

Appeal Decision

Inquiry held on 25, 26 and 27 April 2017

Site visit made on 10 April 2017

by Jameson Bridgwater PGDipTP MRTPI

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

Decision date: 30 May 2017

Appeal Ref: APP/P0119/W/16/3155791

The Council Offices, Castle Street, Thornbury, South Gloucestershire BS35 1HF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Andrew Burgess (Churchill Retirement Living) against the decision of South Gloucestershire Council.
 - The application, Ref PT16/0982/F, is dated 1 March 2016.
 - The development proposed is described as 'Demolition and redevelopment to form 5 cottages and 57 sheltered apartments for the elderly including communal facilities, landscaping, parking, access and associated works'.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition and redevelopment to form 5 cottages and 57 sheltered apartments for the elderly including communal facilities, landscaping, parking, access and associated works at The Council Offices, Castle Street, Thornbury, South Gloucestershire BS35 1HF in accordance with the terms of the application, Ref PT16/0982/F, dated 1 March 2016, subject to the 16 conditions set out in the attached schedule.

Preliminary matters

2. A planning obligation for the provision of affordable housing was submitted under section 106 of the Town and Country Planning Act 1990. Following its submission the Council confirmed that it did not wish to defend its second deemed reason for refusal. Notwithstanding this it is necessary for me to consider the contents of the planning obligation against the tests in Regulation 122 of the CIL Regulations 2010 which I deal with below.
3. The Inquiry sat for 3 days. I held an accompanied site visit on 27 April 2017. I also conducted an unaccompanied visit on the 24 April 2017.

Application for costs

4. An application for costs was made by Mr Andrew Burgess (Churchill Retirement Living) against South Gloucestershire Council. This application is the subject of a separate decision.
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Main issues

5. A Statement of Common Ground (SOCG) was submitted which sets out the policy context along with matters of agreement and those in dispute.
6. Therefore, the main issues in the appeal are:
 - whether the proposal would preserve or enhance the character or appearance of the Thornbury Conservation Area (CA), and the significance of the settings of the Grade II Listed Buildings (The Chantry, No 40 Castle Street) and the non-designated No 42 Castle Street; and
 - the effect of the proposal on the character and appearance of the area, with particular regard to design.

Reasons

7. Thornbury Conservation Area contains a wide range of historic buildings. There is a mixture of periods and styles that contribute to interesting street frontages. The High Street and Castle Street provide a contrast to the sense of enclosure afforded by the largely unbroken facades on either side of the street. The CA contains varied design features including bay windows, recessed doorways, porches, changes in roof height, pitch and irregular building lines. Other features of particular importance include the traditional house style of two, two-and-a-half and three-storey properties with steeply pitched roofs.
8. The majority of buildings are faced either in stucco or roughcast with many painted in pastel shades of cream, brown, pink, green and white. Added distinction is given to the High Street and The Plain by the design of individual shop fronts which contribute to the character of the area. St Mary's Church is north of Castle Street, with its tower providing the focus for many views in and around Thornbury.
9. It therefore rests with me as the decision maker to apply the intended protection for heritage assets as specified in section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) and also to the desirability of preserving or enhancing the character or appearance of the CA in accordance with section 72 (1) of the Act.

Heritage

10. It is common ground between the parties that the existing buildings on the appeal site (former council offices) make a negative contribution to the character and appearance of the CA. Notwithstanding this, the Council have argued that the proposed Castle Street elements would by way of its plot width, fenestration and relationship to Castle Street result in material harm to the character or appearance of Thornbury Conservation Area (CA), and to the significance of the settings of the Grade II Listed Buildings, The Chantry, No 40 Castle Street and the non-designated No 42 Castle Street.
11. The Council have argued that the proposed elevation facing onto Castle Street would appear to have a uniform and uncharacteristic plot width when compared to the pattern of development on the east side of Castle Street. However, based on the evidence before me and my on-site observations the west side of the street is materially different in character to the east side of the

street. In particular the plot widths are generally wider, largely due to the topography and the ground being more level than that on the east side of the street. Furthermore, although a single block, the proposal introduces relief by staggering the terrace, which in conjunction with stepping of the ridge of the roof and the use of pastel render would visually break up the mass of the elevation. This would ensure that the Castle Street elevation appears to the observer as four two-storey buildings within a terrace with a stone single storey element at the northern end of the block. The proposal would therefore be a material improvement when compared to the existing Castle Street elevation of the former council offices and therefore would not appear out of character with the urban grain of the immediate surroundings or the CA as a whole.

