



Appeal Decisions

Hearing Held on 26 September 2017

Site visits made on 25 and 26 September 2017

by Neil Pope BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3rd November 2017

Appeal A Ref: APP/F0114/W/17/3170251

Wansdyke Business Centre, Oldfield Lane, Oldfield Park, Bath, BA2 2LY.

- 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 Mr P Sanders of CEPF II Bath Limited against the decision of Bath & North East Somerset Council (the LPA).
 - The application Ref. 16/02749/FUL, dated 1/6/16, was refused by notice dated 13/9/16.
 - The development proposed is a mixed use redevelopment to provide 178 student studios (sui generis), commercial units (B1, B8), fitness centre (D2), coffee shop (A3) following part demolition of existing buildings and structures.
-

Appeal B Ref: APP/F0114/W/17/3178477

Wansdyke Business Centre, Oldfield Lane, Oldfield Park, Bath, BA2 2LY.

- 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 Mr P Sanders of CEPF II Bath Limited against the decision of Bath & North East Somerset Council (the LPA).
 - The application Ref. 17/00955/FUL, dated 28/2/17, was refused by notice dated 1/6/17.
 - The development proposed is the demolition of existing buildings and structures (partial retention of façade fronting/adjoining Monksdale Road) and mixed-use redevelopment to provide 126 student studios (sui generis), commercial units (B1, B8), fitness centre (D2), coffee shop (A3), with associated access, parking and servicing space, landscaping and associated works.
-

Decisions

1. The appeals are dismissed.

Preliminary Matters

2. The LPA's determination of the application to which appeal A relates was based upon amended plans. The above noted description reflects these amendments. I have determined this appeal on the same basis as the LPA.
3. In July 2017, the Bath and North East Somerset Placemaking Plan (PP) was adopted by the LPA and now forms part of the development plan. This supersedes policies cited within the LPA's reasons for refusal from the Bath and North-East Somerset Local Plan (2007).
4. At the Hearing, I was presented with copies of completed planning agreements under the provisions of section 106 of the above noted Act. I shall return to these below.
5. The LPA has informed me that following the submission of further information regarding lighting, its concerns regarding the effects upon bats (reason for

refusal No.3 in appeal A) is capable of being overcome by the use of appropriate planning conditions.

6. The Statement of Common Ground (SoCG) that has been agreed by the LPA and appellant includes a list of drawings for each of the proposals. These lists include additional plans to those referred to within the LPA's decision notices. Both main parties agreed that the LPA determined the applications on the basis of the plans listed in the SoCG. I have determined the appeals accordingly.

Main Issue

7. The main issue in both appeals is whether the benefits of the proposals outweigh any harm to the character and appearance of the area and to the significance of heritage assets, having particular regard to the grade II* listed Church of Our Lady and St. Alphege and the Bath World Heritage Site (WHS).

Reasons

Planning Policy

8. In addition to the PP, the development plan also includes the Bath and North East Somerset Core Strategy (CS). The CS forms Part 1 of the Bath and North East Somerset Local Plan and the PP forms Part 2 of the Local Plan.
9. The most relevant development plan policies to the determination of these appeals are: CS policies DW1 (spatial strategy), B1 (7) (higher education), B4 (Bath WHS), B5 (Bath's universities) and CP6 (environmental quality) as well as; PP policies D1 (urban design principles), D2 (local character and distinctiveness), D3 (urban fabric), D5 (building design), BD1 (Bath design policy) and HE1 (historic environment). The main parties agreed that CS policy CP6 is the key policy to the determination of these appeals.
10. The Bath City-Wide Character Appraisal was adopted as a Supplementary Planning Document (SPD) in 2005. The appeal site lies within the Bear Flat and Oldfield Park Character Area. Amongst other things, this area is characterised by long lines of two storey terraced housing.
11. The Bath Buildings Height Strategy was published in 2010 as part of the evidence base to the CS. The appeal site lies within 'Zone 4 – Hillslopes'. The character of this area is defined by built form interspersed with large areas of open land, significant tree coverage and open countryside prevailing on the upper halves of hillslopes. This Strategy can be given moderate weight.
12. In 2013 the UNESCO World Heritage Committee adopted the Retrospective Statement of Outstanding Universal Value. This summarises the reasons why the WHS was inscribed and why it is outstanding. At the Hearing, the LPA informed me that it had also adopted this Statement. This is an important material consideration and can be given considerable weight. The City of Bath World Heritage Site Management Plan 2016-2022 (MP) was published in 2016. This sets out objectives and actions for the WHS and can be given moderate weight. The LPA has not identified any conflict with this Statement or the MP.
13. The City of Bath World Heritage Site Setting Supplementary Planning Document (SPD) was adopted in 2013. Amongst other things, it identifies key views within and into/out of the WHS. These include View 12(d) from Alexandra Park over Oldfield Park and View 14 from Bloomfield Road.

