The Planning Inspectorate

# Appeal Decision

Site visit made on 6 June 2017

**by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC**

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

**Decision date: 06 July 2017**

**Appeal Ref: APP/P0119/W/17/3168713**
**Rawlings & Sons Bristol Ltd, Cecil Road, Kingswood, Bristol BS15 8NA**

- 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 Sovereign Housing Association against the decision of South Gloucestershire Council.
- The application Ref PK16/2566/F, dated 9 May 2016, was refused by notice dated 22 November 2016.
- The development proposed is demolition of the existing building and erection of 29 flats with associated car parking and landscaping.

## Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing building and erection of 29 flats with associated car parking and landscaping at Rawlings & Sons Bristol Ltd, Cecil Road, Kingswood, Bristol BS15 8NA in accordance with the terms of the application, Ref PK16/2566/F, dated 9 May 2016, subject to the conditions in the attached schedule.

## Preliminary Matters

2. Both parties have referred to emerging policies within the South Gloucestershire Local Plan Policies, Sites and Places Plan (PSPP) and I have been provided with copies of the policies. It is incumbent on me to take into account the most relevant and up to date information in reaching a decision and I have therefore dealt with the appeal on this basis. I will address the weight to be given to the policies in the reasoning below.
3. The main parties have submitted a signed and completed S106 Agreement and I will return to this matter below. The Council have provided additional evidence in relation to the requirements of the S106 Agreement at my request and the appellant has been made aware of this and as such is not prejudiced by this.

## Application for costs

4. An application for costs was made by Sovereign Housing Association against South Gloucestershire Council. This application is the subject of a separate decision.

## Main Issues

5. The main issues are:-
   - The effect of the parking arrangements on highway safety and the living conditions of nearby occupiers;
   - The effect on the living conditions of future occupiers with regard to amenity space.

## Reasons

6. The appeal site is situated on the corner of Cecil Road and Halls Road and it is within close proximity of Kingswood Town Centre. The building of Rawlings & Sons Bristol Ltd currently occupies the site although it was vacant at the time of my site visit. The building was used for a storage and distribution use (B8) and it is sited at the back of the pavement on Cecil Road but it is set back from the Halls Road frontage. There is a hard landscaped loading area within the appeal site adjacent to the junction of Cecil Road and Halls Road.

*Parking arrangements*

7. The proposal comprises the demolition of the existing building and its replacement with a 4-storey building fronting onto Cecil Road and a 2-storey wing adjacent to 5 Cecil Road. There would be 29 flats consisting of 19 2-bed and 10 1-bed units and they would all be shared ownership affordable dwellings. In relation to parking provision the proposal would have 30 parking spaces and cycle parking for 38 bicycles, including 6 visitor cycle spaces.

8. The PSPP is at an advanced stage of preparation as its Examination in Public hearing sessions took place in February 2017 and public consultations on the Inspector's Main Modifications will end on the 24 July 2017. PSPP Policy PSP16 in relation to parking standards reflects the guidance within the Council's 'Residential Parking Standards' Supplementary Planning Document (SPD). The Council have stated that the Inspector has recommended that the cycle and residential parking standards should remain as set out within PSPP Policy PSP16. This is not disputed by the appellant. Consequently, and having regard to paragraph 216 of the National Planning Policy Framework (the Framework) I consider that considerable weight can be given to this policy.

9. To meet the requirements of PSPP Policy PSP16 and the SPD 1 car parking space per 1-bed unit and 1.5 spaces per 2-bed unit and 0.2 spaces per unit for visitors would need to be provided. This equates to 44 parking spaces. I note that various documents refer to 41 parking spaces being required but I have based the requirement on that stated above. Consequently, there would be a shortfall of 14 spaces against the minimum requirement.

