



## Bath Heritage Watchdog

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APPLICATION NUMBER: 18/02330/FUL

ADDRESS: 43 Upper Oldfield Park, Bath

PROPOSAL: Erection of 5 residential units for student or healthcare worker accommodation and associated works.

CASE OFFICER: Martin Almond

DATE: 7 August 2018

COMMENT: OBJECTION

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Bath Heritage Watchdog objects to this application.

Despite, the claim in the Design and Access Statement that the site has a historic residential use being previously occupied by a two storey dwelling, it is not true for this particular part of the garden of that dwelling, which was previously planted with conifers and is currently under an Enforcement Notice to deliver the landscape scheme associated with 14/04547/FUL which includes replacement trees on the Junction Road boundary. The historical use of the area enclosed by the red line is only as a garden. The Government definition of brownfield sites specifically excludes "*Land in built-up areas such as private residential gardens, parks, recreation grounds and allotments, which, although it may feature paths, pavilions and other buildings, has not been previously developed*", and the NPPF carries this forward by ruling out residential gardens from the definitions of Previously Developed Land or Potential Windfall Sites. This application therefore is a "garden grabbing" proposal, not one reusing a brownfield site previously developed, nor one occupying a windfall location. Meanwhile the Application form describes the current use of the site as "n/a" which can't possibly be true.

The documentation provided for this application include some things which are wrong or misleading in addition to the claim to be previously developed land covered above. There is a notable omission that the "Front Elevation Proposed Materials" doesn't show the materials, and a notable error that the red line is inaccurate, so that the applicant appears to be claiming ownership of part of the doctor's land on one side and the Norland land on the other.

The D&A claims that no development will take place within the root protection area of any of the trees adjacent to the site, yet the large tree in the neighbouring property described above had a Root Protection Area defined in 11/05409/COND which extends beneath the easternmost building of the proposed development. The D&A cannot be making a true statement.

The D&A claims that the site is currently occupied by landscaping. That is what should be there if the landscaping Enforcement had been delivered, but it isn't there yet, despite the successful Appeal for 14/04547/FUL being accompanied by a Condition that all hard and soft landscape works shall be carried out in accordance with the approved scheme (approved by 11/05409/COND) prior to occupation of any part of the development. However, the approved building has been occupied before the delivery of the landscaping, hence the Enforcement Notice.

It is noted that forbidding "*occupation of any part of the development*" in the Condition forecloses any option of other residential development on the 43 Upper Oldfield Park site until **after** the approved landscaping has been delivered.

The pre-application advice is a bit suspect because it doesn't take into account the Government policy against garden grabbing. However it does warn that the main building needs landscaping and amenity space, and the need to maintain the character and appearance of the area. Taking them in order, the development replaces approximately half of the garden that the original planning permission provided. So the 14 flats in the main house will be faced with a very truncated amenity space, and the loss of the more attractive garden features such as the pavilion and the circular walk along with trees screening their view of the Junction Road neighbours. Given the prices that were advertised for the flats, the less than 50% rump of a garden terminated by a cheap fence and the very ugly side of the new buildings is far less than the purchasers have a right to expect. If anybody bought on the expectation of a landscaped view, they could argue very strongly of a loss of amenity. They also suffer from potential overlooking because although the windows in the proposed development give the impression of looking sideways, each has a pane of glass facing directly towards the main building.

Meanwhile, the Junction Road neighbours will be faced with a row of buildings opposite with totally alien protruding windows just to accommodate dining tables inside. With three to the left and two to the right, they emphasise the lack of characteristic symmetry which the Victorian and Edwardian architects used in this area. They are an egotistical addition that will only serve to remind the neighbours that the windows on the building beyond are equally uncharacteristic. In place of the tree screen included in the landscape scheme, they represent a permanent loss of visual amenity.

The D&A describes a "drop off zone" in front of the development, yet the drawings don't show this, and the pavement and the narrow roadway couldn't accommodate one anyway. Junction Road is a "B Road" and is identified as a preferred route on SatNavs for some journeys and our members who live in the area remember the frequent chaos outside the site as plant and materials were manoeuvred in and out of the (now mostly repaired) gap in the boundary wall or failed to achieve access and blocked the road to everything except relatively narrow vehicles when they parked in the street. With the main house (apparently now called "Charters") now built and blocking any possibility of vehicular access from Upper Oldfield Park the construction of anything substantial off this part of Junction Road is going to be problematical. There is a gateway from the 43 Upper Oldfield Park site onto Junction Road but it has always been ruled as usable. All planning permissions, including the successful Appeal Decision for the site, have had Conditions that (for road safety reasons and to protect the roots of the feature tree in the Norland Site next door) the gate access should not be used.

