



Appeal Decision

Site visit made on 9 October 2023

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 November 2023

Appeal Ref: APP/Z0116/W/23/3317231

Vicarage, Station Road, Henbury, Bristol BS10 7QQ

- 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 planning permission.
 - The appeal is made by Veris Investments Ltd against Bristol City Council.
 - The application Ref 22/05332/F is dated 21 July 2022.
 - The development proposed is described as 'Demolition of existing buildings and provision of 14 no. 4 bedroom residential dwellings (Class C3), together with car parking, a new vehicular access, communal amenity, landscaping, installation of plant and other associated works.'
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Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matter and Main Issues

2. The Council failed to give notice within the prescribed period of a decision on an application for planning permission. However, the Council Statement of Case states the Council would have refused planning permission had it been able, and outlines reasons for that decision.
3. In reviewing the evidence, the main issues in this case are:
 - The effect of the proposal on the character or appearance of the Henbury Conservation Area and the setting of the neighbouring listed building;
 - Whether the proposal would make satisfactory provision for affordable housing, having regard for relevant development plan policies;
 - The effect of the proposal on on-site ecology;
 - Whether the proposal would make suitable provision for waste management;
 - And, if any harm would arise from any of the above, whether that would be outweighed by public benefits, or a decision contrary to the development plan is justified by other material considerations.

Reasons

Character or Appearance

4. The appeal site is a large plot at the outer edge of the urban area of Bristol. This former vicarage, with sizeable grounds, has been vacant for some time. The garden is now overgrown but while the plot appears derelict with the former dwelling damaged by fire, the extent of dereliction is largely screened

from public vantage points by mature trees, vegetation and the stone wall at the front and side of the site.

5. The site is in the Henbury Conservation Area (CA). This CA comprises the former hamlet of Blaise which includes historic buildings set around a 12th Century Church. Historic interest in the CA is also provided by the Blaise Estate and parkland, a manor house, period terrace cottages and grand 18th and 19th Century houses at the fringes of the former hamlet. With these features, despite forming the urban edge of Bristol, the area retains a distinct rural character. This character, along with the considerable historic interest evident in the built form, contributes positively to the significance of this designated heritage asset.
6. The appeal site is at the north boundary of the CA, at the junction of Avonmouth Way and Station Road. Although the historic core of the CA includes some closeknit dwellings, this part of Station Road is distinctly characterised by properties in spacious plots which include the Grade II listed Henbury Lodge.
7. Now a hotel, this listed stucco fronted late 18th Century grand Georgian property has a prominent position at the corner of Station Road and shares a side boundary with the appeal site. While the property has been subject to change, including parking areas to the front, the historic significance of this listed building is still clearly apparent above the boundary stone wall, as a large, eighteenth-century house. It forms part of the historic village of Henbury and illustrates the historic development of this settlement to the north of Bristol, and in turn, it contributes positively to the significance of this part of the CA.
8. The evidence presented shows that the appeal site was created from a corner of a field adjacent to this listed building. The style of the dwelling at the appeal site was typical of the 1930 period.¹ While this style differed from the existing properties in the hamlet, as a former vicarage, reasonably close to the church, the plot has a link to the historic development and significance of the settlement north of Bristol.
9. Even if this historic link with the church is not clearly apparent at street level, the plot, with a stone rubble wall and mature trees, has a sense of former grandeur that is sensitive to the historic interest and setting of the neighbouring listed building. Moreover, these existing features are visually prominent from Avonmouth Road and Station Road. As such, despite some dereliction, with these largely attractive features, the site contributes positively to the character of the area and the historic interest in this part of the CA.
10. The appeal site is at a point of transition between the historic rural character evident in the CA and the more contemporary suburban development to the north outside the CA. The site is also bounded to the rear by a relatively modern residential estate of closeknit brick-built dwellings. While within the CA, the suburban quality of this estate is somewhat contained from wider views by the boundary treatment along the main road. Beyond this boundary, I saw few features in that development that contribute positively to the historic interest or significance of the CA in this relatively new development. However, that

¹ Ref: Heritage Assessment - Former St Mary's Vicarage, Station Road, Henbury.