10. However, footnote 15 to the SPD states that "*Where 2 bed flats are proposed the Council will encourage the provision of 1 parking space per flat, with the remainder of the requirement provided as unallocated visitor spaces in close proximity of the units they serve*". It also goes onto state that "*There may be extenuating circumstances where it may be appropriate to allow a variation from the standards. Any such circumstance will need to be justified by a transport statement or assessment. A travel plan is also likely to be required to support lower parking standards on major development schemes"*.

11. The Council considers that the proposal would result in unacceptable overspill parking on adjoining roads which has the potential to result in congestion to the detriment of highway safety and amenity. However, I note that the Council's Senior Engineer in Transportation (Transport) does not object to the proposal and states that adequate parking is proposed.

12. A Transport Statement (TS) and Travel Plan (TP) were submitted with the planning application. The TS and Transport have utilised Office of National Statistics (ONS) 2011 census data in relation to car ownership to estimate the likely parking demand for the development. They state that this would be likely to lead to a parking demand of 29 or 28 spaces respectively. I note that the Council considers that the nature of the tenure of the flats may not

correlate to a reduction in car ownership. However, the likely parking demand figures appear to be derived from ONS data that covers all tenures of property.

13. The site is within a highly accessible location close to Kingswood Town Centre and as such it is within easy walking and cycling distance of a large number of services and facilities that would be likely to meet the day-to-day needs of the future occupiers. The proposal would provide 32 cycle storage spaces and there is a cycle lane on Cecil Road at the front of the site. There are also various public transport options and public car parks within close proximity of the site. The TP also includes measures to promote bicycle ownership, the benefits of walking and to promote the use of public transport to the future occupiers.

14. Based on the evidence before me, it seems highly likely that the parking demand from the future occupiers would be met within the site. Moreover, taking into account that the flats would be affordable homes, the residents could have lower incomes and they would be less likely to own cars particularly in this highly accessible location.

15. However, there is a need to consider whether any potential overspill parking generated by visitors to the site could be accommodated in the surrounding area. Parking within the public car parks is time restricted to 2 hours within the closest ones to the site but there are others within Kingswood where the restriction is 12 hours. I noted at my site visit that a supermarket is being constructed on the opposite side of Halls Road to the appeal site. As such the car park could be utilised by visitors even though it is also likely to be time restricted.

16. As there are a number of public and private car parks within easy walking distance of the site any visitors arriving by car would have various options to park rather than on the street. It is also reasonable to consider that due to the highly accessible location that not all visitors will arrive by private car. I also noted at my site visit that parking on Cecil Road and Halls Road is restricted to specific marked parking bays through the use of double yellow lines. Parking within those bays is further restricted at certain times to permit holders or for one hour and others were restricted for use by disabled drivers. This ensures that there is sufficient space on the roads for the free flow of traffic and the provision of gaps for passing vehicles. These measures would remain in place.

17. At the time of my site visit (middle of the day) the majority of parking bays on both Cecil Road and Halls Road were being used. I also noted that there was a moderately high demand for on-street parking spaces in nearby streets, to the south and south-east of the site. Nevertheless, I did not observe any evidence of unsafe parking or significant issues relating to the safe and efficient operation of the highway network. I acknowledge that levels of parking in the evening when some residents return from work is likely to be higher and that Appendix C of the SPD indicates that there are acute parking localities, including Halls Road, within the immediate vicinity of the site.

18. However, parking on Cecil Road and Halls Road is restricted in any event and there is no evidence before me that existing on-street parking is causing harm to highway safety or the living conditions of nearby occupiers. Furthermore, there is little evidence provided by the Council as to how any potential overspill parking could have a harmful effect on highway safety or the living conditions of the neighbouring occupiers. I have also borne in mind that the employees of Rawlings & Sons would have generated a demand for parking which would

have had to be accommodated within the surrounding area due to the lack of on-site parking.

