



Appeal Decision

Site visit made on 3 May 2022

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 13 May 2022

Appeal Ref: APP/F0114/W/21/3279341

Treetops Nursing Home St. Clements Road, Keynsham, BRISTOL, BS31 1AF

- 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 outline planning permission
 - The appeal is made by Treetops Bristol Limited against Bath and North East Somerset Council.
 - The application Ref 21/00701/OUT, is dated 15 February 2021.
 - The development proposed is outline planning application (with landscaping reserved) for demolition of existing care home and erection of a three-storey building comprising 39no. self-contained flats (use class C3).
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Decision

1. The appeal is dismissed, and planning permission is refused for outline planning application (with landscaping reserved) for demolition of existing care home and erection of three-storey building comprising 39no. self-contained flats (use class C3).

Preliminary Matters

2. The appeal results from the Council's failure to determine the planning application within the prescribed period. There is no formal decision on the application, as jurisdiction over that was taken away when the appeal was lodged. However, I note the assessment and conclusions submitted by the Council during the appeal. These include a set of reasons for refusal that it would have used had it determined the application, which have informed the main issues of the appeal.
3. The proposal is before me in outline form. Approval is sought for matters relating to access, appearance, layout and scale. Landscaping is a reserved matter, although some landscape details are before me in the form of proposed new trees. Accordingly, I will treat such details as indicative only for the purpose of determining the appeal.
4. Although the proposed building is described as three-storey, the ground floor would be raised above ground level by approximately half a storey to accommodate a partly subterranean basement level for car parking.
5. On 20 July 2021, after the application was submitted, the Government published its revised National Planning Policy Framework (the Framework). From the submissions before me it is clear that the main parties are aware of this matter.

6. The Local Plan Partial Update (LPPU) is underway, with examination due to be undertaken this summer. I am satisfied that the main parties have had opportunity to comment on this matter. At this stage the weight I give to the emerging Policies of the LPPU should be limited.

Main Issues

7. The main issues are:
- a) The design of the proposed building and its effect on the character and appearance of the area, including the setting of the Keynsham Conservation Area and the Green Belt,
 - b) Whether the proposed parking would be sufficient, with regard to development plan policy,
 - c) Whether the proposal would comply with local sustainable construction policy, and
 - d) Whether the proposal would secure appropriate affordable housing and other planning obligations.

Reasons

Design, character and appearance

8. The appeal site holds a strong relationship to the built-up area of Keynsham, which lies to the north and west. This includes the recently constructed health centre, which is a substantial building that stands to the north of the site and overlooks a car park, towards which the existing building at the appeal site also faces. Other existing development closely related to the site is the mid-20th century housing to the west, which primarily comprises terraces and pairs of two storey dwellings.
9. To the east and south the site adjoins open countryside, which is within the Green Belt (GB). The land beyond the site to the east slopes steeply down towards the River Chew, with limited development set down at a lower level. On the opposite side the land slopes steeply up to meet Wellsway, which separates the Chew Valley with the suburban expansion of the town that extends away from Wellsway to the east and south.
10. The intervening valley extends out towards open countryside to the south, and to the north towards the town centre. This forms the main area of the Keynsham Conservation Area (KCA), which also includes the town centre and the 19th century development of the town. The KCA extends right up to the eastern edge of the appeal site. Its setting relative to the appeal site is best appreciated from the Wellsway, where there are broad vantage points where one can look across the undeveloped fields either side of the river that form the sides of the valley, and towards the large area of dense development that rises slightly from the level of the appeal site. From this context the strong urban and rural juxtaposition of the site is clear. The rural character of the Chew Valley, including limited rural development in this area towards the valley bottom, are positive contributors to the character and appearance of the KCA.
11. The existing building at the site has a modest scale and is largely inward facing. Its outer boundaries against the roads are defined by stone walls, up to which the building extends. Some lengths of these appear to be historic and

are a likely remnant of the southern boundary of the land that related to the Keynsham Union Workhouse, which once stood at the site and was replaced by the Keynsham Hospital in 1948. From St Clements Road the existing walls are a prominent feature. They have been integrated into the design of the existing building and the adjacent health centre where it extends with a single storey stone gable up to the road edge. This helps to give the health centre some association with the history of the site and the scale of surrounding buildings, including the existing building at the appeal site. The walls also serve to contain the extent of development here, where it abuts open countryside.

