



## Bath Heritage Watchdog

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APPLICATION NUMBER: 19/04909/FUL

ADDRESS: Charters, 43 Upper Oldfield Park, Bath

PROPOSAL: Erection of 2 storey dwelling with detached 2 storey garage and associated parking using existing access on land to the rear of 43 Upper Oldfield Park

CASE OFFICER: Martin Almond

DATE: 30 December 2019

COMMENT: STRONG OBJECTION

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Bath Heritage Watchdog continues to object strongly to this application. The disparity between the description that remains unchanged in the Design and Access document and the amendments made in the revised drawings is also noted.

The revised drawings fail to address our “in principle” objection to any development on this site that does not comply with the full set of Conditions attached to the Appeal Decision to allow the appeal against the original refusal to permit 14/04547/FUL. For avoidance of doubt, the full list of Conditions is appended to this second objection.

The reason for our in principle objection is the clarification in the Town and Country Planning Act that the Planning Inspectorate appointed by the Secretary of State represents the Secretary of State (Schedule 6), that the Secretary of State can add Conditions to any decision (Section 74), and that the Decision by the Secretary of State is final (Section 79). Thus the Local Planning Authority cannot override the Conditions imposed by the Secretary of State whilst they remain pending, and the High Court would quash any attempt to do so. Also, the Applicant cannot successfully appeal that the Local Planning Authority should not have made a refusal decision which recognises that the Secretary of State has the final decision.

It should also be noted that the Secretary of State's decision is in accordance with the Government guidelines which exclude this application site from being treated as a windfall site, and is in accordance with the NPPF's exclusion of “garden grabbing”, a principle that residential gardens are not areas of land that can be developed.

Aside from the “In Principle” objection the ambiguities introduced by the Agent's correspondence still needs to be recognised. He continues to quote the wrongly calculated root protection area to argue that the waste storage area and bicycle store are outside it, when they are not. The Arboricultural Report continues to show the use of the Screw Foundation System, the Agent suggests that it is not now necessary but fails to explain what might be used instead and the Norland documentation is very clear that the Cellular Confinement System is designed for transitory light loads and cannot be used for parking without damaging the underlying roots, which removes it as an option for the parking spaces.

Our concerns in our original objection: about the inaccuracies and contradictions in the Arboricultural Report; about the damaging use of Tuff Trak over the root system; about the uncharacteristic design and materials used in the proposed development not complying with the SPD expectation of a consistency of built form, all still remain. However, as the planning legislation doesn't allow a Local Planning Authority to override an incompletely delivered planning decision by the Secretary of State, these are secondary considerations.

1. Occupation shall not commence until a hard and soft landscape scheme has been first submitted to and approved in writing by the local planning authority. The scheme shall include details of all walls, fences, trees, hedgerows and other planting which are to be retained; details of the walls, fences and other boundary treatment, finished ground levels; a planting specification to include numbers, density, size, species and positions of all new trees and shrubs; details of the surface treatment of the open parts of the site; and a programme of implementation.
2. All hard and/or soft landscape works shall be carried out in accordance with the approved scheme. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the local planning authority. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the local planning authority. All hard landscape works shall be permanently retained in accordance with the approved details.
3. The protective fences erected around the pine tree on the Junction Road boundary, approved under Condition 4 of planning permission Ref: 07/02461/FUL, and discharged under application Ref: 11/05409/COND, which are located within Hayesfield School site, shall not be removed until the completion of the development. The area within the protected areas is to be kept clear of any building, plant, materials, debris and trenching, with the existing ground levels maintained, and there shall be no entry to those areas except for arboriculture or landscape works as otherwise approved.
4. The area allocated for parking and turning on the submitted plan shall be kept clear of obstruction and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.
5. Before the dwellings hereby approved are first occupied, a properly consolidated and surfaced access (not loose stone or gravel) shall be constructed, details of which shall have previously been submitted to and approved in writing by the local planning authority.
6. No occupation shall commence until the cycle parking indicated on the approved plans has been provided and shall thereafter be kept clear of obstruction and shall not be used other than for the parking of cycles in connection with the development.
7. The vehicle access/exit from Junction Road shall not be used other than for servicing and emergency vehicles.
8. Before the dwellings are first occupied, new residents' welcome packs shall be issued to purchasers which should include bus and train timetable information, including examples of fares/ticket options, information on cycle routes, a copy of the Travel Smarter publication, car share, car club information etc. The packs shall have previously been submitted to and approved in writing by the local planning authority.

9. No occupation shall commence until 1:50 scale drawings of the following are submitted and approved in writing by the local planning authority. Doors and windows, to include colour details of frames and lintel and cill details and any external vents and flues. The development shall be carried out in accordance with the approved details.

10. Notwithstanding the approved plans and the provisions of the Town and Country Planning (General Permitted Development) England Order 2015 (or any order revoking and re-enacting that Order with or without modification) no further satellite dishes or microwave antennae shall be attached to the building or erected within the site without the prior written approval of the local planning authority.

11. Notwithstanding the approved plans and the provisions of the Town and Country Planning (General Permitted Development) England Order 2015 (or any order revoking and re-enacting that Order with or without modification) no lines, mains, pipes, cables or other apparatus shall be installed or laid on the site other than in accordance with drawings first submitted to and approved in writing by the local planning authority.

12. No occupation shall commence until an elevation and 1:50 scale plans of the proposed front boundary wall and stone piers have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to occupation of any part of the building.

13. Notwithstanding the approved plans and the provisions of the Town and Country Planning (General Permitted Development) England Order 2015 (or any order revoking and re-enacting that Order with or without modification) no further solar PV or solar thermal shall be installed on the building unless a further planning permission has been granted by the local planning authority.

14. The development/works shall only be implemented in accordance with the plans as set out in the following list. 492:S:001B, 492:5:000, 492:BR:02H, 492:BR:03H, 492:BR:04H, 492:BR:05H, 492:BR:06H, 492:BR:07H, 492:BR:08G, 492:BR:09H, 492:BR:12D, 492:BR:13H, 492:BR:14L, 492:BR:15L, 492:BR:16L, 492:BR:17L, 492:C:010, 492:C:011.