by Wild Service (Project number MN2019033B), dated 3rd January 2020 and the Wild Service letter dated 26th November 2019. The approved details thereafter shall be implemented, retained and maintained for their designed purpose in accordance with the approved scheme.

Reason

To safeguard biodiversity as set out by the Habitats Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).

Condition 10

No vegetation removal or clearance works shall take place between the 1st March and 31st August inclusive unless a survey (by a suitably qualified ecologist), to assess the nesting bird activity on the site during this period and a scheme to protect the nesting bird interest on the site have first been submitted to and approved in writing by the Local Planning Authority and then implemented as approved.

Reason

To safeguard biodiversity as set out by the Habitats Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).

Condition 11

Prior to the commencement of any development or clearance works on site a pre-commencement survey must be undertaken by a suitably qualified ecologist to check that on-site habitats are still unused by otter, water vole, reptiles and Great Crested Newts, to ensure that species are not harmed or disturbed, and that breeding sites or resting places are not destroyed. If any signs of otter, water vole, reptiles or Great Crested Newts are found during the pre-commencement check further survey work will be required to be undertaken and a mitigation strategy submitted to and approved in writing by the Local Planning Authority. The mitigation strategy shall be implemented in full accordance with the approved details.

Reason

To ensure that no otters, water voles, reptiles or Great Crested Newts are harmed by the proposed development.

Condition 12

No building hereby permitted shall be occupied until the surface water drainage scheme for the site has been completed in accordance with the details shown on the approved plans and documents:

- Flood Storage Strategy report (Prepared by Gravitare Consulting Engineers, February 2021; 19-142)
- Drainage Maintenance Strategy R1, dated April 2021, received by the Local Planning Authority on 11th May 2021.
- Storm Water Drainage Calculations, prepared by Gravitare Consulting Engineers (File 19-142, dated 15/01/2021), Received by the Local Planning Authority on 2nd February 2021.
- Drainage and Setting-Out Plan Sheet 1 of 6 - Drawing Number 19-142 CIV-001 Revision C8
- Drainage and Setting-Out Plan Sheet 2 of 6 - Drawing Number 19-142 CIV-002 Revision C6

- Drainage and Setting-Out Plan Sheet 3 of 6 - Drawing Number 19-142 CIV-003 Revision C7
- Drainage and Setting-Out Plan Sheet 4 of 6 - Drawing Number 19-142 CIV-004 Revision C6
- Drainage and Setting-Out Plan Sheet 5 of 6 - Drawing Number 19-142 CIV-005 Revision C7
- Drainage and Setting-Out Plan Sheet 6 of 6 - Drawing Number 19-142 CIV-006 Revision C9
- Drainage and Setting-Out Details Sheet 1 of 2 - Drawing Number 19-142 CIV-007 Revision C2
- Drainage and Setting-Out Details Sheet 2 of 2 - Drawing Number 19-142 CIV-008 Revision C2
- Drainage and Setting-Out Details Manhole Schedule – Drawing Number 19-142 CIV-009 Revision C5
- Road Construction Details Sheet 1 of 3 – Drawing Number 19-142 CIV-011 Revision C2
- Road Construction Details Sheet 2 of 3 – Drawing Number 19-142 CIV-012 Revision C1
- Road Construction Details Sheet 2 of 3 – Drawing Number 19-142 CIV-013 Revision C1
- Beany Kerb Details Drawing Number 19-142 CIV-014 Revision C1

The drainage scheme shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.

Reason

To ensure the development is provided with a satisfactory means of drainage and would not result in unacceptable risk of pollution or harm to the environment and to ensure the development does not exacerbate flood risk and deals with surface water run-off from the site in a sustainable manner.

Condition 13

The vehicular accesses hereby permitted shall not be brought into use until the existing roadside frontage boundaries have been set back to provide visibility splays extending from a point 2.4m back along the centre of the access measured from the public road carriageway edge (the X point) to a point on the nearer carriageway edge of the public road 54m distance in both directions (the Y points). The area between those splays and the carriageway shall be reduced in level and thereafter maintained so as to provide clear visibility between 1.05m and 2.0m at the X point and between 0.26m and 2.0m at the Y point above the adjacent carriageway level.

