



Appeal Decision

Hearing Held on 15 November 2022

Site visit made on 15 November 2022

by J Ayres BA Hons, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 20 March 2023

Appeal Ref: APP/Z0116/W/22/3296266

Land at Home Gardens, Blackboy Hill, Redland Hill, Bristol BS6 6UU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Elizabeth Blackwell Properties against the decision of Bristol City Council.
 - The application Ref 20/00542/P, dated 5 February 2020, was refused by notice dated 15 October 2021.
 - The development proposed is Outline planning application for the redevelopment of the site comprising demolition of existing buildings (1-4 Home Gardens, 1-2 The Bungalows and associated garages and outbuildings) and the erection of two new buildings to provide up to 60 residential units (Class C3) (including 20% affordable housing) and up to 215sqm of flexible office space (Class E) to Whiteladies Road frontage and associated works. Permission sought for Access, Scale and Layout).
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by Elizabeth Blackwell Properties against Bristol City Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application was made in outline. The matters before me as part of this appeal relate to layout, access, and scale only.
4. In respect of the hearing itself I allowed the representatives of the interested parties to read their statements to those present, they were then invited to ask questions on the main issues as the discussion progressed during the day. I am satisfied that no party was prejudiced by this approach, all parties were given the opportunity to engage in the process.

Main Issues

5. The main issues are;
 - The effect of the proposed development on the living conditions of nearby occupiers, having particular regard to the outlook of those at

Numbers 7 and 9 Vincent Hill and whether the proposal would result in an overbearing form of development;

- The effect of the proposed development on the living conditions of nearby occupiers during construction, having particular regard to those living in The Vincent (also known as Queen Victoria House);
- The effect of the proposed development on the living conditions of nearby occupiers, having particular regard to those living in The Vincent following completion and upon occupation of the proposed development.

Reasons

Living conditions of those at Numbers 7 and 9 St Vincent Hill

6. Whiteladies Road operates as a main road through Redland, and it is true to the character of Bristol in respect of the way the land rises and falls. This is reflected in this case, with Simply Health House occupying a prominent position and the surrounding area, including the appeal site, sloping down away from that point. This change in gradient includes the relationship between the proposed Block A and Block B, and the small cluster of houses on St Vincent Hill, which are at a lower topographical level than the appeal site. Due to their intimate orientation around an old courtyard, with access and amenity beyond the courtyard, the rear gardens of Nos 7 and 9 St Vincent Hill are dominated by the sloping topography. The gardens are modest and laid to lawn with patio areas. There is a large hedge adjacent to No 7 which screens the adjacent petrol station, and the compact, shaded, and enclosed nature of the rear gardens is inescapable, as is the outlook from the rear facing windows of these properties towards the appeal site, the majority of which serve habitable and frequently used rooms.
7. The modest scale of the existing development which sits on the boundary of the appeal site with Nos 7 and 9 means that the outlook for these properties is not currently overly suburban. The proposed block B would create a building of significant bulk and height, looming above the boundaries of Nos 7 and 9. Despite being staggered the elevation facing towards the properties would tower over the skyline and create a foreboding relationship with the simple, modest cottages.
8. I find that the proposed development would create a bulky and overbearing form positioned within an intimate distance of these properties. This would visually dominate the outlook for both properties and create a foreboding sense of enclosure which would be harmful to occupiers both within and outside of the properties.
9. It is noted that the appellant relies on the support of the planning officer prior to the committee decision, and their committee report has formed part of my considerations. However, this does not alter my findings. The appellant has also referred to several policies from the Core Strategy and Local Plan along with various paragraphs from the National Planning Policy Framework, and supplementary planning guidance. I have had regard to the fact that a residential use on the site would be acceptable, that the scale and design of the scheme would reflect buildings in the wider area, , that attempts have been made to stagger the built form, and that the property would meet the Average

Daylight Factor (ADF) set out in the BRE guidelines for daylight/sunlight. However, these matters do not mediate the harm identified.

10. Accordingly, I find that the proposed development, by nature of its scale and proximity to the occupiers of properties on St. Vincent's Hill, would result in a significant level of harm to the living conditions of those occupiers. This would be contrary to Policies BCS21 and DM29 of the Bristol Development Framework Core Strategy (the Core Strategy) and the Site Allocations and Development Management Policies Local Plan (the Local Plan), which collectively require development to safeguard the amenity of existing development and to ensure that existing development achieves an appropriate level of outlook.