12. It was further advanced by the Council that the windows of the proposal are tightly packed together, with a horizontal emphasis and a solid to void ratio that is much narrower than anywhere else on Castle Street. I accept that the proposed arrangement of the windows would be more tightly packed. However, the design/arrangement of the windows/fenestration would not appear out of character or incongruous, due to the proportions of the windows being of a vertical emphasis and consistent with the windows of other properties in Castle Street, particularly those to the north of the appeal site. Moreover, the staggering and stepping of the proposed Castle Street elevation to relate to the topography of the site/street would further ensure that the window/fenestration would not be visually interpreted as having a strong horizontal emphasis. Consequently, the overall arrangement of the windows and fenestration would not appear incongruous when compared to other window arrangements elsewhere within the CA and as such the proposed arrangement would not materially harm the character of the immediate surroundings or the CA as a whole, nor would they result in harm to the significance of the settings of the Grade II Listed Buildings or the non-designated No 42 Castle Street.
13. In terms of the appeal scheme's relationship to Castle Street, the siting and height of the proposal would be similar to that of the existing council offices. This is predominantly due to the appeal site occupying an elevated position in relation to Castle Street due to the prevailing topography. Notwithstanding this, the proposal would differ from the existing building, in that although slightly closer to the street than the existing council offices, it would be set behind small front gardens and a stepped stone retaining wall topped by railings. This would be different on the east side of Castle Street that is located at the back of the footpath. However, the scheme would be broadly consistent with the character of the west side of the street, where properties are generally set back from the footpath/road with small front gardens. Therefore the siting and height of the Castle Street elevation would ensure that a sense of enclosure would be retained without appearing overly large, alien or incongruous in the context of the historic street scene.
14. Moreover, given that views of the Tower of the Church of St Mary the Virgin from the CA have always been seen in the context of built form, the proposal would have a neutral effect on the significance of the setting of the Grade I Listed Building.

15. The use of stone boundary walls is a common feature in the CA, in particular on the west side of Castle Street and to the north of the appeal site. Furthermore, the proposed use of stone walls and railings on the Castle Street frontage to retain and define the appeal site boundary would be consistent with the use of stone in the existing boundary walls of the former council offices, in particular at the north of the site and along Kington Lane. Moreover, their use would provide a uniform visual link between the simpler and quieter quality of the north of Castle Street where residential front gardens are enclosed by boundary walls and railings and the bustle of the High Street. In reaching this conclusion I have taken account of the enhancement strategy of the Thornbury CA Advice Note 12, which seeks to encourage repairs and improvements to stone boundary walls which contribute to a strong sense of enclosure along with encouraging the reinstatement of traditional metal railings to boundaries.
16. Having come to the conclusions above, it follows that the proposal would preserve the character or appearance of the Thornbury Conservation Area, and the significance of the setting of the Grade II Listed Buildings; The Chantry and No 40 Castle Street and the non-designated No 42 Castle Street. Consequently, there would be no conflict with Policies CS1 and CS9 of the South Gloucestershire Core Strategy and Policies L12 and L13 of the South Gloucestershire Local Plan, which seek amongst other things to ensure that new development respects and complements the characteristics of the site and its surroundings; and the historic scale and context of the setting.

