



## Appeal Decision

Inquiry Held on 20 November 2018

Site visit made on 23 November 2018

by **S R G Baird BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 8<sup>th</sup> January 2019**

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**Appeal Ref: APP/Z0116/W/18/3198899**

**8-10 Station Road, Shirehampton, Bristol BS11 9TT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Churchill Retirement Living against the decision of Bristol City Council.
  - The application Ref 17/05017/F, dated 8 September 2017, was refused by notice dated 21 December 2017.
  - The development proposed is redevelopment to form 33 apartments for the elderly (60 years of age and/or partner over 55 years of age), guest apartment, communal facilities, access, car parking and landscaping.
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### Preliminary Matters

1. The local planning authority (lpa) did not pursue Reasons for Refusal (RfR) 2, 4, 5, 6, 7 and 9. RfR 1 was revised to omit reference to nearby Listed Buildings, RfR 3 was revised to omit reference to overlooking from/to units 3, 17 and 29 and RfR 8 was revised to omit reference to renewable energy generation. Outstanding concerns relate to the effect on the Shirehampton Conservation Area (CA), overlooking to/from units 12a, 14, 25 and 26 and adaption to climate change.
2. At the inquiry, a completed S106 Agreement providing for an affordable housing contribution of £279,949 was submitted.

### Decision

3. The appeal is dismissed.

### Main Issues

4. These are: the effect on the character and appearance of the CA; the effect on the living conditions of residents of the proposed/adjacent development with reference to overlooking; and whether the proposed development would accord with the objectives of the development plan<sup>1</sup> with particular regard to adapting to the effects of climate change.

### Reasons

Character and Appearance

5. Consistent with the National Planning Policy Framework (Framework) which seeks to achieve well-designed places, the development plan contains a raft of

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<sup>1</sup> Bristol Development Framework Core Strategy June 2011 (CS) & Bristol Local Plan Site Allocations and Development Management Policies July 2014 (LP).

policies that seek to create a high quality public realm through, amongst other things, reinforcing local distinctiveness (CS Policy BCS 21, LP Policies DM26, 27, 28 and 29). The Framework places considerable importance on conserving and enhancing the historic environment. This objective is reflected in CS Policy BCS 22 and LP Policy DM31.

6. The CA displays a variety of character areas including the elegant 18<sup>th</sup> century properties around The Green, the dreary modern shopping parade to the north-west, modern residential development on Avonwood Close and the distinctive Arts and Crafts style properties fronting Station Road. In particular the architectural and historical pedigree of The Green and Station Road make a significant contribution to the significance of the CA. Sitting between The Green and Station Road, the site currently has a neutral impact on the character and appearance of the CA. In this context, the site has, if handled properly, significant potential to make a major contribution to the character and appearance of this CA by reinforcing local distinctiveness.
7. The lpa highlights an adverse effect on views out of the CA over the site across the Avon Valley and views into the CA from Woodwell Road to the south. In my view, the potential impact of the development on these views is overstated. The CA assessment does not identify any important views into and out of the CA let alone views across the appeal site. Views into the CA from Woodwell Road are framed by dense planting, which would not be materially affected by the development. Views from The Green are limited to a narrow area and are fleeting. In terms of an effect on important views, the development would have no material impact on the character or appearance of the CA.
8. Whilst the appeal site is in a strategic location between The Green and Station Road, in taking design cues it has, in my view, a much stronger relationship to Station Road than to The Green. What is evident about the mature residential and commercial developments, the more recent development on The Savoy site and the design of the scheme for No. 12 Station Road is their scale and the vertical emphasis of their designs. These features make a significant positive contribution to the character and appearance of this CA.
9. In terms of scale the proposed building would be consistent with the theme of existing and proposed development along Station Road and as such sits well into the fall of buildings from The Green to Station Road. However, in terms of its appearance it fails to reflect the character and appearance of the transition into Station Road. Here, good design is not about copying and mimicking the features of the existing buildings. Rather it is about interpreting and reflecting the relevant characteristics so as to reinforce local distinctiveness. There is an attempt to introduce verticality into the design, particularly on the Woodwell Road frontage. However, the overall effect, in terms of design, materials and finish, fails, in my view, to adequately reflect the local distinctiveness of this CA and the Station Road character.
10. The lpa and the appellant acknowledge that the proposal would, in Framework terms, result in less than substantial harm to the significance of the CA. Given the importance of this site and the shortcomings of the design, particularly on the Woodwell Road frontage, I consider the degree of harm would be towards the top end of the scale of less than substantial harm. The

design failings of the development are not matters that could be dealt with through imposing planning conditions.

