



Appeal Decision

Site visit made on 12 September 2023

by Gareth W Thomas BSc (Hons) MSc (Dist) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2023

Appeal Ref: APP/Y3940/W/23/3318624

Wiltshire College, Cocklebury Road, Chippenham SN15 3QD

- 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 McCarthy & Stone Retirement Lifestyles Ltd & Anchor Hanover Group against the decision of Wiltshire Council.
 - The application Ref PL/2022/03760, dated 10 May 2022, was refused by notice dated 3 February 2023.
 - The development proposed is for the erection of Retirement Apartments (Category II type) with communal facilities and car parking; erection of Assisted Living Accommodation (Class C2) with communal facilities and car parking.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of Retirement Apartments (Category II type) with communal facilities and car parking; erection of Assisted Living Accommodation (Class C2) with communal facilities and car parking at Wiltshire College, Chippenham SN15 3QD in accordance with the terms of the application, Ref PL/2022/03760, dated 10 May 2022, subject to the conditions set out in the Schedule to this decision.

Applications for costs

2. An application for an award of costs has been made by McCarthy & Stone Retirement Lifestyles Ltd & Anchor Hanover Group against Wiltshire Council. This is the subject of a separate decision.

Preliminary Matters

3. A signed Unilateral Undertaking dated 11 August 2023 signed by the appellants. I address this later in my decision.

Main Issues

4. The main issue in this appeal is the effect of the proposed development on the character and appearance of the Chippenham Conservation Area.

Reasons

5. The Council considers that the designated heritage asset potentially affected by the proposed development is the Chippenham Conservation Area (CA) within which the frontage of the present building sits. It does not have concerns relating to the settings of the nearby listed buildings comprising of Chippenham Railway Station, the former station office on the station forecourt and the telephone box and the non-designated heritage asset (NDHA) consisting of the former telephone exchange. I have no reason to disagree with the Council's assessment of the effects on listed buildings and the NDHA and in so doing

- have discharged my duties under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 1990 Act).
6. The definition of heritage assets, as set out in the National Planning Policy Framework (the Framework), includes buildings, sites and places as having a degree of significance meriting consideration in decision-making, because of their heritage interest. Heritage assets include both designated heritage assets and non-designated heritage assets (NDHA) identified by the local planning authority.
 7. The submissions make reference to the Chippenham Conservation Area Management Plan supplementary planning guidance (the SPG), which separates the CA into distinct subset areas based on their individual character and the challenges that they present for managing the built environment. Without question, the CCA has a rich mix of attractive period buildings and a distinctive traditional market town centre character within the loop of the River Avon. Its significance is derived from its historic and aesthetic value as a repository of period building styles, its original market town function and traditional nucleated form with attractive swathes of parkland and other open spaces astride the river. That said, Character Area 4 – Railway Station is rather different in character but is one where individual buildings set in their own plots, often in isolation, provide suitable counterpoints to this open character and contribute as architectural pieces to the character and appearance of the CA.
 8. There is no doubt that the present building has a degree of significance as a heritage asset. The appeal site is occupied by a group of buildings constructed initially as a school and used subsequently as a college of further education. Only a small part of the frontage of the original building on Cocklebury Road lies within the CA, which at this point is dominated by wide expanse of surface car parking associated with the railway station as well as the slab-like appearance of the new college and the multi storey car park on Sadlers Mead. Nevertheless, the building has a well-proportioned formal composition, with a highly articulated frontage and roofscape. It acts as a strong focal point offering a robustness of character and distinctiveness on the immediate approach along Cocklebury Road and, in so doing, makes a modest contribution to the townscape quality of the area. The other components comprising later additions have been sensitively designed and respected the setting and architectural composition of the original building. Moreover, the extension running along Sadler's Mead provides an attractive continuous frontage.
 9. My attention has been drawn to English Heritage's decision to not include the building on the list of buildings of special architectural or historic interest. However, I would agree with the planning officer in his report to the Planning Committee that the total loss of the NDHA must as a matter of course be harmful to the CA and that this must weigh against the appeal scheme in the planning balance unless its replacement preserves or enhances the character or appearance of the CA. According to paragraph 203 of the National Planning Policy Framework, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Further, the significance of the CA in this location is derived primarily from the architectural contributions that individual heritage assets play to the area's character and appearance. The Framework states that when considering the

impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

10. Of some importance is the fact that the Council previously sanctioned the demolition of the building on site in favour of its redevelopment. The appellants argue that given this recent event, provided there haven't been any change in material planning considerations since the grant of the now lapsed permission, there can be no legitimate reason why a suitably designed building having a broadly similar impact on heritage assets should not be sanctioned. Recently lapsed planning permissions can be an important planning consideration and the Council concedes that there has been no material change in planning policies since this grant of permission. The Council included illustrative material that depicted what was previously proposed. Having acknowledged the way the NDHA presents itself to the street scene at this immediate point, I consider the asset makes a positive albeit modest contribution to the character and appearance of this part of the CA. Its complete removal would only be considered neutral if what is proposed as an alternative would preserve or enhance the character or appearance of the CA and in particular the prevailing character of this part of the CA.
11. It is to the design of the replacement building that I know turn. In so doing, regard will also be made to the duties set out in 72(1) of the 1990 Act, which requires that the character or appearance of the CA is either preserved or enhanced. Careful consideration is required of whether the removal of the existing building and its replacement would preserve or enhance the character or appearance of the CA in this area which is derived from the contribution that individual buildings situated within extensive plots make to character and appearance.
12. The Council explain that the specific design issues reflected in the reasons for refusal included layout, built form, building line, elevational design materials, streetscape as well as the lack of inclusion of commercial and community uses, which featured in the previously consented scheme. On the latter point, it concedes that the provision of commercial uses at ground floor might not be economically viable but would nonetheless have helped provide articulation to the primary elevations. Thus, it is the other matters listed that are the Council's main concerns.
13. In terms of layout, I find that the proposed development located close to the northern and western boundaries would reinforce the existing form of the present NDHA with the opportunity to further enhance the southwestern boundary with additional green infrastructure. Although sited closer to Cocklebury Road than the NDHA, it would facilitate the removal of unsightly parking at this frontage and be effectively landscaped. I find the scheme would achieve coherence in terms of building lines. Circulation routes appear well-designed and, despite the omission of undercroft parking from the previous scheme in favour of surface car parking, the way these areas have been designed incorporating extensive planting and appropriate hardsurfacing would be acceptable.
14. Turning to elevational treatment, whilst the Council maintains that the consented scheme would have achieved a higher design quality, I do not find the proposed scheme to be of lower standard. The breaking up of proposed elevations would provide a suitable degree of articulation whilst the vertical

emphasis of windows giving a rhythmic quality to their arrangement would provide interest. Whilst the use of brickwork rather than natural or reconstituted stone fails to provide a nod to local vernacular, I am mindful of what is present in the immediate locality and in any event, the Council can ensure that quality materials are used throughout the scheme.

15. Taken in isolation, the design and external appearance of the proposed development is not inherently objectionable and in the context of other buildings in the immediate locality, which are either within or form the setting of the CA, would result in a modern contemporary new building that would make a positive contribution to the character of the area. The removal of the existing building despite its modest heritage value would be replaced by a development that would, at the very least, enhance the appearance of the CA. The Council has applied the tests contained in paragraph 202. However, I have found no harm to designated heritage assets. I have carefully considered the loss of the NDHA and concluded that the building makes a modest contribution to the character and appearance of the CA. Given the acceptability of the appeal proposal, its loss to the CA would be neutral.
16. Overall, I find that the proposed development is well-designed and would be visually appealing in line with Government expectations thereby representing sustainable development. I find no conflict with Policy CPO9 of the Wiltshire Core Strategy (CS) in so far as it expects mixed use schemes to incorporate high quality design standards. The proposed development would accord with CS Policy CP57 that sets out, amongst other things, to ensure that new developments contribute towards high quality buildings and spaces that reinforce local identity and protect heritage assets (in this case the CA). As a scheme of redevelopment, I consider that the proposed development would comply with CS Policy CP58, which requires that new development enhances the setting of designated heritage assets and that NDHAs are recognised for their contribution towards wider social, cultural, economic and environmental benefits provided they can be delivered in a sensitive and appropriate manner.