Design

17. In addition to the issues raised in relation to the Castle Street element of the proposal the Council raised concerns regarding the external appearance of the proposed northern, southern and western elevations, along with the internal arrangement of the proposal.
18. I have therefore carefully considered the issues regarding the proposed mix of materials; and the design of the roof structure. However, based on the evidence before me and my on-site observations it is clear that the primary material for these elevations would be brick, with areas of render and painted brickwork used to highlight architectural features, such as the main entrance door. As such, whilst their use may contribute to the break up or visual reduction in the mass of the building, it would not appear incongruous in this site specific context. Moreover, the proposed roof structure would not appear overly dominant, due to its height in relation to the overall size of the building, variations in ridge height and over sailing eaves. Consequently, the proposed mix of materials and roof structure would not result in material harm to the character and appearance of the area.
19. With regard to the functionality of the building, in particular the location/ arrangement of the owners lounge. The Council advanced that the owners lounge could be improved by opening out on to a garden area, stating that this could be achieved by an internal re-configuration of the floor plan. However, the proposed residential units within the development are self-contained, each with their own private lounge area. Therefore, the proposed owners lounge would perform an ancillary/secondary function as an informal meeting space rather than a key element that would have a material effect on the day to day living conditions of future occupiers. Therefore, the outlook, size and

arrangement of the proposed owners lounge would provide an informal domestically scaled meeting space commensurate with its function.

Consequently, I am not persuaded that the location and arrangement of the owners lounge would result in material harm to the overall design of the building.

20. The Council further argued that the arrangement of the internal corridors did not optimise access to the amenity/garden areas. However, whilst I accept that not all apartments have direct access to the gardens, it is clear from the submitted floor plans that residents would be able to gain unrestricted access to the garden areas by utilising the internal corridors. Therefore, it has not been adequately demonstrated that the design and arrangement of the corridors would result in harm.
21. It was further argued by the Council that the proposed accommodation would not meet the floor space requirements of the Housing Technical Standards. However, it was conceded by the Council at the Inquiry that the examination of the South Gloucestershire Policies Sites and Places Plan had not been completed and therefore emerging Policy PSP37 which addresses Housing Technical Standards was not yet part of the adopted development plan. It was further clarified that emerging policy has inbuilt transitional arrangements in paragraph 8.3 that state *"To allow the sector to adapt, the provisions of policy will become applicable on all new planning permissions as of 6 months of adoption of the policy"*. Consequently, at the time of the Inquiry the Housing Technical Standards did not apply.
22. Furthermore, the Council accepted at the Inquiry that their calculations in relation to the floor areas of units 12a, 33, 36, 37 and 40 of the proposed development were erroneous. In relation to size of bedrooms, the Council's calculations are based upon an assumption that bedrooms would be occupied by two people, whereas based on the evidence in relation to occupancy the overwhelming likelihood is that they will be occupied by one person.¹ Consequently, based on the evidence before me and what I heard at the Inquiry there was no substantive evidence produced by the Council that would demonstrate that the accommodation within the proposal would not comply with the overall space standards.
23. I have carefully considered the Council's concern with regard to the provision of natural light within the proposed development. However, there is no substantive evidence before me that would contradict the conclusions of the appellant's Daylight and Sunlight Study (Within Development) dated 21 April 2017. This clearly demonstrates that the proposed design satisfies all of the requirements set out in the BRE guide 'Site Layout Planning for Daylight and Sunlight'.
24. There was local concern raised in relation to the potential loss of trees and the screening function that they provide. However, based on all of the evidence before me and the observations during my site visits, I am satisfied that the proposed landscaping scheme would provide the necessary level of screening and ensure the retention of the specific trees that have been identified as

¹ McCarthy Rebuttal Proof para 3.48

making a positive contribution to the character and appearance of the area. Moreover, this is consistent with the comments of the Council who raised no objection in relation to landscaping or tree retention.

25. Having reached the above conclusions the design of the proposed development would not result in harm to the character and appearance of the area. Therefore, the proposal would not conflict with Policy CS1 of the South Gloucestershire Core Strategy. This seeks amongst other things to ensure that new development is of the highest possible design quality. Moreover, there is no conflict with the design principles set out in both Building for Life and the HAPPI report.