Benefits

14. The appellant has identified a number of public benefits that would arise from the appeal schemes. These are additional to the claimed benefits to the character and appearance of the area and the setting of heritage assets, which I shall address below.
15. These public benefits comprise: the provision of purpose-built student accommodation to help meet the demand for such accommodation within the City; the potential to ease pressure on family housing by providing new student accommodation; the provision of modern business premises; the re-use of a brownfield site in preference to greenfield development in compliance with CS policy DW1(3); providing a mixed-use development in an accessible location; economic benefits during the construction phase, including an economic multiplier effect; increased student expenditure in the local economy; provision for public art and the use of green technology as part of the overall design.
16. I concur with the LPA that measures intended to safeguard bats would amount to mitigation rather than a benefit. However, I agree with the appellant that the totality of the above noted benefits should be given considerable weight in the overall planning balance.

Character and Appearance

17. This 0.34 ha site comprises 22 offices/workshops/storage units within the Oldfield Park area of the City. This part of Oldfield Park contains various uses, such as the Church of Our Lady and St. Alphege, St. John's Primary School with its floodlight sports pitches, a church hall and the Moorlands Public House opposite the site entrance. Nevertheless, the area is predominantly residential in character. It is typified by late 19th and early 20th century two storey terraced houses. The most notable building is the Romanesque style church. A linear park runs to the rear of the site along a former railway embankment.
18. The appeal site occupies a prominent position at the junction of Monksdale Road, Beckhampton Road, Oldfield Lane and Third Avenue. With the exception of the early 20th century, red brick, former workshop that fronts Monksdale Road, the buildings on the site, which are about 8m high, are of low visual quality. The 'footprint' of these buildings occupies about two thirds of the site.

Appeal A

19. Various iterations of the design for a mixed use development including student studios were considered by the appellant before submitting this proposal to the LPA. As noted above, alterations to the design were also undertaken at application stage in an attempt to address concerns that had been raised by the local community and the LPA's officers.
20. The proposed perimeter block approach to the design with the building lines broadly defining the site boundaries would reflect the historic development of the site. This would also reinforce the existing street frontage, including the retention of much of the Monksdale Road façade. The set-back along Oldfield Lane would be beneficial in extending views along the street towards the church. The new internal courtyard, set around three distinct building elements, would largely screen the car parking and service areas from public view. The contemporary architectural style, including the use of saw-tooth and modified saw tooth roofs to reflect the site's industrial past, and the curved

- glazed entrance corner would also comprise good design. The appellant's architect has given thoughtful consideration to these aspects of the proposal.
21. The 'footprint' of the new buildings would occupy about 60% of the site. However, the height and massing of the proposed buildings would be considerably greater than the existing workshops. The buildings would be deep, creating a tightly enclosed courtyard and roof heights would vary across the site, rising to between 14-16.5m. Whilst the tallest block would be adjacent to the tree-lined embankment and would be just below the ridge height of the Old Dairy situated off Melcombe Road to the west, the scale of buildings would contrast awkwardly with the rows of terraced houses alongside.
 22. Notwithstanding attempts to break-up the mass of the roofs, the proposal would appear as a very dominant and discordant addition to the streetscenes of Oldfield Lane, Monksdale Road, Beckhampton Road and Third Avenue. The height and massing of the buildings, especially the proposed five storey element and the works along the Monksdale Road frontage, would considerably erode the distinctive qualities of the local area.
 23. In particular, the proposed five storey building would appear unduly tall amidst the rows of terraced houses. In addition, this element of the appeal scheme, by virtue of its height and mass, would be overwhelming when seen from the linear park to the rear. From this part of the public realm, the new building would loom large above and would block interesting views across the site of the City. In so doing, it would detract from an appreciation of Bath's landscape setting. Furthermore, the increase in height and mass of the roof along Monksdale Road would contrast sharply with the terraced houses opposite and would be an inharmonious addition to the street scene. These elements of the scheme would be at odds with the provisions of the National Planning Policy Framework (the Framework) that are aimed at securing high quality design.
 24. The proposal would fail to reinforce and contribute to the local context of the site and would harm the character and appearance of the area. Overall, the design would be an inappropriate response for this part of the City and would conflict with CS policy CP6 and PP policies D1, D2, D3, D5 and BD1. This weighs considerably against granting permission in the planning balance.