Living conditions of nearby occupiers during construction, having particular regard to those living in The Vincent

11. The appeal site is principally accessed via an unadopted road off Redland Hill (B4468) which has a keep clear box at the junction and double yellow lines on both sides of the carriageway. The site can also be accessed by pedestrians and cyclists from Westbury Road (A4018) via a set of steps and an unadopted footpath that connects to the access road and St Vincents Hill.
12. The Vincent is a retirement complex, and those who live there appear to be an established and close knit community of residents who take an interest in each other's wellbeing and comfort. The access road serving the carpark of the Vincent provides vehicular and pedestrian access to the appeal site. The car park is busy. Residents of the Vincent use it frequently, as do their visitors and when necessary, support staff. It winds around the front and side of the Vincent, and along the side of Simply health House, and in places the access is somewhat narrow, albeit wide enough to comfortably manoeuvre a large car. Due to the physical restrictions of the access, it is necessary to travel slowly to ensure optimum visibility when travelling through the site, and this appears to be adhered to by those using the Vincent car park and the car parking currently provided in the appeal site.
13. The proposal would result in a sustained period of demolition and construction whilst the appeal site would be subject to the erection of the two blocks and the various works associated with the development. The proposed route would be through the Vincent, which is secured by a legal right of way, which would be used during the construction period and during occupation. Whilst representations have been made regarding possible alternative accessways, the proposal before me, as discussed at the hearing, identifies the access through The Vincent as being the only vehicular access.
14. It is clear that there is a real perception from the residents of The Vincent that they would be fearful of accessing the car park during the construction phase. This is based on a number of representations and includes concerns regarding the frailty and vulnerability of some of the residents, and therefore their ability to navigate the grounds whilst facing conflict with construction vehicles.
15. The flow of construction traffic without management or regulation through The Vincent car park would be detrimental to the living conditions of the occupiers of The Vincent. The Framework identifies that it should be considered whether otherwise unacceptable development would be made acceptable through the use of conditions.

16. A condition was suggested by the appellant in an attempt to address these concerns, and the merit of such a condition was discussed in depth at the hearing. The condition related to the agreement of a Construction Management Plan (CMP), which is not an unusual mechanism to implement when developing a scheme. A CMP serves a number of purposes, including ensuring safe access for those affected by the construction. Proposals for the CMP for the proposed development could include a number of measures designed to ensure the safe use of St Vincent car park during construction. Arrangements could be made for a Banksman to be on site accompanying vehicles through to the appeal site at a walking pace. The aim of which would be to ensure the slow movement of the vehicles, such to enable users to pass through the site without fear of traffic movement. Additionally, the banksman would be beneficial in providing support to users, and vehicle operators to avoid conflict between the two. Within the appeal site an area could be secured to ensure that vehicles would enter and exit the appeal site in forward gear such to secure optimum visibility, which would support the safe use of the car park and would be reinforced by the use of a Banksman.
17. It was acknowledged by the parties that a CMP can be difficult to secure due to issues such as the complexities and constraints of the development site and surrounding areas. However, whilst these can be difficult to secure, they are used as an efficient and reasonable tool for assisting the safe delivery of development. Furthermore, provided the CMP is carefully drafted, having regard to the concerns of the parties, it would be enforceable by the Local Planning Authority.
18. A CMP is capable of securing a wide range of safety and security measures, and CMPs have been demonstrated throughout the planning system to provide a reasonable and enforceable mechanism to allow the delivery of development. I am satisfied that it would be possible to impose a planning condition that would secure a CMP capable of addressing the health and safety concerns of the residents of the Vincent such to ensure the safe delivery of the proposal. Accordingly, it would comply with policy BCS21 of the Core Strategy in respect of safeguarding the amenity of existing development.

Living conditions of nearby occupiers, having particular regard to those living in The Vincent, also known as Queen Victoria House, following completion and upon occupation of the development.