19. The Framework has a core principle of making the fullest possible use of public transport, walking and cycling, and advises that parking standards should take account of (amongst other things) the accessibility of development, local car ownership levels and the availability of public transport (paragraph 39). A revision to this paragraph in the Written Ministerial Statement of March 2015 (WMS) highlights that any local parking standard should only be imposed where there is clear and compelling justification that it is necessary to manage their local highway network. In this instance no such justification is before me.

20. In conclusion, while the proposal would not fully comply with the parking standards in the SPD and PSPP Policy PSP16, the TS provides justification of the extenuating circumstances associated with the proposal and it is supported by the TP. As a result, I am satisfied that the development would not harm highway safety and would not materially affect the living conditions of nearby occupiers.

21. Accordingly, there would be no conflict with Policy T12 of the South Gloucestershire Local Plan (LP), Policy CS8 of the South Gloucestershire Local Plan: Core Strategy(CS), PSPP Policy PSP16 and the SPD. These policies seek, amongst other things, to avoid an unacceptable effect on road, pedestrian and cyclist safety, development that would generate traffic which would unacceptably affect residential amenity and car parking that is well integrated and situated so it does not compromise walking, cycling, public transport infrastructure and highway safety.

*Amenity space*

22. The development would not provide any private or communal external amenity space for the future occupiers of the flats. Emerging PSPP Policy PSP43 states that all new residential units will be expected to have access to private amenity space that meets the specified minimum standards. As stated above, the PSPP is at an advanced stage of preparation and the Council have stated that the Inspector has not made any recommendations regarding the content of this policy. This fact is not disputed by the appellant. Consequently, and having regard to paragraph 216 of the Framework I consider that considerable weight can be given to this policy.

23. Paragraph 8.67 of the supporting text to PSPP Policy PSP43 states that *"The Council recognises also that higher density development may be appropriate in certain locations and circumstances, such as where other planning policies are promoting regeneration around and along key transport corridors and nodes. In such circumstances it is expected that the standards will be relaxed, but that developers will be expected to demonstrate good design standards in terms of access to fresh air and daylight …"*

24. The development is close to Kingswood Town Centre and I note that the Council's Officer Report states that the location is one where it is appropriate to increase the density of dwellings to make the most efficient use of the site. Based on my observations at the site visit I have no reason to dispute this.

25. A proportion of the flats would be 2-bed and this potentially could mean that they could be occupied by families with children. I note that evidence provided by the appellant suggests that other properties managed by them have very few families occupying them. However, there is no detailed evidence before me to support this. Nevertheless, I noted at my site visit that Kingswood Park

offers a variety of facilities including children's play areas and it is within a reasonable walking distance of the site.

26. The appellant has provided evidence that 2 routes could be used to access the park. Whilst, Route A would involve walking along Cecil Road and the A420 and one of these busy roads would need to be crossed at some point I noted the presence of a pedestrian crossing which could be utilised. Moreover, the pavements are wide along these roads and they appear to be well lit. Route B would, in the main, utilise quieter residential roads. Consequently, I consider that future occupiers would have safe and convenient routes and access to Kingswood Park.

27. Furthermore, there are 2 allotment sites within easy walking or cycling distance of the appeal site. I acknowledge that these sites are not open to the public. However, the residents of the flats would be able to apply for one of the allotments if they wished to grow their own fruit, vegetables or flowers. Even though the future residents would not have on-site amenity space I consider that the accessibility to public open space would provide sufficient mitigation.

28. Even though the flats would be shared ownership affordable homes there is no information before me to indicate that the occupiers would be within the properties for longer periods of the day than residents of any other housing.

29. I understand the concern raised about the lack of a financial contribution in relation to off-site public open space. However, this did not form part of the Council's reasons for refusal or it's Statement of Case. I also note that the District Valuer has stated that as the proposal is for 100% affordable homes the scheme would not be viable without grant aid and that it may be judged non-deliverable if there is a requirement for further contributions. I have no reason to dispute this.

