



Appeal Decision

Site visit made on 28 March 2023

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2023

Appeal Ref: APP/J4423/W/22/3312761

**Land to the rear of 377 Fulwood Road and Riverdale Road, Sheffield
S10 3GA**

- 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 Taz Li against the decision of Sheffield City Council.
 - The application Ref 21/05069, dated 03 December 2021, was refused by notice dated 14 July 2022.
 - The development proposed is described as erection of a 4-storey apartment block to form 6 no. apartments (Use Class C3), with associated parking, access, and landscaping.
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Decision

1. The appeal is dismissed.

Main Issue

2. The 3 reasons for refusal on the Council's decision notice can be subsumed into one main issue, ie whether the proposal would preserve or enhance the character or appearance of the Ranmoor Conservation Area (RCA).

Reasons

Significance of the RCA

3. I have a statutory duty¹ to pay special attention to the desirability of preserving or enhancing the character or appearance of the RCA. The significance of the RCA of relevance to the appeal broadly relates to historic and architectural interests. Ranmoor was the City's foremost Victorian residential suburb. Its buildings and townscape express the wealth of its early residents, which included some of Sheffield's greatest industrialists. The RCA is therefore a legacy of the heyday of the City's steel industry.
4. The origins of residential development in the area date to around the mid-19th Century. By the late 19th Century, a pattern of new streets had been developed, with the original fields being divided into potential building plots that would accommodate generous-sized detached and semi-detached dwellings. The largest villas, some of Sheffield's grandest homes, were built for leading business and industrial figures. The medium-sized detached and semi-detached villas were built for the middle classes. Terraced housing such as that on Marr Terrace was built to occupy the working people that provided services for the wealthier classes. Some of the properties within the RCA are

¹ s72(1) of The Planning (Listed Building and Conservation Areas) Act 1990 (the Act)

now used for non-residential purposes, although the RCA remains predominantly residential.

5. Early 20th Century low-density villa development gave way to higher density semi-detached housing during the inter-war period, eg along Hangingwater Rd. During the post-war era there was some infill development of flats and houses built within the grounds of large villas and on cleared sites. New housing has generally been of higher density than historic development, eg infill housing on Gladstone Rd, Tapton Park and Storth Lane.
6. The appellant considers the representation of density in the RCA SSI to be dated, given that it was written in 2000 and that there has been development within the RCA since. As noted, since the RCA SSI was written there has been development within the RCA and I acknowledge, as does the RCA SSI, that such development has altered its density. I also acknowledge that within certain areas of the RCA, eg the triangular area of land bounded by Marr Terrace, Ranmoor Road and Fulwood Road, development is of a higher density than earlier development. However, the higher density sections are exceptions rather than the norm.
7. I believe the RCA in the main has retained its low-density character. The predominant pattern of built development is still of medium and large houses set in spacious grounds, with many of the houses being evenly spaced. The changes that have occurred have not altered the RCA to an extent that leads me to conclude that the area is no longer characterised by low-density built development.
8. The architectural styles across the RCA include gothic - eg the Grade II* listed St John's Church - arts & crafts, classical and Italianate. Some properties have Georgian detailing. The houses tend to be two to three storeys high, designed with a vertical emphasis, primarily with dual-pitched roofs. Their form and shape have interest, provided by the inclusion of features such as bay windows, gables, dormers, varying roof ridge heights and chimneys.
9. The predominant facing material is sandstone, usually roughly dressed and laid in regular courses. Red brick is used on some historic buildings, such as the workers' terraced housing on Marr Terrace. The earliest properties were constructed with riven stone slate roofs, of which there are few remaining examples in the RCA. Welsh slate is the main roofing material used on properties built prior to around 1900.
10. Stone garden/boundary walls and gate piers, mostly constructed of sandstone, are also important features of the RCA. Due to original plot sizes being generally large, landscape design and historic planting of private gardens are important aspects that contribute to the significance and special character and appearance of the RCA.

The site

11. The appeal site comprises a substantial part of the curtilage and garden of the historic villa immediately north of it, Canton Orchard. I acknowledge that a large area of the site has been tarmacked over and used during recent years as on-site parking in association with the use of Canton Orchard as a restaurant. However, over around half of the site still consists of soft landscaping comprising of lawned areas, trees, and shrubs. Many of the trees are located

around the site's western, southern, and eastern boundaries. These boundary trees continue around the eastern and northern boundaries of Canton Orchard. There is a stone wall along the eastern boundary of the site, which is a continuation of the stone wall around the eastern and northern boundaries of Canton Orchard. Such features clearly illustrate the historic relationship between Canton Orchard and the site. The existing car parking area is accessed off Riverdale Road. The site broadly slopes down from north to south.