Appeal B

25. This proposal also includes: a perimeter block approach; the retention of much of the Monksdale Road frontage; a set-back to the Oldfield Lane frontage; an internal courtyard and; a contemporary architectural style, including a curved glazed entrance corner. The massing concept for this scheme would comprise four elements, with building heights no greater than three storeys. The block that would be adjacent to the former railway embankment would have a flat roof to maintain views from the linear park and the northern gable to Oldfield Lane would include glazing to break up the mass at this end of the building.
26. I recognise the further efforts made by the appellant to achieve a satisfactory design solution for this site. This proposal is an improvement upon the scheme advanced under appeal A. Although a very different architectural style to the buildings in Beckhampton Road and Third Avenue, the proposed curved glazed main entrance building with provision for public art would be an exciting addition to the street scenes and would appropriately close the vistas along these streets.

27. However, I share the concerns of the LPA regarding the impact of the proposed west elevation to Monksdale Road. Although the proposed upper level, beyond the parapet of the retained façade, would be set back from the main building line, when viewed from street level it would appear intrusive and unduly dominant within the street scene of Monksdale Road. The height and mass of this part of the proposed development would contrast sharply with the more intimate scale of the terrace of houses opposite. This would conflict with CS policy CP6 and PP policies D1, D2, D3, D5 and BD1 and weighs against granting planning permission.

Heritage Assets

Church of Our Lady and St. Alphege

28. Amongst other things, the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be.
29. The appeal site is approximately 50m north west of this grade II* listed building. It forms part of the surroundings in which this designated heritage asset is experienced. As the site forms part of the setting of this listed church the provisions of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 are engaged in determining these appeals.
30. The significance of this 20th century listed church with attached presbytery is derived primarily from its architectural qualities. As set out within the List Description, the principal reasons for designation include: *"It is an accomplished, composition by the nationally-renowned architect Sir Giles Gilbert Scott, reminiscent of a Roman basilica; Design: every element has a consistency of approach and every detail is carefully considered and crafted, resulting in a design of great integrity, both structurally and decoratively. Intactness: the historic fabric and layout of the church is little altered.... Grouping: the presbytery is designed from similar materials to the church and in a complementary style."*
31. This is very fine building. In general, I concur with the appellant that its low-key, simple architectural expression/form and location alongside the former railway embankment limits its dominance (in townscape terms) to the vista along Second Avenue. Nevertheless, as noted by Historic England (HE), the building has immense aesthetic charm and considerable street presence due to its height and simple lines. Moreover, as a tall building, its historic interest / presence of the church within this part of Oldfield Park is clearly evident.
32. The setting of this listed building has changed over time and now includes new school buildings alongside and a replacement church hall. As I saw during my visits, these new buildings compliment the form and appearance of this heritage asset and comprise a pleasing ensemble. Some other new elements within the setting, such as the floodlights and boundary fences to the sport pitches, do not make a positive contribution to the significance of this asset. The sports pitches assist in setting the listed building apart from the early 20th century business premises and 19th and early 20th century housing to the west.
33. The appeal site does not by itself make a positive contribution to the significance of this designated heritage asset. However, the 'low rise'

commercial buildings do not compete with the special architectural or historic qualities of the church. The car parking spaces along part of the eastern edge of the site and the neighbouring sports pitches create a sense of spaciousness on the western side of the church. This affords an appreciation of the architectural qualities of the western side of the listed building.