Planning obligations

26. At the time the appeal was made the appellant had not provided a planning obligation in relation to affordable housing. However, the appellant has as part of the appeal process submitted a planning obligation pursuant to Section 106 of the Act, which addresses this issue.
27. The planning obligation contained within the agreement does not appear to be in dispute and the Council have provided a statement of CIL regulation compliance. However, I have considered them against the tests in Regulation 122 of the CIL Regulations 2010 and the Framework nonetheless.
28. The obligation deals with a commuted sum (£219,354) in lieu of the on-site provision of affordable housing. There is no dispute between the parties that there is an identified need for affordable housing in South Gloucestershire. Furthermore, the commuted sum has been subject to an independently reviewed viability appraisal by the DVS. The provision of off-site affordable housing sought in the appeal scheme approximately amounts to 4 one bedroom units of the 62 proposed on the site, which was confirmed at the Inquiry as consistent with the viability adjusted requirements of Policy CS18 of the SGCS. I therefore conclude that the provision of a commuted sum for the provision of off-site affordable housing is reasonably related in scale and kind to the needs generated by the proposed development.
29. I therefore consider that the obligation meets the necessary tests in law and I have taken account of it in reaching my decision.

Other considerations

30. I have been referred to two other appeal decisions² and these have been cited as setting a precedent either for or against the appeal proposal. However, I have limited information about their respective designs or the character and appearance of the area in which they were located. As such I consider that their contexts would almost certainly differ to that of the scheme before me. Consequently, they do not lead me to a different conclusion in this case.
31. There was local concern raised in relation to the potential effect of the proposed development on car parking in Thornbury. However, based on all of the evidence before me and the observations during my site visits, I am

² APP/D3830/A/13/2204125 and APP/J3720/A/13/2209488

satisfied that the parking provision would be adequate for the proposed development and would not result in severe harm to highway safety.

Moreover, this is consistent with the comments of the Highways Authority who raised no objection in relation to parking provision or its effect on highway safety. Notwithstanding this, it is necessary to impose a condition restricting the minimum age of occupiers of the development to ensure that the level of parking generated is commensurate with the parking provision for the site (condition 16).

32. Local residents also raised concern in relation to the effect of the proposed development on living conditions, in particular with regard to overlooking and outlook. However, it is clear based on all of the evidence before me and my observations during my site visits that the proposed separation distance of approximately 20m between the development and the nearest dwellings in Stokefield Close would ensure that there would not be a material reduction in living conditions by way of loss of outlook or overlooking. Furthermore, the height and separation distance in relation to dwellings on the east side of Castle Street, would be broadly consistent to that of the existing building and therefore would not materially reduce outlook for occupiers of dwellings in Castle Street. Consequently, the proposed development would not result in material harm to the living conditions of occupiers of dwellings in Castle Street. This conclusion is consistent with the findings of the Council's officers in their report to the planning committee.

Conditions

33. The conditions suggested by the Council have been considered in light of the advice contained within the National Planning Practice Guidance and the National Planning Policy Framework. In addition to the standard implementation condition, it is necessary for certainty, to define the plans with which the scheme should accord. To ensure the satisfactory appearance of the scheme and to protect the character and appearance of the area, it is necessary for the materials (including sample stone and render panels) and fenestration used to be submitted to the Council for approval (conditions 6, 7, 8 and 9).
34. To minimise the risk of flooding, it is necessary for details of drainage to include SUDS to be agreed with the Local Planning Authority. To minimise the risk to biodiversity it is necessary to apply a condition in relation to the provision of a Bat Method Statement to include a mitigation strategy for demolition. It is necessary in the interests of amenity to ensure that there is adequate protection for the trees on the site during demolition and construction and that the development is carried out in accordance with the submitted Arboricultural Assessment and Method Statement. It is necessary in the interests of amenity to impose conditions that ensure that schemes for landscaping and external lighting be submitted to the Council for approval.
35. It is necessary to control the hours of construction in the interests of the living conditions of local residents. It is necessary in the interests of amenity and to comply with the policies of the development plan to secure a public art installation on site. To minimise the risk to potential archaeological remnants it is necessary to apply a condition in relation to the provision of a scheme of archaeological investigation.