Other Matters

17. Although the Council's reasons for refusal are confined to matters of design, the appellants have submitted a Unilateral Undertaking to provide policy compliant affordable housing at the site. The appellants propose that 41 affordable housing units form part of the Undertaking although in reality, a further 28 affordable rented units will be provided (as the latter provision requires Homes England Grant Funding, they cannot be included in the Undertaking, a matter agreed during the application process). The Undertaking provides for off-site contributions based on the 41 no. shared ownership affordable housing units proposed in the event of no registered social housing landlord being found. In addition, a financial contribution will be made towards the Council's Wayfinding Placement Study to provide wayfinding totems for walking and cycling. These details featured in the original officer recommendations to the Council's Planning Committee and it is clear that the appellants are committed to these provisions as reflected in the Unilateral Undertaking. The requirements have a firm development plan basis and, in my view, the covenants directly relate to the development proposed, are necessary to make the development acceptable in planning terms and are fair and proportional thereby meeting Regulation 122 of the Community Infrastructure Levy Regulations 2010.

Conditions

18. In addition to the statutory time limit for commencement of development, a condition defining approved drawings and other relevant documents are included for clarity. A condition preventing occupation of the new development until all building material from demolition works have been cleared from the site is attached to ensure a satisfactory standard of appearance of the site. Conditions are included for visual amenity purposes and to ensure a satisfactory standard of appearance that require the agreement of all external materials by the Council, for the effective landscaping of the site and for tree protection. To ensure highway safety and convenience, conditions are imposed requiring satisfactory access and parking whilst conditions requiring cycle facilities and provision and implementation of an agreed Travel Plan are necessary to encourage travel by means other than the private car and reducing such dependence. A condition specifying the age limits of occupiers of the retirement units is necessary given the low off-street parking provision. Conditions are imposed to ensure that any land contamination is properly dealt with, construction activity is properly managed and water quality is safeguarded during construction in the interests of residential amenity. Having regard to the requirements of CS Policy CP55 and the need to protect public health, a condition is appropriate requiring the provision of electric car charging points. A condition requiring approval of lighting is necessary to prevent light spillage and pollution.

Conclusion

19. I have indicated above that the proposed development would comply with CS Policies CP9, CP57 and CP58. The benefits to this part of Chippenham would be substantial and would align with corporate ambitions for the development and regeneration of this part of the town. I have found that the loss of the NDHA would have a neutral effect upon and not harm the character of the CA because and, by comparison, the replacement building and development taken as a whole would have a positive impact as it would lead to the enhancement of the appearance of this part of the CA. This is the test that I am required to undertake under Section 72(1) of the 1990 Act. I am also cognizant of the judgment of the High Court in *Dorothy Bohm v SSCLG* [2017] which identifies that decision-makers when considering the demolition of a NDHA within a conservation area should not automatically conclude that harm would occur until it has assessed the loss in comparison with the potential enhancements of a proposed development.
20. There are significant benefits associated with the proposed development. The appeal scheme would bring forwarded needed affordable and market housing at a time when the Council cannot demonstrate a 5-year housing land supply. In addition, the development would bring about economic benefits both short and longer term.
21. Accordingly, and having regard to all other matters raised, the appeal is allowed.