Appeal A

34. As already noted above, the proposed development would extend views along Oldfield Lane towards the church. This would better reveal this designated heritage asset. However, this benefit would need to be weighed with the impact of the dense building form proposed along the eastern boundary of the site and the erosion to the sense of spaciousness to this side of the church.
35. The height and mass of new buildings proposed for the appeal site, especially the four and five storey elements, would be dominant additions within the setting of the church. This would contrast awkwardly with the scale and charm of the listed building and diminish an appreciation of the heritage interest of this designated asset. These elements of the proposal would weaken the presence of the church and detract from the special architectural and historic qualities of a building which is of more than special interest.
36. In the context of the Framework, this would comprise less than substantial harm to the significance of this listed building. This would be towards the middle of the less than substantial harm category. However, this does not equate to a less than substantial planning objection and would not be outweighed by the public benefits of the proposal. The development would conflict with CS policy CP6(2) and PP policy HE1.

Appeal B

37. I have found above that in design terms this proposal is an improvement upon the scheme advanced under appeal A. I note that HE has no objection to this revised scheme and considered the composition more tempered and the contextual massing less dominant. I agree. The LPA has also acknowledged that the scale, volume and height of the proposals have been reduced.
38. Notwithstanding these improvements, I concur with the LPA's assessment that the uninterrupted continuous roof form that is proposed along the eastern elevation facing towards the listed church would be an unwelcome intrusion into the setting of this important heritage asset. The height and unrelieved form of the roof would be an inappropriate response to the special qualities and charm of the listed building. It would detract from the architectural interest of the church and comprise less than substantial harm to the significance of this asset. This would be towards the lower end of this category of harm and, on balance, would be outweighed by the public benefits of the proposal. There would be no conflict with the provisions of CS policy CP6(2) or PP policy HE1.

Bath World Heritage Site

39. The LPA has informed me that the scheme advanced under appeal A would have an adverse effect upon the outstanding universal value of the WHS and the scheme advanced under appeal B would have a neutral effect.
40. The building that is proposed under appeal A would be seen in some views across the City, including those from Alexandra Park and Bloomfield Road. The

proposal would also be seen with some other sizeable developments that have been permitted in and around Bath. However, the proposal would not be so tall or large as to disrupt, either alone or in combination with other developments, any views that are important to an appreciation / understanding of the Outstanding Universal Value of the WHS. There would be no conflict with CS policy B4, the Bath Buildings Height Strategy, the MP or the SPD.

S106 Planning Agreements

41. The restriction on car use by occupiers of the proposed studios would be necessary to ensure the free-flow of traffic along the local highway network and to avoid seriously inconveniencing existing residents. Whilst some interested parties have informed me that a similar restriction in respect of student housing elsewhere within the City has been ineffective, the LPA and the appellant are content that the agreement before me would be enforceable. These contributions accord with the tests in paragraph 204 of the Framework. I have taken them into account in determining the appeals.
42. The proposed target recruitment and training contributions would provide local employment benefits and would help satisfy the social dimension to sustainable development. I am not unsympathetic to the value of such contributions but it would be unsound to withhold permission in the absence of them. On the basis of the evidence before me, these are not necessary for these developments to proceed and are at odds with the provisions of paragraph 204 of the Framework. I am unable therefore to take them into account.
43. To safeguard the environmental quality of Bath, contributions would be necessary to secure replacement tree planting if any of the six mature trees growing along the southern boundary of the site were removed, damaged or die during the course of construction works. These contributions accord with the tests in paragraph 204 of the Framework and would not offend Regulation 123(3) of the Community Infrastructure Levy Regulations 2010 (as amended). I have therefore taken them into account in determining these appeals.