36. However, it is not necessary to impose a condition in relation to the provision of formal play space given the overall size of the private garden area and the age profile of the future occupiers of the development.

Conclusion

37. For the above reasons, and having carefully considered all other matters raised, I conclude that the appeal should be allowed and planning permission granted.

Jameson Bridgwater

INSPECTOR

Schedule – Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. Prior to the commencement (excluding demolition) of development drainage detail proposals incorporating Sustainable Drainage Systems SUDS and confirmation of hydrological conditions (e.g. soil permeability, watercourses, mining culverts) within the development shall be submitted for approval in writing to the Local Planning Authority. Development shall be carried out in accordance with the approved details.
3. Prior to the commencement of development including demolition, a Bat Method Statement with a scheme of installation of bat boxes shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. For the avoidance of doubt the method statement required by this condition shall include: a mitigation strategy for demolition including toolbox talk, timing of demolition and means of demolition. For the further avoidance of doubt, the bat boxes required by this condition shall be installed prior to the demolition of the existing buildings on site and be in accordance with the recommendations in section 4 of the Phase 2 Bat Assessment (ECOSA, June 2016).
4. Prior to the commencement of development including demolition, details of tree protection measures and final construction method (as set out as a heads of term in section 2.15 of the submitted tree report) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and tree protection measures installed in full prior to any site clearance works commencing. The details of tree protection and construction method required by this condition shall include a schedule of arboricultural supervision throughout the built-out programme of the development hereby approved.

5. Prior to the commencement of development, a scheme of archaeological investigation constituting a watching brief shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved brief. For the avoidance of doubt, the archaeological watching brief required by this condition shall include: details of the archaeological contractor (who shall be appointed no less than three weeks prior to the commencement of any ground disturbance on site). The developer shall afford him or her or another archaeologist nominated by the Local Planning Authority access to the site at all reasonable times in order to observe the excavations and record archaeological remains uncovered during the work.
6. Prior to the commencement the relevant part of development, details (to include samples) of the roofing and external facing materials proposed to be used shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
7. Prior to their construction or installation, the design and details, including materials and finishes, of the following items shall be submitted to and approved in writing by the Local Planning Authority:
 - a) eaves, verges and ridges;
 - b) all windows and external doors (including glazing bars, cill, reveals and lintels);
 - c) location and manufacturers details of all extract vents, flues, gas and electric meter boxes;
 - d) location and manufacturers details of rainwater goods and soil pipes including colour and method of fixing;
 - e) chimneys;
 - f) porches, bay windows and canopies; and,
 - g) railings and gates to Castle Street boundary wall.

The design details shall be accompanied by elevations and section drawings to a minimum scale of 1:5 together with cross section profiles. Cross sections through mouldings and glazing bars shall be submitted at full size. The development shall be carried out strictly in accordance with the approved details.

8. Sample panels of stonework for the development and associated boundary walls of at least one square metre, showing the stone, coursing, joints, quoins, coping (where applicable) and pointing mortar shall be erected on site and approved in writing by the Local Planning Authority before the relevant parts of the development are commenced. The development shall be carried out in accordance with the agreed samples which shall be retained on site for reference during the built-out of the development hereby approved.
9. A sample panel of render of at least one square metre, showing the colour, texture and finish, shall be erected on site and approved in writing by the

Local Planning Authority before the relevant parts of the development are commenced. The development shall be carried out in accordance with the agreed samples which shall be retained on site for reference during the built-out of the development hereby approved.