12. The manner by which the health centre building relates to the stone boundary wall and incorporates it into its design, and the low scale of the existing building at the appeal site are factors that help to mitigate the scale of the health centre, from both the immediate environs of St Clements Road, and the distant views from Wellsway. In addition to this, a substantial group of mature trees to the east of the site and other isolated trees along St Clements Road help to soften the impact of this building.
13. In contrast the appeal site is much more exposed to the valley setting as it sits in an elevated position at the outer edge of the existing developed area. The proposed building would extend the hard urban form of the health centre out towards the rural setting of the valley without the benefit of the mitigating features that soften the health centre's impact. The pinch points around the site, particularly on its outer southeast edge would leave little space for any meaningful landscaping that could successfully soften its urban appearance.
14. From the other side of the valley its monolithic form would be wholly unrelated to the more modest and finely grained suburban development that it would sit alongside. Deep reveals, recesses and projecting elements for balconies would provide some relief, but this would make little difference to the appearance of the building from across the valley. It would look out over the lower level of the valley and the steeply sloping agricultural land where its elevated position, solid three storey scale and flat roofed form would appear incongruous and entirely at odds with its rural foreground setting and the form and massing of the traditional buildings set at a lower level alongside the river.
15. This relationship would have a harmful impact on the setting of the KCA when viewed from Wellsway, owing to the stark urban form of the building and the elevated position it would hold relative to the open valley of the KCA below. The proposal would also not accord with Policy GB1 of the Bath and North East Somerset Placemaking Plan 2017 (PP), which seeks to ensure that development that is conspicuous from the GB should not prejudice but seek to enhance the visual amenities of the GB.
16. From the immediate area around the site, unlike the existing building, which is well integrated with the boundary walls, the building would adopt an uncomfortable position within the site. Its principal elevation would look inwards towards the health centre car park. This would provide a good level of enclosure to this area; however, its elevations facing St Clements Road to either side would be staggered and set at an angle that would fail to respond positively to the straightforward alignment of existing development in the area that fronts the road in a parallel manner. In this regard the layout and orientation of the building would seem to largely ignore its context and make little sense of the retained historic stone boundary.

17. I accept that the existing building does not look out over the adjacent roads and thus does not provide any natural surveillance or activity to the street. This would largely appear to be as a result of the retained historic boundary enclosure, and the need to provide enclosed external spaces to serve the building. The lower level of the proposed building would be similarly blank, however this would be contained behind the retained boundary wall. Above this height the regular pattern of window openings and balconies would provide an improved level of natural surveillance over the adjacent roads and an increased level of activity. This is a positive aspect of the proposal.
18. I have reviewed the details before me relating to the previous appeal at the site¹. Here the Inspector found that the proposed buildings would not appear bulky or out of character with their surroundings. I note however that this scheme had significant differences to the subject proposal. Its massing was divided into three separate buildings, that were each articulated into two primary parts with varied roof forms. As a result, the buildings would have had a finer grain than the appeal proposal, and they would have had a much lower scale relative to the health centre. Consequently, when viewed from across the valley, they would have appeared as a group of more modestly scaled buildings.
19. At paragraph 21 of his decision the Inspector considered that without the suggested tree planting, for which he suggested there would be pressure to remove in the future, the proposal would result in a rather hard and inappropriate urban development. Although I note that landscape is a reserved matter, I consider it highly likely that a similar situation would arise with the proposal before me.
20. This would be particularly so where the building would create some tight spaces in various locations around the edge of the site, which would be further constrained by the proximity of the building to the retained stone wall. The provision of a significant number of single aspect flats, including some of the 'type e' units that would appear to have a poor level of daylight, would make it likely that future occupiers would apply significant pressure for trees to be removed as they establish. It is therefore likely that future landscaping would need to be limited in scale, to the extent that it would be unlikely to significantly soften the appearance of the building.
21. I have details of alternative schemes at the site before me. These include brief details relating to a scheme that the Council has approved for a replacement care home². This is a scheme that was developed following the appeal decision referred to above. I do not however have full details of this scheme that would enable me to make a full comparison, but I do note that the footprint was reduced, and the outdoor amenity area and layout amended. The approved scheme was therefore scaled back from that which the previous Inspector considered. For the reasons already given I can conclude that this extant permission would not have the same impact as the appeal proposal, and should not cause me to come to a different view on the merits of the scheme before me.
22. The appellant advises that the proposal would have a reduced area of hardstanding when compared to previous schemes and the existing layout.

¹ APP/F0114/W/20/3260852

² Council Ref: 21/04606/OUT

However, this benefit would be offset by the much more substantial scale of the proposed building, and the limited extent of well orientated spacious external areas that could sustain substantial planting.