Reason

To avoid an unacceptable impact on highway safety by ensuring that adequate visibility is provided and maintained to ensure that a safe, suitable and secure means of access for all people that minimises the scope for conflict between traffic and cyclists and pedestrians is provided in accordance with paragraphs 108 and 110 of the National Planning Policy Framework.

Condition 14

The development shall be undertaken in accordance with the approved Phasing Plan (Drawing No. 0109/BR10D, received on 1st December 2020). The units in each phase of development shall not be occupied until the vehicular accesses, parking, turning and loading/unloading facilities have been provided in accordance with the submitted plan drawing no. 0109/SK400E and the approved phasing plan, and those facilities shall be maintained available for those purposes thereafter.

Reason

To ensure that a safe, suitable and secure means of access for all people that minimises the scope for conflict between traffic and cyclists and pedestrians is provided.

Condition 15

The construction of the car parking associated with the development shall be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

Reason

To ensure that the development incorporates facilities for charging plug-in and other ultra-low emission vehicles.

Condition 16

The development hereby permitted shall not be occupied until cycle storage facilities for a minimum of 29 bicycles have been made available for use within the site and those facilities shall be maintained for the duration of the development.

Reason

To ensure that adequate cycle parking is provided, to promote cycle use and to ensure that the opportunities for sustainable transport modes have been taken up.

Condition 17

The off-site improvement works including pedestrian crossing, shared footway/cycleway widening, blister/corduroy tactile paving either side of the site access junctions, carriageway 'KEEP CLEAR' markings and ghost island turning lane shall be constructed in accordance with the submitted plan drawing nos. FIGURE 4 REV. A and FIGURE 5 REV. A prior to any building on site being occupied and those facilities shall be retained for public use for the lifetime of the development.

Reason

To ensure that a safe, suitable and secure means of access for all people that minimises the scope for conflict between traffic and cyclists and pedestrians is provided.

Condition 18

Throughout the construction period of the development hereby permitted provision shall be made within the site that is sufficient to accommodate the likely demand generated for the following:

- i. parking of vehicles of site operatives and visitors;
- ii. loading and unloading of plant and materials;
- iii. storage of plant and materials used in constructing the development; and
- iv. wheel washing facilities

Reason

To reduce the potential impact on the public highway and accommodate the efficient delivery of goods.

No Condition 19**Condition 20**

The approved Travel Plan (prepared by Via Solutions, Project Number 17131, dated 25.01.2019), as amended by the Technical Note Issue No. 3 dated 22/07/2019, shall be implemented and maintained in accordance with the details and timetable therein (to be fully funded and undertaken by the developer).

Reason

The development will generate a significant amount of movement and to ensure that the appropriate opportunities to promote sustainable transport modes are taken up in accordance with paragraphs 108 and 111 of the National Planning Policy Framework.

Condition 21

The bus stop on Bristol Road opposite the application site (Stop ID: gloawgmt) shall be upgraded with the introduction of RTP1 in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented and operational prior to the first occupation of any unit on the development hereby permitted.

Reason

To ensure that the appropriate opportunities to promote sustainable transport modes can be taken up in accordance with paragraph 108 of the National Planning Policy Framework and provide access to high quality public transport and facilities that encourage public transport use in accordance with paragraph 110 of the National Planning Policy Framework.

Condition 22

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and where remediation is necessary a remediation scheme must be prepared and approved in writing by the Local Planning Authority in advance of the scheme commencing.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority prior to development commencing other than that required to be carried out as part of an approved scheme of remediation.

Reason

To ensure that the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecosystems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Condition 23

Full details of any soil or soil forming materials brought on to the site for use in soft landscaping, filling and level raising must be provided. Where the donor site is unknown or is brownfield the material must be tested for contamination and suitability for use on site. Full donor site details, proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) must be submitted to and approved in writing by the Local Planning Authority prior to import on to the site.