30. In conclusion, even though the proposal would not fully comply with PSPP Policy PSP43 this policy conflict has reduced weight due to the reasons outlined above. Furthermore, I consider that taking into account the accessibility to Kingswood Park and the nearby allotments that the proposal would not have a materially harmful effect on the living conditions of future occupiers with regard to amenity space. It follows that the proposal would comply with the overall aims of CS Policy CS1 which, amongst other things, seeks development where the highest possible standards of design are achieved. It would also comply with paragraph 17 of the Framework which requires a good standard of amenity for future occupants of land and buildings.

31. The Council have made reference to CS Policy CS17 in its evidence and the decision notice. I note that this policy cites the provision of adequate outdoor space but this is only in relation to the subdivision of existing dwellings to form flats and building on gardens. The proposal relates to the redevelopment of a former warehouse and therefore I do not consider that this policy is relevant in relation to this main issue.

*S106 Agreement*

32. Paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations require that planning obligations should only be sought, and weight attached to their provisions, where they are: necessary to make the development acceptable in planning terms; directly related to the development; fairly and reasonably related in scale and kind to the development; and since April 2015, must not be a pooled contribution where more than five such pooled contributions have already been collected.

33. The signed and completed S106 Agreement requires the provision of 35% affordable homes or 10 shared ownership units. Even though the scheme is proposed to deliver 100% affordable homes the S106 Agreement is required as a safeguarding mechanism. The delivery of affordable homes and the need for long term arrangements to secure their continued availability for affordable housing use is necessary to make the development acceptable in planning terms.

34. The S106 Agreement also requires that in the eventuality that any of the dwellings proposed as part of this scheme are sold or disposed of as Market Housing within 5 years of the commencement of the development that £3768.90 per one-bed unit and £4758.20 per 2-bed unit are paid to the Council as a contribution towards the cost of enhancement and maintenance of public open space in the vicinity of the appeal site. I am satisfied that this contribution is justified by the Council's evidence on this matter.

35. The obligations in the S106 Agreement are necessary, directly related to the development, and fairly and reasonably related in scale and kind to the development. Consequently these obligations meet the three tests for planning obligations set out in Regulation 122(2) of the CIL Regulations 2010 and the Framework. The Council has also informed me that the financial contribution towards public open space would not breach the 'five obligation limit' to which Regulation 123(3) of the CIL Regulations applies. I have therefore taken them into account in this decision.

*Other matters*

36. A local resident and a Ward Councillor object to the proposal on a wider basis, including in respect of loss of privacy, the size and mass of the proposal and the outlook of nearby occupiers. These did not form part of the Council's reasons for refusal and from my inspection of the site I would concur with its views on these matters.

37. While I understand that my decision will be disappointing for some local residents, the information before me does not lead me to conclude that these other matters, either individually or cumulatively, would be an over-riding issue warranting dismissal of the appeal.

*Conditions*

38. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance and the National Planning Policy Framework. In the interests of conciseness and enforceability the wording of some of the conditions has been amended.

39. In order to provide certainty as to what has been permitted I have imposed a condition specifying the relevant drawings. In the interests of character and appearance and visual amenity it is necessary to impose conditions Nos 3, 6 and 7.

40. In order to protect the living conditions of existing residents it is necessary to impose conditions Nos 9 and 10. In the interests of highway safety it is necessary to impose condition No 4. In order to encourage sustainable travel it is necessary to impose conditions Nos 5 and 11. To reduce the risk of pollution impacts on the future occupants I consider it is necessary to impose condition No 8.

41. The Ward Councillor requested that an archaeological or photographic recoding condition be imposed. However, such a condition was not suggested by the Council. Nevertheless, both main parties have had the chance to comment on

this matter and as such they would not be prejudiced by my consideration of it. The Council's Officer Report states that the existing building does have some limited heritage value and architectural merit informing the character of the street scene in this locality. Following my observations at the site visit I would concur with this view. As the existing building would be demolished as part of the development I consider that in the interests of archaeology condition 12 is required.