23. In terms of the Framework, the harm I have identified relating to the setting of the KCA would be less than substantial. Paragraph 202 of the Framework establishes that any harm should be weighed against the public benefits of the proposal.
24. The proposal would substantially increase built form at the site, which would see the site area used more efficiently in accordance with paragraph 120 d) of the Framework, although I do not accept that the proposal would accord with the reference here to building on or above service yards and car parks, as the basement car park does not currently exist. Policy D2 of the PP encourages higher densities to make efficient use of land, however the Policy also establishes that residential densities must be compatible with local character. The efficient use of land is a public benefit. I give this matter moderate weight.
25. With reference to part c) of Framework paragraph 120, the proposal would use brownfield land within the settlement for homes. The Framework establishes that this should attract substantial weight, and I am satisfied that this is a public benefit.
26. The proposal would deliver 39 new residential units. The provision of these dwellings would contribute to local housing supply, and this is a public benefit that carries reasonable weight, although this is reduced by the proposal's failure to secure an appropriate mix of affordable housing that accords with local policy, which is a matter that I will address below.
27. In balancing these matters I give the harm I have identified to the setting of the KCA considerable importance and weight. Indeed, paragraph 199 of the Framework establishes that great weight should be given to the conservation of a heritage asset, regardless of the level of harm identified. In combination, the public benefits of the proposal that I have identified carry significant weight, but I am not satisfied that they are sufficient to outweigh the harm identified.
28. In summary, the proposal would have a harmful effect on the character and appearance of the area, including the setting of the KCA and the visual amenities of the adjacent GB. It would thus not accord with Policies D1, D2, D3, HE1, NE2 and GB1 of the PP or Policy CP6 of the Bath and North East Somerset Core Strategy 2014 (CS), which together seek to ensure that development proposals are well designed to contribute positively to local distinctiveness, preserve or enhance the character or appearance of the conservation area and local landscape character, and enhance the visual amenities of the GB.
29. I also give some weight to the proposal's failure to accord with Policy KE5 of the emerging LPPU. This Policy appears to be site specific and, amongst other things, seeks to ensure that development responds positively to the character and appearance of the area, including the setting of the KCA and the visual amenity of the GB.

Parking provision

30. Policy ST7 of the PP seeks to ensure that an appropriate level of on-site car parking is provided. The level of car parking provided for within the proposal

would fall well short of the minimum standard set out at Schedule 2 of the Policy. The Policy does however state that a flexible approach should be applied and that any reduction in minimum car parking standards will require the completion of an accessibility assessment to justify a lower provision.

31. The submitted Technical Note by Highgate Transportation advises that the accessibility assessment score justifies only a modest discount in the level of car parking required. The Technical note sets out works that could be carried out to nearby road junctions to improve the pedestrian connection between the site and the town centre. These are limited to the addition of dropped kerbs and tactile paving in two locations. These measures alone are unlikely to have a significant positive impact on the reliance of persons residing at the site on a private car to access local services and facilities.
32. A Travel Plan is suggested, which could be secured by condition in the event that the appeal is allowed. The measures that it could include are set out before me. I accept that this could have a positive impact and reduce the reliance on the private car. However, even if I take into account the availability of the spaces at the front of the site that are shared with the health centre, the level of under provision below the standard set out in the Policy is significant.
33. In combination I am not satisfied that the modest improvements to local footways and the provision of a travel plan are sufficient to address the level of under provision for car parking when measured against the development plan standard. It is likely that the proposal would result in a demand for additional car parking beyond that which is provided on site, which would spill out onto nearby residential roads. Part 4 b of Policy ST7 states that there should be no increase in on-street parking in the vicinity of the site which would affect highway safety and/or residential amenity.
34. Notwithstanding this, the level of cycle parking proposed meets the policy requirement. I note the concerns that the Council has raised regarding the proposed arrangement. The cycle parking would be well integrated with the proposed undercroft parking and would thus benefit from a level of mutual natural surveillance. Furthermore, the Council suggests in its statement that other matters of maintenance and security could be secured by a condition in the event that the appeal is allowed. I am therefore satisfied that the proposal provides sufficient cycle parking.
35. However, the proposed car parking provision would not accord with Policy ST7 of the PP, and an under provision to the extent proposed is not justified.

Sustainable construction

36. Although the Council has suggested a condition that could be used to address this matter in the event that the appeal is allowed, Policy CP2 of the CS requires sustainable design and construction to be integral to new development. It establishes that all planning applications should include evidence to show how the identified standards have been addressed. These include integrating the use of renewable and low carbon energy. This and other measures set out in the Policy are matters that should be incorporated into the design process, however the outline proposal before me includes full details of the building's design.

37. The application of a condition would therefore require these measures to be incorporated retrospectively. Applying such measures retrospectively to an existing design presents a significant constraint and is unlikely to deliver the same level of benefits that would be achieved if sustainable design and construction were matters integral to the design process. I therefore find that the proposal would not accord with Policy CP2 of the CS.

Affordable housing and other contributions

38. The affordable housing tenure suggested by the appellant is not mixed and does not accord with the Council's Planning Obligations Supplementary Planning Document as amended August 2019 (SPD). This advises that the Council generally expect an affordable housing requirement for 75% homes for social rent and 25% intermediate housing. No justification has been provided for the tenure suggested by the appellant.
39. The appellant suggests in the appeal submissions that it would be necessary to establish a viable level of affordable housing once the principle of the development has been established, taking into account rising development costs. However, it is necessary to secure appropriate affordable housing at this stage to make the development acceptable in planning terms.
40. There is in any case no legal agreement before me that could secure this provision or any alternative provision, or address the other matters referred to by the Council such as targeted recruitment and training and the travel plan. Without this I cannot conclude that the proposal would accord with the SPD or Policy CP9 of the CS.

Conclusion

41. In conclusion, for the reasons above, the proposal would conflict with the development plan and there are no other considerations that outweigh this conflict. Therefore, the appeal should be dismissed, and planning permission should be refused.

A Tucker

INSPECTOR