19. The appeal site benefits from access to a variety of commercial properties providing local facilities in close proximity, located within the popular Whiteladies Road area of Bristol. Adjacent to the set of steps on Westbury Hill are two bus stops, which are served by five bus routes.
20. The improved points of access for pedestrians and cyclists' access from the site would connect to the infrastructure network immediately surrounding the site, providing improved footway connections into the local pedestrian network compared with the existing site, to facilitate trips to local facilities and services. A significant level of cycle storage would be provided across the site for residents and visitors. I am satisfied that, having regard to the above, the proposed development would be able to offer a number of transport options to future occupiers and visitors.
21. The appeal site currently accommodates residential dwellings and the site provides some 34 car parking spaces, let out on a commercial basis to local

- businesses. The proposal would result in a reduction of car parking spaces to be used in connection with the occupation and operation of the proposed development. Vehicular access to the site would continue to be provided via the unadopted road off Redland Hill and vehicles would travel through the car park associated with The Vincent to access the proposed development.
22. A multi-modal trip generation assessment was undertaken to identify the number of trips expected to be generated by the proposed residential units and this evidence was discussed at the hearing. I am satisfied that the trips generated in respect of the existing use, within which trips are generated through out the day, do not result in harm to the safety of users of the highway network, or The Vincent carpark. The junction capacity assessment identifies that, having regard to current and proposed traffic flows, the site access is capable of operating within capacity.
23. Whilst there would be an increase in the number of residents on the site, I have found that the site would be served by a number of modes of transport, and am satisfied that the proposal would not result in a level of trips that would be harmful to the amenity of nearby occupiers. Whilst there has been an increase in home deliveries over the past few years, these deliveries are regulated through time slots and the presence of any vehicles are short in duration. There is no evidence to suggest that the existing residential use has caused harm to the safe operation of the highway, and I am satisfied that whilst an increase in occupation may increase demand, this could be managed by the residents appropriately.
24. The Transport Assessment identified a cluster of eight incidents at the A4018 Gyratory junction. Given the high volume of traffic operating at this junction and as a major route towards Bristol City Centre, the eight incidents recorded over a five year period does not indicate an inherent highway design fault and I consider that it cannot be attributed to the layout or geometry of the highway network. Two serious incidents have been noted on the A4018-Westbury Road / Whiteladies Road carriageway, both of which were attributed to driver, rider or cyclist error and not an inherent highway design fault on this basis, I consider that there are no apparent issues with the highway network (located within the vicinity of the appeal site), which would be worsened or need to be addressed by the proposed development.
25. I find that the proposed development would not result in a level of associated vehicle movements that would be detrimental to the living conditions of the occupiers of The Vincent. Accordingly, it would comply with Policy BCS21 of the Core Strategy in respect of safeguarding the amenity of existing development.

Other matters

S106 Planning Obligation

26. A S106 Planning Obligation (the Obligation) was agreed and completed by the parties. The Obligation would secure £25,000 towards upgrading two bus stops on Black Boy Hill (Bus stops C and D) in the vicinity of the appeal site. A sum of £6,000 would be secured to be spent on upgrading the footpath and steps onto Westbury Road/Whiteladies Road in the immediate vicinity of the appeal site. The Obligation would secure a payment towards the costs and expenses incurred in relation to the residential travel plan. A tree replacement contribution of £9,947.73 would be secured to allow the provision of trees to be

planted off site to replace the loss of 13 existing trees on the appeal site. I am satisfied that these contributions would be in accordance with the statutory requirement of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended), and would accord with relevant policy.

27. In addition to financial contributions, the Obligation would secure 20% of the residential units as affordable housing units and this would meet an identified need in contributing to the provision of affordable housing within the area. Whilst this would be a benefit of the proposal, I do not consider that it would overcome the harm identified in respect of the effect of the proposed development on nearby occupiers.

Effect of the proposed development on heritage assets

28. The appeal site is located towards the edge of the Whiteladies Road Conservation Area (the WRCA). Whilst the WRCA is split into four areas, which vary from one another in respect of their character, the WRCA is significant for its historical and aesthetic values due to its role in the development of Bristol as part of the Georgian expansion of the city, as well as its high concentration of listed buildings. Views along the length of Whiteladies Road are fundamental in appreciating the historic development of the WRCA. In local views the proposed development would be visible within the immediate street scene and when travelling up towards the site. The proposal would be experienced within the setting of the existing townscape, it would continue the natural evolution of the urban element of the WRCA and would reflect the more modern buildings contained within the WRCA.
29. The Downs Conservation Area (the DCA) is located to the north of the appeal site. The significance of the Downs Conservation Area, in terms of its character and appearance, is principally derived from the quality of the landscaped parkland, the rural character of the Downs, and their contrast with the sublime character of the Gorge and its escarpments. The WRCA forms a very small element of the setting of the DCA and provides some views towards the DCA. The WRCA abuts the Clifton and Hotwells Conservation Area (the CHCA) and contributes to its setting largely due to its residential elements. Due to the topography of the site and surrounding area, and the existing built form, the proposed development would have a minimal impact on the character of the DCA and CHCA, which would be visible at intervals and within the existing street scene.
30. I find that the proposal would preserve the character and appearance of the WRCA, both within its intimate setting and as a whole, and that the proposal would not be harmful to the setting of the DCA nor the CHCA.
31. There are a number of listed buildings, and a locally listed building, within the immediate and wider vicinity of the appeal site. Hillside cottage is a Grade II listed building located to the south of the site, its significance is found in the historical and architectural values of its built fabric, which are manifest in the material construction methods, retained original fenestration elements and the retention of its historic planform. It is experienced within the setting of nearby listed buildings, and the appeal site forms part of the wider setting, being one of residential and urban form through the evolution of the CAs and the city. 7 St Vincent's Hill is a Grade II listed house, similar to Hillside cottage its significance is derived principally from the historic and architectural values of its built fabric, which are manifest in the material construction methods.