**Conclusion**

42. Both parties agree that the Council cannot demonstrate a 5 year supply of housing land (HLS) as required by paragraph 47 of the Framework. Paragraph 49 of the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development (paragraph 14) bearing in mind the objective (paragraph 47) to boost significantly the supply of housing. I have had regard to the recent Supreme Court judgement[1] in this respect and both parties have been consulted on this but neither considers that the judgement has significant implications for the case here.

43. The proposal would reuse land that has been previously developed and it would provide 29 affordable dwellings in an area where there is an acknowledged shortfall of housing including affordable housing. The Council's Officer Report states that "*the Strategic Housing Market Assessment, 2015 (SHMA) identifies a significant demand for affordable housing across South Gloucestershire. In particular, the SHMA identifies a demand for in excess of 450 affordable units"*.

44. There would be sustainability benefits associated with the proposal. Specifically, the appeal site is within Kingswood where there is a range of services, facilities and employment opportunities available. The development would result in economic benefits through the economic activity associated with its construction and occupation. These social and economic benefits provide significant weight in favour of the appeal proposal.

45. In this case there are no specific policies in the Framework which indicate that development should be restricted. I have not found any harm that would significantly and demonstrably outweigh the benefits associated with the scheme when assessed against the policies in the Framework taken as a whole. I have found that the proposal is in compliance with the development plan policies when taken as a whole.

46. Consequently, the proposal represents sustainable development. For the reasons given above, and having regard to all other matters raised I conclude that the appeal should be allowed.

*D. Boffin*

INSPECTOR

Attached – Schedule of Conditions

[1] Suffolk Coastal District Council V Hopkins Homes Ltd and SSCLG, Richborough Estates Partnership LLP and SSCLG v Cheshire East Borough Council 10 May 2017

## SCHEDULE OF CONDITIONS

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1758-Loc , 1813-P100 Rev A, 1758-P101, 1813-P102 Rev A, 1813-P103 Rev A, 1813-P104, 1813-P200 Rev B, 1813-P201 Rev A, 1813-P202 Rev A, 1813-P400, 770-01C.

3) Prior to the commencement of the relevant above ground works details / samples of the materials to be used in the construction of the external surfaces of the development hereby permitted, including the metal railings, 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 / samples.

4) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. 1813-P100 Rev A for 30 cars to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.

5) No dwelling shall be occupied until the cycle parking and storage facilities (including the visitor cycle parking facilities) have been provided in accordance with drawing no. 1813-P100 Rev A and those facilities shall thereafter be kept available at all times for the parking and storage of cycles.

6) No dwelling shall be occupied until the bin storage and recycling facilities have been provided in accordance with drawing no. 1813-P100 Rev A and those facilities shall thereafter be kept available at all times for those purposes.

7) The landscaping works shall be carried out in accordance with drawing no. 770-01C in the first planting and seeding seasons following the first occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

8) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

9) Demolition or construction works shall take place only between 07:30 and 18:00 on Mondays to Fridays and 07:30 to 13:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays. The term 'demolition or construction works' 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.

10) The development hereby permitted shall not be occupied until the north facing windows to the flats identified as Plots 8, 16 and 23 on the approved plans have been fitted with obscured glazing. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed and once installed the obscured glazing shall be retained thereafter.

11) The development hereby approved shall be bought into use and occupied in accordance with the Travel Plan Measures as detailed in the submitted Travel Plan (prepared by Key Transport Consultants Ltd dated May 2016) The development shall be occupied thereafter in accordance with the approved details.

12) No demolition work on the existing buildings shall commence until an appropriate programme of building recording has been secured and implemented in accordance with a written scheme of investigation which shall have first been submitted to and agreed in writing by the Local Planning Authority. The final report shall be deposited with the Local Planning Authority prior to the occupation of the development.