The approved testing must then be carried out and validatory evidence (such as laboratory certificates) submitted to and approved in writing by the Local Planning Authority prior to any soil or soil forming materials being brought on to site.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Condition 24

The development shall be carried out in accordance with the approved finished floor levels details set out on Drawing Number 0109/SK400F (Proposed Site Plan).

Reason

To protect the development from flooding.

Condition 25

Notwithstanding the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification):

- Unit 4 hereby approved shall only be occupied by a use falling within Class A2 of the schedule to the Town and Country Planning (Use Classes) Order 1987, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification; and
- Unit 6 shall only be used for a gymnasium and shall not be used for any other use within Class D2 of the schedule to the Town and Country Planning (Use Classes) Order 1987, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification; and
- The individual A1 retail units shall not be combined.

Reason

To define the terms of this permission and in order to protect the vitality and viability of existing centres.

Condition 26

Notwithstanding the provisions of the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) with the exception of units 1, 2, 3, 5 and 7, no part of the site shall be used for the retail sale of goods, nor for an office to carry out any operation or administrative functions, the research and development of products or processes, or any industrial process.

Reason

The site is out of centre for retail use and evidence provided to demonstrate compliance with the sequential and impact tests under the JCS or NPPF requirements related to a specified mix of uses, and the highway impact of office, research and development or industrial use has not been assessed to be acceptable.

Note 1

The off-site works on Bristol Road require alteration to the existing highway network and must be undertaken by the Highway Authority or its appointed agents. An Agreement under Section 278 of the Highways Act 1980 will be required.

Note 2

The applicant is advised that it is an offence under section 161 of the Highway Act 1980 to deposit anything on a highway the consequence of which a user of the highway is injured or endangered. It is strongly recommended that during any forms of earthworks and/or excavations that are carried out as part of the development, suitable vehicle wheel washing equipment should be provided and used within the site, to prevent contamination and damage to the adjacent roads.

Note 3

The developer will be expected to meet the full costs of supplying and installing the associated infrastructure.

Note 4

Any works within 8m of the culverted Whaddon Brook (i.e. the replacement culvert) will also require the separate prior formal permission of the Environment Agency under the Environmental Permitting Regulations.

Note 5

The Developer should contact David Wilson, Waterway Engineer at David.wilson@canalrivertrust.org.uk to discuss the proposed works and ensure that works comply with the Canal & River Trust's 'Code of Practice for works affecting the Canal & River Trust'.

Note 6

Your attention is drawn to the requirements of the Building Regulations, which must be obtained as a separate consent to this planning decision. You are advised to contact the Gloucestershire Building Control Partnership on 01453 754871 for further information.

Note 7

The application site was formally owned by the Canal & River Trust and is the subject of restrictive covenants. The applicant is advised to contact the Trust's Estates Management Team on 0303 040 040 in order to ensure all necessary consents are obtained.

Note 8

Your attention is drawn to the Party Wall Act 1996. The Act will apply where work is to be carried out on the following:

- Work on an existing wall or structure shared with another property.
- Building a free standing wall or a wall of a building up to or astride the boundary with a neighbouring property.
- Excavating near a neighbouring building.

The legal requirements of this Act lies with the building/ site owner, they must find out whether the works subject of this planning permission falls within the terms of the Party Wall Act. There are no requirements or duty on the part of the local authority in such matters. Further information can be obtained from the DETR publication The Party Wall Act 1996 – explanatory booklet.

Note 9

In accordance with the requirements of the NPPF the Local Planning Authority has sought to determine the application in a positive and proactive manner by offering pre-application advice, publishing guidance to assist the applicant, and publishing to the council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding.



Jon Bishop

Planning and Development Control Manager

Decision date: 7th April 2022

PLEASE SEE NOTES SET OUT IN THE ENCLOSED LEAFLET