12. Canton Orchard is identified in the RCA SSI as being a good example of a villa built in the arts & crafts style, using half-timbered gables with rendering and clay roof tiles. I consider the property and its associated curtilage makes a positive contribution to the RCA.

The proposal and its effect on the RCA

13. The proposal consists of constructing a detached 4-storey apartment block to form 6 No. apartments with associated parking, access, and landscaping. The lower-ground floor would be accommodated within the slope of the land and would be used for some of the proposed on-site car parking spaces. The additional on-site car parking spaces would be located at ground level, mainly sited close to the northern end of the building. Access to the site would be from the existing access off Riverdale Road.
14. The proposed building would be sited broadly within the centre of the site, mainly within the existing hardstanding car parking area. Although the elevations of the proposed building would be broken up via some in-sets and projections, the primary form of the building would be that of a simple block with a flat roof.
15. The external elevations would include relatively large areas of glazing, including glazed balustrades around the external terraces, which all the apartments would have. The elevations would be finished in a combination of rough coursed stone at the lower ground level and smooth stone and metal cladding on all other levels.
16. Paragraphs 197, 199 and 200 of the National Planning Policy Framework (the Framework) collectively advise that: i) when determining applications account should be taken of the desirability of sustaining and enhancing the significance of heritage assets; ii) when considering the impact of development on the significance of designated heritage assets, great weight should be given to conservation of the assets, and iii) significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting.
17. The appellant asserts that, as Canton Orchard is outside of the proposed development site, and no alterations are to be made to the building, the property would not be affected by the proposal. However, as the site comprises a large area of the historic curtilage of the property, the proposal would constitute the sub-division of the curtilage of the historic villa, and the proposed development would be sited within its immediate setting.
18. Regardless of the resultant percentage increase in density within the site noted by the appellant should the proposal be constructed, and that the proposed building would be around 23m from Canton Orchard, in my opinion severing a large area of the historic villa's curtilage from the property and constructing a

large building within it, ie a building that would be larger than the villa itself, would have a significant detrimental impact on the setting of the building. Canton Orchard would cease to be perceived and read as a good example of a historic villa sited within a large plot in the RCA. Its positive contribution to the RCA would therefore be undermined.

19. I consider the immediate setting comprising of the curtilage/garden to the rear of Canton Orchard makes a significant contribution to the historic value of the property. Consequently, the siting, design, form and scale of the proposed apartment block would considerably harm the setting of this historic villa. I consider the erosion of the associated spacious curtilage/gardens associated with the property, and the inevitable increase in density within the curtilage of the original villa and therefore the density of the RCA, would erode the low-density character of the RCA.
20. As noted above, and by the appellant², most of the buildings within proximity of the site are two and three storeys high with pitched roofs, although the 3rd storeys are primarily within the roof space. Even though the height of the proposed building would be lower than Canton Orchard, it would introduce a four-storey building of a size, scale, form, and design that would be at odds with the size and scale of the historic villa and the form, design, and predominant external materials of surrounding properties.
21. Such factors would fail to preserve the significance of the RCA. As such, the proposal would have a significant detrimental impact on the character and appearance of the RCA.
22. Regarding arboricultural, landscaping and boundary treatment matters, I note that the appellant contends that Council Officers did not engage in discussion about these matters during the application. I am not able to comment on communications between the Council and the appellant during the application. Regardless, this does not affect my appraisal of arboricultural, landscaping and boundary treatment matters.
23. Of the 48 trees within the site, only one tree is categorised as a high-quality tree. This tree is located on the eastern boundary, close to what would be the access to the site. The proposal would include reconfiguring the tarmac on site, the result of which would improve the root protection zone of the one high-quality tree within the site.
24. The proposal would require the removal of 2 trees (an Ash and a Holly, both categorised as low-quality trees), and one group of Leyland Cypress trees (also categorised as low quality). All other trees within the site would be retained, including the key trees around the site's boundaries. I consider the one high-quality tree and the other trees around the site's boundaries to be the main trees that provide public benefit and positively contribute to the character and appearance of the RCA. I accept that as these would be retained, along with virtually all other trees within the site, the direct impact of the proposal on trees and landscaping within the site would be limited. Additionally, the historic stone boundary wall would be retained. For these reasons I conclude that the direct impact of the proposal on trees, landscaping and boundary treatments would not harm the significance of the RCA or, therefore, its character or appearance.