Numbers 4,5 and 6 are a group of cottages, their significance is derived from the traditional material construction methods and retained original fenestration elements. Whilst individually listed for their architectural and historic special interest, the significance of all these properties is enhanced by the presence of the neighbouring buildings. The illustrative historic value derived from the presence of listed buildings on St Vincent's Hill is the principal element of the setting from which these assets derive their significance.

32. Cedar cottage, 27 and 28 Grove Road comprises two eighteenth century cottage of late Georgian style rendered with limestone dressings raised from roughly rectangular planforms over two storeys and attics. As with the other heritage assets in this group of buildings, whilst individually listed for their architectural and historic special interest, the significance of all properties in the group is enhanced by the presence of the neighbouring designated buildings, and represents the principal contribution of the asset's setting to its significance.
33. To the rear of Queen Victoria House is a Grade II listed obelisk. Erected in 1817 in memory of Princess Charlotte of Wales, the significance of the obelisk is centred in its architectural and historical illustrative values, founded in the national grief at the loss of the princess and her son. Its setting is experienced in the intimate grounds of Queen Vitoria House, with the landscaping providing space for reflection.
34. Queen Victoria House is located approximately 50m north-east of the appeal site, and this locally listed building was originally built as a private school in 1886 by the Rev J Wilkinson, before being converted at the end of the nineteenth century into a convalescent home. Following further conversion and a period of use as offices, the building has been re-developed into luxury retirement accommodation. Queen Victoria House is considered to be of medium heritage significance for its local architectural interest and historic importance (aesthetic and historical values). This is reflected in its status as an unlisted building of merit/locally listed building and hence as a non-designated heritage asset. The setting of Queen Victoria House relates both to its immediate garden plot and grounds, and its relationship with the wider streetscape elements. The building is experienced in its intimate setting within lawned gardens and the grade II listed obelisk, with the listed buildings on St Vincent's Hill slightly beyond the boundary. The wider visual setting includes the modern Simply Health Building, and the appeal site, and the more modern elements of built form adjacent to Queen Victoria House.
35. The proposed development would alter the wider landscape and setting of the assets detail above. However, the journey of the built form of the city, with its expansion and variation in design and architectural interest, has created a mixed and varied setting for the assets. They are experienced intimately within groups of similarly listed buildings, and the wider grain of modern development. Accordingly I am satisfied that the proposed development would sit comfortably within the setting of the assets.
36. I find that there would be no negative impacts on the significance of any heritage asset, and the proposed development would preserve the special interest and setting of all listed buildings and the character and appearance of the Whiteladies, Downs and Clifton and Hotwells Conservation Areas in accordance with sections 66(1) and 72(1) of the Planning (Listed Buildings and

Conservation Areas) Act 1990. Furthermore, there would be opportunities at reserved matters stage to agree detailed design that would enhance the heritage assets.

Planning Balance and conclusion

37. I have found that the proposal would be significantly detrimental to the living conditions of the occupiers of Number 7 and Number 9 St Vincent Hill. Therefore, whilst the proposal would provide a supply of housing required to meet present and future generations, it would not achieve a high-quality built environment. The proposed development would conflict with the development plan when taken as a whole. There are no other considerations that either in isolation or collectively outweigh this conflict.

38. Accordingly, for the reasons above, and having regard to all other matters raised, I conclude that the appeal is dismissed.

J Ayres

INSPECTOR

APPEARANCES

For the Appellant:

Julian Bolithow MRTPI of Alder King Planning Consultants
Francois Chete of WYG Environmental Planning
Colin Pullin

For the Council:

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