Gareth W Thomas

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
Plans received by the Council dated 13/05/22:
Site Location Plan SO-2793-03-AC-0000
SO-2793-03-AC-0001-SITE EXISTING
SO-2793-03-AC-1004-C - AHG - ROOF PLAN GA
SO-2793-03-AC-1104-D - RL - ROOF PLAN GA
SO-2793-03-AC-3200-F -CONTEXT SECTIONS - SHEET 1 SO-
2793-03-AC-3201-F - CONTEXT SECTIONS - SHEET 2 SO-
2793-03-LA-916---TYPICAL LANDSCAPE DETAILS - SHEET 1
SO-2793-03-LA-917-A-TYPICAL LANDSCAPE DETAILS -
SHEET 2 Tree Protection Plan 1718-KC-XX-YTREE-TPP01RevA
Tree Constraints Plan 1718-KC-XX-YTREE-TCP01REV0 Tree
Survey and Impact Assessment Rev A
Tree Retention and Removal Plan SO-2793-03-LA-902-A
Received by the LPA 01/08/22:
Ecological Impact Assessment Report (Abbas Ecology, July 2022)
Received by the LPA 17/08/22:
Proposed Drainage Strategy Report (Jubb, July 2022)
Plans received by the Council dated 24/8/22:
SO-2793-03-AC-0002-REV G PROPOSED SITE PLAN SO-2793-
03-AC-1000-REV G AHG - GROUND FLOOR PLAN GA SO-
2793-03-AC-1001-REV F AHG - FIRST FLOOR PLAN GA SO-
2793-03-AC-1002-REV F AHG - SECOND FLOOR PLAN GA SO-
2793-03-AC-1003-REV F AHG - THIRD FLOOR PLAN GA SO-
2793-03-AC-1100-REV E RL - GROUND FLOOR PLAN GA SO-
2793-03-AC-1101-REV E RL FIRST FLOOR PLAN GA SO-2793-
03-AC-1102-REV E RL - SECOND FLOOR PLAN GA SO-2793-
03-AC-1103-RL – Rev G - Third Floor Plan GA SO- 2793- 03-
AC-2100- Rev H- RL Elevations North and East SO-2793-03-AC-
2101-REV H - RL ELEVATIONS SOUTH AND WEST SO-2793-
03-LA-901-I-LANDSCAPE GENERAL ARRANGEMENT PLAN
SO-2793-03-LA-915-E-PLANTING STRATEGY PLAN
Energy Statement dated 16/08/22
Plans received by the Council dated 05/01/23
SO-2793-03-AC-2001-REV H AHG ELEVATIONS SOUTH AND WEST and
SO-2793-03-AC-2000-REV H AHG ELEVATIONS NORTH AND EAST.
3. No part of the development shall be occupied until all the existing buildings on site have been permanently demolished and all of the demolition materials and debris resulting therefrom has been removed from the site.
4. No development above ground level shall commence on site until the exact details and samples of the materials to be used for the external walls to the buildings, boundary walls, roofs, windows, balconies and rainwater goods have been submitted to and approved in writing by the local planning authority. For the avoidance of doubt, the boundary walls to Cocklebury Road and Sadlers Mead shall be constructed using local natural

- stone or reconstituted stone details of which have first received the consent of the local planning authority. Development shall be carried out in accordance with the approved details.
5. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the buildings or the completion of the development whichever is the sooner.
 6. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the local planning authority.
 7. No demolition, site clearance or development shall commence on site until an Arboricultural Method Statement (AMS) prepared by an arboricultural consultant providing comprehensive details of construction works in relation to trees has been submitted to, and approved in writing by, the Local Planning Authority. All works shall subsequently be carried out in strict accordance with the approved details. In particular, the method statement must provide the following:-
 - A specification for protective fencing to trees during both demolition and construction phases which complies with BS5837:2012 and a plan indicating the alignment of the protective fencing. The plan should show the canopy spread and root protection of all retained trees;
 - A specification for scaffolding and ground protection within tree protection zones in accordance with British Standard 5837:2012;
 - A schedule of tree works conforming to British Standard 3998: 2010;
 - Details of general arboricultural matters such as the area for storage of materials, concrete mixing and use of fires;
 - Plans and particulars showing the siting of the service and piping infrastructure;
 - A full specification on how the existing building (situated adjacent of the Beech tree) will be demolished and reconstructed. Details of where the plant hire will be sited to demolish the outbuilding and where transport will be positioned to take away materials off site. Details of how the hardstanding will be removed within the RPA of retained trees;
 - Details of the works requiring arboricultural supervision to be carried out by the developer's arboricultural consultant, including details of the frequency of supervisory visits and procedure for notifying the Local Planning Authority of the findings of the supervisory visits; and
 - Details of all other activities, which have implications for trees on or adjacent to the site.
 8. No part of the development hereby permitted shall be first occupied until the access, turning areas and parking spaces have been completed in

- accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all times thereafter.
9. The development hereby permitted shall not be occupied, until the cycle parking facilities shown on the approved plans have been provided in full and made available for use. The cycle parking facilities shall be retained for use in accordance with the approved details at all times thereafter.
10. The development shall not be occupied until an updated Travel Plan (April 2022 Rev 4) has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include details of implementation and monitoring and shall be implemented in accordance with these agreed details. The results of the implementation and monitoring shall be made available to the local planning authority on request, together with any changes to the plan arising from those results.
11. Each of the apartments hereby permitted shall be occupied only by:
- persons of 55 years of age or over;
 - persons living as part of a single household with such a person or persons;
 - persons who were living as part of a single household with such a person or persons who have since died.
12. No development shall commence on site (other than that required to be carried out as part of a scheme of remediation approved by the local planning authority under this condition), until steps (i) to (iii) below have been fully complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until step (iv) has been complied with in full in relation to that contamination.
- Step (i) Site Characterisation:
- An additional investigation and risk assessment must be completed to assess the nature and extent of contamination within the following areas:
- a. Location of TPR4 - further asbestos testing is required in order to delineate the extent of asbestos contamination within soils
 - b. Following demolition of existing buildings, further trial pits to be excavated beneath the building footprint
- The investigation and risk assessment must be undertaken by competent persons and a written report of the findings submitted to and approved in writing by the local planning authority. The report of the findings must include:
- o A survey of the extent, nature and scale of contamination on site;
 - o The collection and interpretation of relevant information to form a conceptual model of the site, and a preliminary risk assessment of all the likely pollutant linkages;
 - o If the preliminary risk assessment identifies any potentially significant pollutant linkages, a ground investigation shall be carried out, to provide further information on the location, type and concentration of contaminants in the soil and groundwater

and other characteristics that can influence the behaviour of the contaminants;

- An assessment of the potential risks to human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwater and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

Step (ii) Submission of Remediation Scheme:

If any unacceptable risks are identified as a result of the investigation and assessment referred to in step (i) above, a detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared. This should detail the works required to remove any unacceptable risks to human health, buildings and other property and the natural and historical environment, should be submitted to and approved in writing by the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures.

Step (iii) Implementation of Approved Remediation Scheme:

The approved remediation scheme under step (ii) must be carried out in accordance with its requirements. The Local Planning Authority must be given at least two weeks written notification of commencement of the remediation scheme works.

Step (iv) Reporting of Unexpected Contamination:

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it should be reported in writing immediately to the local planning authority. An investigation and risk assessment should be undertaken in accordance with the requirements of step (i) above and where remediation is necessary, a remediation scheme should be prepared in accordance with the requirements of step (ii) and submitted to and approved in writing by the local planning authority.

Step (v) Verification of remedial works:

Following completion of measures identified in the approved remediation scheme a verification report must be produced. The report should demonstrate the effectiveness of the remedial works. The verification report should be submitted to and approved in writing by the local planning authority.

Step (vi) Long Term Monitoring and Maintenance:

If a monitoring and maintenance scheme is required as part of the approved remediation scheme, reports must be prepared and submitted to the Local Planning Authority for approval at the relevant stages in the development process as approved by the Local Planning Authority in the scheme approved

pursuant to step (ii) above, until all the remediation objectives in that scheme have been achieved.

All works must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

13. The development hereby approved shall not commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details of the following relevant measures:
- i. An introduction consisting of construction phase environmental management plan, definitions and abbreviations and project description and location;
 - ii. A description of management responsibilities;
 - iii. A description of the construction programme;
 - iv. Site working hours and a named person for residents to contact;
 - v. Detailed Site logistics arrangements;
 - vi. Details regarding parking, deliveries, and storage;
 - vii. Details regarding dust and noise mitigation;
 - viii. Details of the hours of works and other measures to mitigate the impact of construction on the amenity of the area and safety of the highway network; and
 - ix. Communication procedures with the local planning authority and local community regarding key construction issues – newsletters, fliers etc.

There shall be no burning undertaken on site at any time.

Construction hours shall be limited to 0800 to 1800 hrs Monday to Friday, 0800 to 1300 hrs Saturday and no working on Sundays or Bank Holidays.

The CEMP shall identify measures to ensure that construction works will maintain water quality and quantity in order to prevent an increase in pollution and/or flood risk.

The development hereby permitted shall proceed in accordance with the approved CEMP.

14. No development above ground level shall commence on site until a scheme of Ultra Low Energy Vehicle infrastructure has been submitted to the local planning authority. Active* EV charging points must be installed concurrently with the remainder of the development within at least 25% of the total number of allocated resident parking spaces.
(*Active provision is defined as a free standing or wall mounted, weatherproof, outdoor charging unit for electric vehicles with the capacity to charge at 7kw (32A) that has sufficient enabling cabling to upgrade that unit and to provide for an additional recharging unit of the same specification.)
15. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels

and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication "Guidance Notes for the Reduction of Obtrusive Light" (ILE, 2005)", and any additional surveillance equipment, have been submitted to and approved in writing by the Local Planning Authority. The approved lighting and surveillance equipment shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.