² P8 of the Design & Access Statement, dated December '21, produced by CODA Architecture

25. The Council has raised concerns regarding the long-term future of the trees to be retained, because of potential pressure to prune, lop or remove the trees due to potential overshadowing of rooms within the proposed apartment block.
26. The appellant accepts that trees would be close to the proposed building. However, he contends that, given the trees are within a CA, the Council would retain control over their future, as any proposed tree removal, lopping, or pruning would require the Council to be notified under a section 211 (s211) notice.
27. I have not been provided with any details regarding a s211 notice. However, from my general understanding, the Council would be able to prevent proposed works to a tree(s) retained on site the subject of a subsequent s211, by applying a Tree Preservation Order to the said tree(s) it seeks to resist works to. I therefore accept the contention by the appellant that the Council would retain control over the trees that would be retained on site, even if there was pressure from future residents to remove, lop or prune them.
28. Considering all the factors outlined above, overall, given the nature and scale of the proposal within the context of the RCA and the harm I have found, I consider the degree of harm, *vis-à-vis* the Framework, would be less than substantial. Under such circumstances, paragraph 202 of the Framework advises that the harm should be weighed against the public benefits of the proposal.
29. The appellant acknowledges that any harm caused by the proposal would be less than substantial. Additionally, he suggests that the harm would be very limited, and therefore contends that this should be taken account of when apportioning weight in the balancing exercise.
30. However, I note that in *Shimbles*³, the High Court addressed the concept of a spectrum of harm to heritage assets and the necessity to make a judgement beyond the classification of harm identified in the Framework. The judgement concluded that decision makers were not obliged to place harm that would be caused to the significance of a heritage asset, or its setting, somewhere on a spectrum to reach a conclusion. The Framework's division of harm into the categories of 'substantial' and 'less than substantial' was deemed adequate for the purposes of undertaking the weighted balancing exercise. I therefore do not apportion weight upon a spectrum of 'less than substantial' harm, which is still of considerable importance and weight.

Heritage Balance, Planning Balance & Conclusion

Heritage balance

Public benefits

31. The parties agree that the Council cannot demonstrate a 5-year supply of housing land, (5YHLS), with a shortfall of around 3,058 homes, equating to a supply of around 4 years. Paragraph 60 of the Framework confirms that an objective of the Government's is to boost the supply of housing. The proposal to provide 6 No. residential units would contribute to the shortfall and therefore be of public benefit. Within the context outlined, an additional 6 No. units

³ R Simon Shimbles v City of Bradford MBDC [2018] EWHC 195 (Admin)

would constitute a small contribution. I therefore attach moderate weight to this matter.

32. The proposal would also provide economic benefits. The construction phase would support/create employment opportunities and result in expenditure in the associated industries and the local economy. Post construction, future occupiers would contribute to the local and wider economies, through spending to meet day-to-day needs and spending on items such as household décor and furnishings. There would also be increases in public finance, from additional Council Tax and New Homes Bonus. Given the relatively small-scale extent of the proposal, I attach moderate weight to the economic benefits. I have not attached any weight in favour of the proposal associated with increases in public funds from Community Infrastructure Levy payments, as such payments are a requirement of planning policies to mitigate the impacts of new development.
33. The appellant contends that the proposal would make efficient and best use of previously developed land, particularly in the context of a 5YHLS shortfall. It may be factually correct to conclude that use of the site for residential purposes would make efficient use of land. However, as I have concluded that the proposed development would cause significant harm to the significance and character and appearance of the RCA, the proposal would therefore, in my opinion, not make "best use" of the land, regardless of any efficiency gains. I therefore do not attribute any weight to these related aspects.
34. The proposal would benefit the future well-being of the one high-quality tree within the site. However, there is no evidence that the health and future lifespan of the tree would be threatened should the proposed development not proceed. Consequently, I attach limited weight to this matter.
35. In light of the above, I consider that the public benefits identified do not outweigh the significant harm I have found the proposal would cause to the significance, and consequently the character and appearance, of the RCA.

