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## Appeal Decision

Site visit made on 23 September 2019

**by Ben Plenty BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 October 2019**

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**Appeal Ref: APP/U1620/W/19/3232941**  
**115 London Road, Gloucester GL2 0RR**

- 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 James Connell, on behalf of Heathville Residential Care, against the decision of Gloucester City Council.
  - The application Ref 18/00328/FUL, dated 7 March 2018, was refused by notice dated 15 February 2019.
  - The development proposed is the demolition of detached double garage and erection of new building to accommodate additional residential care facilities.
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### Decision

1. The appeal is dismissed.

### Procedural matters

2. I have taken the appellant's name from the appeal form as one was not listed on the application form.
3. The Council's first reason for refusal refers to the Denmark Road Conservation area. However, it is clear in evidence from main parties that the site is within the London Road Conservation Area. I will consider the appeal on that basis.

### Main Issues

4. The main issues are:
  - the effect of the proposed building on the character and appearance of the area with particular regard to the setting of the Grade II listed building of 115 London Road and the London Road Conservation Area (CA),
  - the effect of the proposal on the living conditions of occupiers of neighbouring dwellings, especially 115a London Road in respect of overlooking, overshadowing and outlook, 2 and 2B Kenilworth Avenue in regard to overlooking, and
  - whether the proposed building would satisfy drainage requirements of policies within the Development Plan.

### Reasons

#### *Character and appearance*

5. The site is within a residential area that also includes commercial and institutional uses. The property is in use as a care home. It has mature trees

within its frontage and a relatively large garden to the side of the building. This area consists of three zones: an upper garden, a small car park and a lower garden. The upper garden includes trees and shrub planting and an impressive Wellingtonia. The car park is behind the front garden and the lower garden is around one metre lower and behind the car park. The area to the side of the building creates a generous sense of spaciousness being devoid of built form. The adjacent listed building on site is a large and ornate brick building. As a consequence, the building and space around it make a positive contribution to the character and appearance of the area.

6. The proposal would be a two-storey building. It would function as an annex to the existing care home. The proposal would consist of brick with a pitched tiled roof. It would be located within the lower level garden and enable level access to the car park from the front. This would result in the front half of the building being raised by around one metre above natural ground level. A small non-descript outbuilding is proposed to be demolished to create additional parking for 3 vehicles.
7. The National Planning Policy Framework (The Framework) requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight is to be given to an asset's conservation<sup>1</sup>.
8. Furthermore, the statutory requirements<sup>2</sup> entail that special attention be paid to the desirability of preserving or enhancing the character and appearance of the CA. The Council's Appraisal and Management Proposal<sup>3</sup> identifies that the significance of the CA derives from its early Roman origins, including two very rare medieval chapels, the extent of listed buildings and being one of Gloucester's earliest suburbs. The site is referenced as having been created when the Cathedral Chapter and City Corporation sold land to fund the Napoleonic Wars around 1800. The existing building acts as an informal gateway into the CA from the east, being on a sizeable plot and having a strong presence in the street.
9. In footprint terms, the proposal would occupy most of the lower garden. The roof line would have varying gradients as a modern response to the form of the adjacent listed building. However, the front elevation would be disjointed with a dormer style frontage and would include a large area of brickwork with limited fenestration. Furthermore, it would have large unremarkable side elevations that would emphasise the bulk of the proposal. Although the proposal would be constructed of matching materials, its scale would represent a dominant and harmful addition to the site.
10. The proposal would retain around 75% of the site as open space and would be set back from the highway. However, it would be read in the context of the open space behind the front garden. It would harm the sense of spaciousness by creating an enclosing courtyard. This would result in a prominent addition to the site. I therefore do not concur with the appellant's Design and Access Statement<sup>4</sup> as the proposal would not relate well to the adjacent dwellings in

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<sup>1</sup> National Planning Policy Framework. Paragraph 193

<sup>2</sup> Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

<sup>3</sup> London Road Conservation Area – Appraisal and Management Proposals

<sup>4</sup> Design and Access Statement, DSC Consultants - March 2018

scale or form. As a result, the proposed building would be anomalous with the local area.