11. Drawing all of the above together, I consider the proposed scheme would unacceptably affect the character and appearance of the area and would fail to preserve the character or appearance of the CA. As such this scheme would conflict with the objectives of relevant Framework and development plan policy.

#### Living Conditions

12. Consistent with the objective of Framework paragraph 126 to achieve well designed places, CS Policy BCS21 and LP Policies DM27 and 29 seek a high quality environment for future occupiers through, amongst other things, the achievement of appropriate levels of privacy. The lpa's concerns relate to the potential for unacceptable levels of direct and perceived overlooking between the future occupants of units 12a, 14, 25 and 26 in the appeal scheme and future residents of No. 12 Station Road, in particular Houses 1, 2 and 3.
13. Planning permission has been granted for residential development at No. 12 with a terrace of mainly 3-storey town houses. Houses 1 to 3 are the most northerly of this group and the rear elevations would face Woodwell Road. The rear elevation of Nos. 1 to 3 would, on the ground floor, contain full-height patio doors serving a living/dining room and windows on the first and second floors serving bedrooms.
14. As a starting point for assessing the potential relationship between the appeal scheme and No. 12, the lpa relies heavily on guidance contained within Supplementary Planning Document No. 2, A Guide for Designing House Alterations and Extensions (SPD). The SPD indicates that, "*The best way of ensuring privacy between houses is to avoid windows to habitable rooms facing one another. Where this cannot be achieved and habitable rooms face each other, as a "rule of thumb", a gap of 21m should generally be provided.*" Whether or not it is noted as a "rule of thumb", it is, in my view, mistaken to seek to apply a guideline that is designed for a fundamentally different set of circumstances as the starting point for assessing the suitability of this development. This is particularly so given that both sites are in a relatively dense town centre/edge-of-centre location where expectations regarding separation distances are compromised.
15. Whilst the lpa acknowledges that matters such as, the arc and angle of the view, differences in levels, intervening screening and the grain of the area are also factors to be considered, it appears that the lpa's conclusion on this issue has been heavily influenced by starting with the SPD figure of 21m. Given the nature of the surrounding area, the relationship of the 2 buildings should be assessed having regard to all the above factors without being influenced by an approach which starts with 21m.
16. The degree of separation between the affected units and houses would vary. The distance between units 14 and 26 and House 1 would be just below 16m. The separation between units 12a and 25 and House 3 would be some 19.7m. Given, the tight grain of the area, that the affected windows would not directly face each other, the material difference in levels between the sites and the presence of mature trees/shrubs, which, even in winter, would provide a material degree of screening the appeal scheme would not result in

a materially unacceptable impact on the living conditions of prospective residents of either the appeal scheme or No. 12 through direct or perceived overlooking. On this issue, I conclude that the proposal would not conflict with the objectives of CS Policy BCS21 and LP Policies DM27 and DM29.

#### Climate Change

17. Consistent with the Framework, CS Policy BCS13 indicates that developments should in their design and construction provide resilience to climate change. National and local policy recognises that climate change will lead to more extreme weather conditions with hotter, drier summers and milder winters. These effects can lead to residents of modern, well insulated homes experiencing uncomfortably high internal temperatures i.e. overheating. The lpa has produced a Practice Note on Climate Change and Sustainability – December 2012 (PN) to support the implementation of CS Policy BCS13. The PN recognises that in applications for accommodation for the elderly it is important to demonstrate how comfortable conditions will be maintained for people in this high risk group. CS Policy BCS13 indicates that proposals should be accompanied by Sustainability Statements to demonstrate how the development could adapt to climate change. Whilst the supporting text to the policy indicates that the Sustainability Statement should be proportionate to the scale of the development proposed, the PN recommends an overheating risk analysis based on the 2050 Medium Emissions Scenario contained within the 2009 UK Climate Projections.
18. The lpa is concerned that the appellant has not adequately demonstrated that, given the majority of habitable rooms are single-aspect, rooms on the south, south-west and west facing elevations would not be subject to unacceptable overheating through solar gain. The appellant submitted an up-to-date Sustainability Appraisal, which includes an overheating assessment undertaken by the National House Building Council (NHBC). This assessment suggests that the combination of, room sizes, opening windows and external doors, thermal mass, the absence of individual hot water cylinders, insulation of hot water pipes, the use of continuously running extract ventilation and an individual's use of blinds/curtains would adequately regulate internal temperatures during periods of high sunshine.
19. Whilst the NHBC assessment does not contain any modelling, I acknowledge that the factors referred to above could contribute to the mitigation of solar overheating. However, in my experience, single aspect rooms within modern developments built to the latest standards and which are orientated generally between east and south are prone to overheating through solar gain. I acknowledge that the use of curtains and blinds can mitigate this effect. However, given that the majority of rooms affected would be single aspect, it would be unacceptable to expect residents who, by their nature, would be occupying these rooms for the majority of the day would have to have their blinds/curtains drawn for significant periods. Similarly, it would be unreasonable to expect residents to decamp to a communal room just to avoid discomfort within their own flat. On this basis, I consider that the appellant has failed to adequately demonstrate that the design/layout of the development could adapt to climate change. Given that mitigating features might involve design changes, it not a matter that could reasonably be dealt with by imposing a planning condition. Accordingly, on this issue, I conclude

that the development would conflict with the objectives of the Framework and CS Policy BCS13.