Other considerations & planning balance

36. I have taken account of the public benefits outlined above in the overall planning balance, and I attach the same weightings to each of the matters in the planning balance exercise as I attached in the heritage balance.
37. The appellant has drawn my attention to several other developments within the RCA that are of contemporary design and include features such as block forms, flat roofs, large areas of glazing, and external materials such as render and metal and timber cladding. The appellant contends that these developments indicate that the Council has accepted development with such features as being acceptable within the RCA, and therefore such developments provide support for the proposal.
38. I acknowledge the examples the appellant refers to. However, I do not have the full details of either of the cases before me. I do not know the history of any of the sites. I do not know if there was any development previously on either of them, or if there was, what the details were. I do not know the historical relationship between each of the sites and their adjoining sites. I do not know the significance of any of the buildings within proximity of any of the sites or the contribution they make to the RCA. For such reasons, I cannot be

sure that any of the examples referred to are directly comparable to the scheme before me. I therefore attribute limited weight to the other developments referred to in support of the proposal.

39. The appellant contends that as policies BE15 and BE16 of the Sheffield Unitary Development Plan, 1998, (UDP), do not include reference to the concepts of 'substantial harm' and 'less than substantial harm' included in the Framework, the policies are not consistent with the Framework and are therefore out of date. That said, the appellant accepts⁴ that these policies are consistent with the overall objective of policies in the Framework, and the Act, to conserve and enhance historic assets. I agree with this conclusion. Therefore, as the Framework is a significant material consideration in the determination of the appeal, the concepts of 'substantial harm' and 'less than substantial harm' are considered in my assessment in addition to the overall objectives referred to. I therefore do not consider policies BE15 and BE16 of the UDP to be out of date.
40. As noted above, the Council cannot demonstrate a 5YHLS. Paragraph 11 d) of the Framework advises that, where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date (which includes not having a 5YHLS⁵), permission should be granted unless, in the case of 11 d) i, the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Designated heritage assets are deemed to be assets of particular importance in this context⁶. As I have concluded that the proposal would significantly harm the significance, and character and appearance, of the RCA, policies in the Framework provide a clear reason for refusing the proposed development. Consequently, the presumption in favour of sustainable development does not apply.
41. The appellant points out that as planning permission has been granted for the change of use of Canton Orchard to apartments, the use of the building as a restaurant has ceased and the appeal site is no longer functionally linked to the property. I cannot be certain that the permission granted will be implemented. Moreover, even though the site is no longer functionally linked, or will not be functionally linked in the future, to Canton Orchard, it is still historically linked and reads as such. For these reasons I attach little weight to this matter.
42. The appellant states that the location of the site would ensure future occupiers of the proposal would have access to the required services and facilities to meet day-to-day needs, as well as public transport options; that the site is located within Flood Zone 1, and therefore no flooding concerns are raised, and that there would be no ecological issues arising from the proposed development. These are matters of fact, and requirements of planning policies, to which I therefore attach a neutral weighting in the balance.
43. Notwithstanding my conclusion regarding matters of arboriculture, landscaping, or boundary treatments, I have found that the proposal would significantly harm the setting of Canton Orchard and the significance, and character and appearance, of the RCA. I have concluded that the degree of harm to the RCA would be less than substantial and that the public benefits outlined would not outweigh the harm identified. I also conclude that there are no other

⁴ Paragraph 5.43 of the Statement of Case, dated November 2022, produced by Knights plc

⁵ Footnote 8 of the Framework

⁶ Footnote 7 of the Framework

considerations, including the Framework, which outweigh the harms I have found. For the reasons outlined, I conclude that the proposed development would not preserve or enhance the character or appearance of the RCA.

44. Consequently, the proposal does not accord, as a whole, with the following development plan policies: CS74 of the Sheffield Development Framework Core Strategy, 2009; BE15, BE16 and H14 of the UDP. Nor does it accord with sub paragraphs 124 d), 130 a), b) and c), and 197 a) of the Framework. Collectively, and among other things, these policies require new development to be of high-quality design; to add to the overall quality of the area, be visually attractive and be sympathetic to local character; to take account of the desirability of maintaining an area's prevailing character; to respect the distinctive features of the City, including its heritage, and to preserve or enhance the significance, character or appearance and special historic interest of heritage assets. Additionally, the proposal would fail to satisfy the requirements of the Act.

45. I therefore conclude that the appeal is dismissed.

J Williamson

INSPECTOR