11. Although the proposal would be set back from the highway it would be visible from private views from the rear and public views from Kencourt Close. It would be located in a back-land location, in a form incongruent with adjacent built form. The proposal would present a bulky and discordant feature in an otherwise spacious site, adjacent to existing rear gardens. This would not address the street and be out of keeping with the historical streetscape. The proposal would therefore harm the character and appearance of the conservation area.
12. The care home is an ornate brick three-storey building. It is a Grade II listed building, possibly built within the former grounds of the now demolished Wotton Court. I have a statutory duty<sup>5</sup> to have special regard to the desirability to preserve the setting of a listed building. Its significance derives from its scale and grandeur, being three-storeys and with stone crowning cornice with close-set modillions, stone details and presence in the street. Furthermore, the open land to the side of the listed building makes a strong contribution to its setting. The historic maps show that the lower garden appears to have been associated with the listed building from the earliest record<sup>6</sup>. Whilst the lower garden makes a lesser contribution to the setting than the upper garden, it nevertheless makes a positive contribution.
13. The proposal would intrude into this setting with built form that would enclose the existing space. Moreover, the proposed building would have a similar footprint as the existing listed building and include a substantial mass. It would therefore not be subservient and would compete for dominance despite being shorter. The proposal would be set behind the rear elevation of the listed building. However, the large relatively monolithic building would be observed from several views, both from the front and rear of the site, with limited screening. Consequently, the effect would be harmful to the setting of the listed building.
14. The harm to the conservation area and listed building would be 'less than substantial' affecting only its immediate surroundings. Paragraph 196 of the Framework sets out the need to address 'less than substantial harm' in a balanced manner against any public benefits associated with such schemes. The proposal would provide 20 bed-spaces for adults with learning difficulties or mental health problems and meet a specialist need. The provision of this is supported by the County's Social Services Department<sup>7</sup>. The site is also within close proximity to Wootton Lawn Hospital and Pullman Place which would have an affinity with the proposed use. Furthermore, in so much as they are benefits, the proposal would remove the unsightly modern outbuilding, avoid extending the listed building and would avoid important trees on site. However, these benefits would be insufficient to outweigh the great weight afforded to the identified harm to the listed building and the London Road CA.
15. Accordingly, the proposal would not accord with policies SD4 and SD8 of the Gloucester, Cheltenham and Tewksbury Joint Core Strategy 2017 (CS), which seek development to respect the character of a site and its surroundings,

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<sup>5</sup> section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990

<sup>6</sup> Built Heritage Assessment, DSC Consultants- March 2018

<sup>7</sup> Appellant's Statement of Case- appendix 3, email from Gloucestershire County Council 1/7/19

enhance local distinctiveness and conserve and enhance heritage assets. Furthermore, the proposal would be contrary to the Framework which seeks to sustain and enhance the significance of heritage assets.

#### *Living conditions*

16. The proposal would locate a two-storey building close to the side and rear boundaries of the site. It includes side windows at ground and first floor, including two serving first-floor and ground floor bedrooms. 115a London Road (No 115a) is a traditional two-storey dwelling. No 117 has some first-floor side windows but these would only enable oblique views into the neighbour's rear garden. As such, the rear garden of No 115a is a private space and not directly overlooked. The shared boundary is defined by a wall around 2m high. This would therefore provide only limited screening from the proposal. Therefore, the proposal would result in a significant level of overlooking into the majority of the neighbour's garden, especially from the first-floor bedroom window. Furthermore, it would be inappropriate for this window to be obscurely glazed to mitigate the effect.
17. The proposal would extend to the full depth of this neighbour's garden. The effect of this would be demonstrably overbearing to the outlook from rear windows and from the rear garden of No 115a. Notwithstanding that it would be a similar height to the neighbouring dwelling, the effect would be domineering and harmful to the occupier's living conditions. However, being located to the northeast of the property, the proposal would have only a limited effect on access to daylight. Consequently, it would have a negligible effect on access to sunlight and would not therefore result in significant overshadowing. Nevertheless, the impact to the occupants of No 115a would be substantial and unacceptable. Subsequently, the proposal would demonstrably harm the living conditions of the occupiers of No 115a due to a loss of outlook and from overlooking.
18. The dwellings of 2b and 2 Kenilworth Avenue (No's 2b and 2) stand in substantial plots. The rear of the application site includes a small embankment and wall with some tree screening. There are therefore already some overlooking opportunities from the application site. The proposal includes ground and first floor rear and side windows that would overlook No's 2b and 2. There is a reasonable separation distance between the rear and side of the proposal to the adjacent boundaries. Furthermore, there would be a substantial distance beyond to the neighbouring habitable windows. As a consequence, the proposal would not substantially overlook the rear gardens or habitable rooms of No's 2b and 2.
19. Accordingly, due to the identified harm to No 115a the proposal would be contrary to policies SD4 and SD14 of the CS. These seek development to enhance comfort, convenience and enjoyment through assessment and to cause no unacceptable harm to the amenity of neighbouring occupants. Furthermore, the proposal would be contrary to the Framework, which seeks development is appropriate taking into account the likely effects on living conditions.

#### *Drainage requirements*

20. Policy INF2 of the CS includes the requirement for new development to incorporate Sustainable Drainage Systems where appropriate to manage

surface water drainage. The Council is concerned that the appellant failed to provide surface water drainage details during the application process. However, Severn Trent Water raised no objection to the proposal subject to the imposition of a drainage related condition. The officer report also identifies that the drainage engineer asked for further drainage details prior to a decision as the local system was at capacity. However, in this context the site has reasonable scope to accommodate attenuation which would contain surface water and prevent additional run-off.

21. The policy does not expressly require drainage details prior to making a decision although it would have been useful. I find that the proposal would be likely to comply with policy INF2 of the CS with the imposition of a suitable condition. However, as I am dismissing the appeal for other reasons, I have not explored this further.

### **Other matters**

22. Policy SD10 of the CS supports the location of housing development on previously developed land within the existing built up areas of Gloucester. This is of some merit in favour of the proposal.

### **Conclusion**

23. The Framework seeks to boost the supply of housing including for groups with specialist housing requirements. Moreover, the proposal would represent development on previously developed land. However, the conflict identified with the development plan, including the great weight applied to the conservation of heritage assets, out-weights the limited merits identified in support of the proposal.
24. For the above reasons the appeal is dismissed.

*Ben Plenty*

INSPECTOR