#### Planning Balance and Conclusions

20. This is a case where the tilted balance contained in Framework paragraph 11 is not engaged. The CA is a designated heritage asset (HA) and Framework paragraph 193 indicates that irrespective of the degree of harm that would be caused to a designated HA, the decision maker must give great weight to its conservation. In cases where development would lead to less than substantial harm to the significance of a designated HA, this harm is to be weighed against the public benefits of the scheme (Framework paragraph 196).
21. It is acknowledged that the development would result in a range of economic, social and environmental benefits. However, the majority are generic and are no more than would be expected from any development. These include the contribution, to affordable housing, landscape and ecology, the reuse of redundant land and financial benefits to the local economy. Thus, I consider these benefits attract only limited positive weight. The contribution the scheme would make to the lpa's target for new homes in the period 2006 to 2026 and the contribution towards the delivery of accommodation for the elderly attracts substantial weight.
22. The CA is a HA of high significance and, whilst the principle of the redevelopment is not an issue, the harm resulting from the design of this development to its character and appearance would be unacceptable and long lasting. In this context, I consider the great weight to be attached to the harm to the significance of the CA is not outweighed by the cumulative weight attached to the public benefits identified above.
23. Turning to the overall balance, the absence of harm relating to living conditions is neutral in this exercise. The material considerations in this element of the overall planning balance are the same as those engaged in the Framework paragraph 196 exercise. The failure to preserve the character or appearance of the CA and to adequately demonstrate that the development could adapt to the effects of climate change mean that the proposed scheme would conflict with CS Policies BCS21, BCS22 and LP Policies DM26, 27, 26, 28, 29 and 31. This conflict is not outweighed by the benefits identified above.
24. For the above reasons and having taken all other matters into consideration, I conclude that the appeal should be dismissed.

*George Baird*

Inspector

## **APPEARANCES**

### FOR THE APPELLANT

Mary Cook of Town Legal LLP, instructed by Planning Issues Limited.

She called:

Dermot McCarthy BA (Hons), Dip Arch, RIBA.  
South West Design Director, Planning Issues Limited.

Paul White BA (Hons) MPhil, MCIfA, PIEMA.  
Head of Heritage, Ecus Limited.

Simon Cater Assoc RTPI.  
Senior Associate Director, Planning Issues Limited.

### FOR THE LOCAL PLANNING AUTHORITY

Ben Du Feu of Counsel, instructed by Gillian Dawson, Solicitor, Bristol City Council.

He called:

Mark Luck BA (Hons), Dip DBE, MRTPI.  
Urban Design Team Manager, City Design Group, Bristol City Council.

David Martyn BSc (Hons), BArch.  
Senior Conservation Architect, City Design Group, Bristol City Council.

Amy Harvey BArch, MSc.  
Project Manager, Sustainable Development, Bristol City Council.

Matthew Bunt BA (Hons), MSc, MRTPI.  
Senior Planning Officer, Development Management, Bristol City Council.

### INTERESTED PERSONS

Mr Pugh.

### **DOCUMENTS SUBMITTED AT THE INQUIRY.**

- Doc 1 - Certified copy of a S106 Agreement.
- Doc 2 - Paragraphs on amenity and living conditions proof of evidence of Mr Bunt.
- Doc 3 - SPD No. 2, A Guide for Designing House Alterations and Extensions, Oct 2005.
- Doc 4 - Appellant's revised Sustainability Statement.
- Doc 5 - Lpa's comments on the revised Sustainability Statement.
- Doc 6 - Extract from the Building Regulations Criterion 3 – Limiting the Effects of Heat Gains in Summer.
- Doc 7 - Extract from Planning Practice Guidance – Climate Change.
- Doc 8 - Delegated Report & Decision - Planning Application No. 16/03557/F.
- Doc 9 - Consultation response - Planning Application No. 16/03557/F.
- Doc 10 - Bundle of Documents Tabs 1 to 8 submitted by the lpa.

### **DOCUMENTS SUBMITTED AFTER THE INQUIRY CLOSED.**

- Doc 11 - List of agreed planning conditions.
- Doc 12 - Appellant's agreement to pre-commencement conditions.