10. Prior to the commencement of the relevant part of the development, a scheme of landscaping, which shall include: proposed planting (and times of planting); boundary treatments; and, areas of hard surfacing, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the planting undertaken before the end of the first planting season following the substantial completion of the development. If any of the planting required by this condition becomes diseased, damaged, or dies within a period of 5 years from the date the landscaping scheme is implemented in full, such plants shall be replaced.
11. Prior to the commencement of the relevant part of the development, a scheme of external lighting shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme of lighting and no external lights not shown on the agreed scheme shall be installed. For the avoidance of doubt, the scheme of external lighting shall be designed as to include dark corridors for bats, to limit artificial light spill onto any of the bat boxes required by condition 3 of this permission, to direct light downwards only, and utilise UV LED lights.
12. Prior to the first occupation of the development, a scheme of public art for the site shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and the agreed art be installed within 1 year of the first occupation of the development hereby approved and thereafter retained and maintained.
13. The development hereby approved shall be carried out in accordance with the Arboricultural Assessment and Method Statement (as supplemented by condition 4 of this permission) prepared by Barrell Tree Consultancy reference 14378-AA5-AS dated 18 May 2016.
14. The hours of working on site during the period of construction shall be restricted to 0730 to 1800 Monday to Friday, 0800 to 1300 Saturday and no working shall take place on Sundays or Public Holidays. The term 'working' shall, for the purpose of clarification of this condition include: the use of any plant or machinery (mechanical or other), the carrying out of any maintenance/cleaning work on any plant or machinery deliveries to the site and the movement of vehicles within the curtilage of site.
15. The development hereby approved shall be carried out in accordance with the following plans:

Site Location Plan 10082TB-PLOC – Rev A; Site Layout 10082TB-PA01 Rev B; Ground and First Plans 10082TB-PA02 Rev C; Second and Roof Plans

10082TB-PA03 Rev C; Castle Street Elevations 10082TB-PA04 Rev C; Elevations 10082TB-PA05 Rev C; Elevations 10082TB-PA06 Rev C: Elevations 10082TB-PA07 Rev C; Site Overlay Plan 10082TB-PA10 Rev A; 3D Views 1 10082TB-PA11 Rev B; and, 3D Views 2 10082TB-PA12 Rev B.

16. Occupation of each apartment hereby permitted shall be restricted to:
- Persons aged 60 or over; or
 - A spouse/or partner of such persons (who is themselves over 55 years old) living as part of a single household; or
 - Persons who were living in one of the apartments as part of a single household with a person or persons aged 60 or over who has since died; or
 - Any other individual expressly agreed in writing by the Local Planning Authority.

DOCUMENTS SUBMITTED AT THE INQUIRY

1. Transcript of Graham Corpe's representation (local resident)
2. Extract from the national Planning Policy Guidance (local finance consideration)
3. Appeal decision APP/J3720/A/13/2209488 – Alcester Warwickshire
4. Transcript of the opening statement of Mr Neil Cameron QC
5. Transcript of the opening statement of Mr George MacKenzie of Counsel
6. Transcript of the closing statement of Mr Neil Cameron QC
7. Transcript of the closing statement of Mr George MacKenzie of Counsel
8. Transcript of the costs application of Mr Neil Cameron QC
9. Transcript of the costs rebuttal of Mr George MacKenzie of Counsel

APPEARANCES

FOR THE APPELLANT:

Mr Neil Cameron QC

Instructed by Mr Andrew Burgess

He Called

Andrew Burgess

Churchill Retirement Living (Planning)

Dermot McCarthy

Planning Issues Ltd (Design)

Paul White

Ecus Ltd (Heritage)

FOR THE LOCAL PLANNING AUTHORITY:

Mr George MacKenzie of Counsel

Instructed by South Gloucestershire Council

He Called

Griffith Bunce

South Gloucestershire Council (Planning)

Ian Gethin

South Gloucestershire Council (Heritage)

INTERESTED PERSONS:

Graham Corpe

Local resident

Cllr Maggie Tyrrell

Thornbury Town Council

Robert Galpin

Local resident