The Application Form states that there will be no new or altered pedestrian access to the public highway, yet the occupants of the proposed accommodation will have a wall in front and can thus only get to their building through an existing gateway that should not be used for that purpose. The D&A does not mention how access would be achieved in the light of the extant Conditions regarding the use of the gateway.

The development is in a difficult area, just round a blind bend on a relatively busy road, and there are currently planning restrictions on access. Therefore it is essential that a construction methodology is detailed and made available for public comment, because it doesn't look practical to erect the proposed buildings in that location without creating potential accidents and occasional road blockages.

The D&A describes the proposed development as “5 residential units for use as student or healthcare worker accommodation”, but the Application Form proposes only Key Worker housing. The difference is significant, because Key Workers may work shifts and therefore couldn't be “dependent on public transport” as described in the D&A, but would rely on using a car to get to or from work outside of public transport operating times. There is no on-site parking provision provided and a single Car Club vehicle wouldn't be adequate for 25 bed occupants. Policy ST7 of the Placemaking Plan requires 15 off-street parking spaces for Key Workers. These are not part of the proposal.

Whether the occupants are living in Key Worker housing as claimed in the Application Form or are students occupying some rather strangely arranged cluster flats, then they won't be families but unrelated people. Therefore each of the dwelling units would be classed as a HMO each of which has four HMO immediate neighbours, two others within the Article 4 limit in Upper Oldfield Park, five in the nearby section of Junction Road and three in Junction Avenue (which is currently 33% HMOs). That local HMO density should cause the application to be automatically refused because it would further unbalance the local community, contrary to Policy H2 of the Placemaking Plan.

There is also a conflict between providing accommodation for Key Workers yet choosing not to class their occupation as private residential accommodation, when Key Workers tend to be much more permanent than students and will expect to be treated accordingly.

If the applicant decides that Key Worker accommodation is too problematical and re-presents the application limiting it to students and therefore stating that no on-site parking is necessary, the fact that the design is for cluster flats makes enforcement of a “no car” policy impossible. Only a (discretionary) Court Repossession Order can force a student to leave, and such orders require the complete unit to be vacated, not a bed space. It is highly unlikely that a judge exercising a discretionary judgement would consider the offence of one student parking a car in a legitimate parking space being sufficiently heinous that four other innocent students should also be made homeless.

The Landscape drawing shows a difference in ground levels between the boundary wall and the middle of the garden, but the section drawings show the land as level, so the foundation levels depend on whether the back is raised or the front is lowered. The elevation drawings show an irregular downhill slope yet the roofscape is regularly stepped. In combination these don't give any clues about the actual height of ridge and eaves, yet it is the appearance and perceived mass as seen from the street which will determine much of the reaction of near neighbours. A drawing showing the heights relative to the Junction Road pavement is necessary to properly assess the scale.

The site is within a Conservation Area, and the City Wide Character Appraisal SPD describes it as having “a consistency of built form” so the catch-all D&A description of “good quality materials” is not sufficient, and the latest “Materials” drawings show zinc roofs which will clash with the houses opposite. The appropriate roofing should be slate or tile. The protruding windows facing Junction Road are also alien to the Conservation Area.

## SUMMARY

Although too insignificant to affect the character of the World Heritage Site, the proposed architectural style does detract from the local character of the Conservation Area, contrary to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act. The latest update to the NPPF, issued on 24 July 2018, introduces new rules which makes it easier for councils to challenge poor quality and unattractive development such as this one which damages the local character. However there are other reasons for refusal.

The development is contrary to the Government guidelines in the NPPF that garden grabbing is not acceptable; it neither responds to the local context nor connects well to the surroundings; it destroys the expected amenity value of the landscape scheme, both for the residents of the main building who will be denied the more attractive parts of the garden design, and for the neighbours who will have the screening trees replaced by uncharacteristic buildings. The amount of outdoor amenity space for the 25 occupants of the proposed development is minimal.

The planning application tells lies about the possibility of a drop-off zone, fails to identify the materials to be used on all the elevations or how they will be got onto the site without creating traffic problems, and fails to show how the variations in ground levels will define the overall height.

The described use of Key Worker housing and the assumption that no parking provision is necessary, are incompatible (Policy ST7). The provision of 25 beds in 5 buildings makes it highly unlikely that the buildings will be anything other than HMOs. Oldfield Park already has large numbers of HMOs and would really struggle to accommodate more (Policy H2).

For all these reasons, the planning application is contrary to planning policy, and it must be refused. Then the enforcement of the full reconstruction of the boundary wall and the delivery of the approved landscape scheme must be vigorously pursued.