Other Matters

44. The public feedback to the pre-application consultation that was undertaken by the appellant and the representations made to the LPA at application stage reveal very considerable local opposition to the proposed student accommodation and in particular, the perceived effects upon existing residents, traffic movements and car parking. I also note the concerns of the Chief Operating Officer of Bath Spa University regarding the location and type of student accommodation that is proposed.
45. There is clearly considerable pressure within this part of the City and elsewhere in Bath for student housing. However, the appeal site lies within an area where the development plan does not preclude new student accommodation. In this regard, the LPA informed me that the proposals comply with the provisions of CS policies B1(7) and B5. This weighs in favour of granting permission.
46. I also note that after carefully considering the applications the LPA's highway officers were content that there would be no harmful increase in parking and highway safety interests would not be compromised. I am not unsympathetic to the concerns of many local residents who are experiencing the effects of an expanding student population within this part of the City. However, there is no

technical or other cogent evidence to substantiate these concerns and justify withholding permission on these grounds.

47. Some windows from the proposed development would be in close proximity to and would overlook the adjacent sports pitches. I recognise that safeguarding the welfare of children is a very important consideration for those responsible for operating or inspecting the neighbouring school. Age is also no bar to criminal activity. However, in a tight-knit urban area such as this, where there is considerable pressure for development and where established planning policies seek to minimise the loss of greenfield land, it is almost inevitable that development will involve some overlooking of neighbouring properties/facilities.
48. There is no planning policy embargo or cordon in respect of residential development around school premises. Withholding permission on the basis of fears that some neighbouring residents could be engaged in criminal activity would be likely to frustrate important planning policies for accommodating growth and securing the efficient use of previously-developed urban land. Whilst I do not set aside lightly the genuine concerns of some interested parties separate legislation exists to address any criminal activity or anti-social behaviour should it arise. As I noted during my site visits, the sports pitches are already overlooked from the public realm.
49. The proposed development would result in shadows being cast on some neighbouring buildings mainly during the early morning in the winter months. As set out within the appellant's Daylighting Report, the proposals would not block off natural light to neighbouring properties but would reduce direct sunlight for short periods of the day. Whilst my decisions do not turn on this matter, the loss of direct sunlight to some neighbouring properties would have an adverse effect upon the living conditions of some neighbouring residents. This carries some limited weight in the overall planning balance.

Planning Balance / Overall Conclusions

50. When all of the above are weighed together, the benefits of the proposals do not outweigh the totality of the harm to the character and appearance of the area that I have identified, the less than substantial harm to the significance of the grade II* listed Church of Our Lady and St. Alphege and the adverse effect upon the living conditions of some neighbouring residents. Whilst there is compliance with aspects of the development plan, including policies relating to the universities and higher education, there would be conflict with others, including key CS policy CP6. The balance tips against granting permission.
51. Although the balance in appeal B does not tip as heavily against an approval as in appeal A, both proposals would be at odds with the provisions of the development plan as a whole and would fail to satisfy the environmental dimension to sustainable development as set out within the Framework.
52. Given all of the above and having regard to all other matters raised, I conclude that neither appeal should succeed.

Neil Pope

Inspector

APPEARANCES

FOR THE APPELLANT:

Mrs H Tilton BA (Hons), MSc, Associate Director, Turley
MRTPI, PIEMA

Mr B Clark Nash Partnership

Mr T Greenwell Greenwell Design

FOR THE LOCAL PLANNING AUTHORITY:

Mr M J Muston BA (Hons), Muston Planning
MPhil, MRTPI

Mr J Davey PGTP, MRTPI, IHBC Conservation Consultant

INTERESTED PERSONS:

Ms C Kay Bath Preservation Trust
Mr G Mercer Chair of Governors, St. John's Catholic Primary
School also representing Our Lady and St.
Alphege Parish Pastoral Council

Mr J Branston Local resident
Mr P Quinlan Local resident
Mr J Hicks Local resident
Mr D Wilkey Local resident
Mrs J Harper Local resident
Ms G Lowe Local resident
Ms R Griesling Local resident

DOCUMENTS SUBMITTED AT THE HEARING:

Document 1 Letter dated August 2017 from Ecosulis
Document 2 Copy of email from Turley to the LPA dated September 2017
Document 3 Planning agreement in respect of appeal A
Document 4 Planning agreement in respect of Appeal B
Document 5 Details on financial calculation for any replacement trees
Document 6 Extracts from the 2013 SPD