- development is largely screened by properties on Station Road such that it does not encroach into the positive features at the front of the appeal site.
11. S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (1990 Act) requires when determining proposals in conservation areas that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Also, S66(1) of the 1990 Act requires, in considering whether to grant planning permission for development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.
 12. The proposal would replace the single derelict house with fourteen family sized dwellings, split into three, predominately three storey terraces. While one short terrace would address the street, this would be flanked by two other terraces. Station Road is dominated by properties with a sizeable mass, that address the street and part of the proposal would reflect this locally prevailing layout. However, the proposed layout would also result in two terraces of dwellings, side on to the street.
 13. The proposed layout is described as a courtyard with the appellant asserting that this would reflect existing surrounding properties. The examples cited are existing historic properties where the original courtyard was formed in part by outbuildings. However, the proposed layout in this case would be formed by dwellings, and dwellings surrounding a courtyard is not a common feature in this immediate area. Moreover, the proposed side facing terrace at the south of the site would comprise eight units, considerably longer than the other proposed terraces. This relatively long terrace would be a dominating feature in the site such that the impact of other proposed features, that may be consistent with surrounding development, would be significantly reduced. In turn, the proposal would appear at odds with the prevailing development pattern surrounding the site.
 14. The proposed grain of development would be considerably denser than the built form at neighbouring properties on Station Road. The proposal would also appear as a collection of modern terraces in a closeknit and irregular pattern. In this regard it would have a distinct suburban quality, such that this incongruous layout of development would not readily assimilate with the existing retained historic rural character of this part of the CA. The intensive and irregular mass of development at the site would be at a scale such that incorporating existing local design details into the dwellings would not adequately resolve this poor assimilation in the local environment.
 15. Although, the dwellings would be grouped around a communal amenity space and would all have rear gardens, a considerable part of the site would be covered by built forms and a sizeable parking area. While the appeal site is somewhat larger than other plots in the immediate vicinity, this would still amount to a substantial coverage of development at the site. While parking areas at the front of dwellings is not uncommon, those existing parking areas front properties that contribute positively to the historic interest in the CA. As outlined above, this would not be so for the proposed built form in this case.
 16. Also, while existing properties on this part of Station Road have openings in the stone wall boundaries, the openings are limited such that there is a considerable length of stone wall fronting properties in this area. As such the

stone wall is a relatively consistent feature that dominates the street scene and appears a distinct positive characteristic in this part of the CA. This proposal would result in three substantial breaks in the existing stone wall fronting the site. In doing so this would substantially erode this existing positive feature in Station Road and a feature that contributes to the interest and significance in this part of the CA.

17. The proposal would remove the brick rendered piers at the northern corner of the appeal site. However, although these may not be an original feature, their existing grey tone blends with the locally distinct stone such that they appear a relatively neutral feature. As such, their removal would not compensate the visual harm of the proposed new breaks in the stone wall.
18. The proposal would also result in the substantial clearance of vegetation at the site. The appellant is confident that the retained trees at the front of the site would be unaffected by the development. Even if I agreed that this would be so, the proposal would still result in the removal of a significant number of individual and grouped trees as well as existing hedging at the front boundary. The trees to be removed may not be category 'A', but, with the exception of two of these trees, the trees are judged to be in fair or good condition.² Moreover, these trees contribute significantly to the verdant character of the area.
19. Any redevelopment of the site would likely require some vegetation clearance and the removal of trees that are in poor condition. However, the substantial vegetation clearance proposed in this case would visually amplify the relatively intensive and irregular pattern of development at the site. The extensive clearance would also substantially diminish the site's existing verdant appearance and, in this respect, its current contribution to the character of the area. This loss of vegetation and significantly harmful alteration to the wall, alongside the introduction of an uncharacteristic grain and layout of development at the site, would fail to preserve the character or appearance of this part of the CA.
20. The neighbouring buildings in the grounds of Henbury Lodge, despite being converted to bedrooms, still appear relatively subservient structures. As such they read as original outbuildings linked to the grand dwelling at this designated heritage asset. Proposed Units 1 – 8 would be located close to the shared boundary of the listed building and close to these former outbuildings.
21. These proposed units have been designed to graduate in height, but the new dwellings near the outbuildings would still be two storeys and would be significantly larger than these neighbouring structures. Moreover, the proposed clearance of vegetation at the front of the site would result in the new built forms being largely unscreened at this share boundary and the corner fronting Station Road. Consequently, proposed Units 1 - 2 would be clearly visible as the backdrop of the heritage asset from public vantage points at the junction of Henbury Road and Church Lane and within Station Road.
22. A soft landscaping scheme is proposed, and this could be secured by condition. However, such a scheme would unlikely be sufficient to screen the mass of the proposed two storey dwellings that would be set relatively close to this visually sensitive corner of the site.

² Ref: Arboricultural Implications Assessment and Method Statement

23. The suburban quality of the proposed built form at this aspect of the site would be a jarring contrast to the distinct historic character of Henbury Lodge. Positioned close to the front corner of the site and with limited screening, the mass of the new additions would visually compete with the interest at this existing asset. In turn, the resulting unfavourable contrast would challenge the status of this asset, and this would significantly alter how the historic interest of the asset is currently appreciated in the public realm. In this regard the proposal would fail to preserve the setting of the listed building.
24. I note that this scheme is the third iteration for the site, and the scheme before me has been influenced by feedback received during a public consultation event. Be this as it may, while this development would result in fewer dwellings at the site than previously proposed, it would still give rise to significant visual harm such that the setting of a listed building and the significance of this part of the CA would not be preserved. My findings are not altered by this matter for this reason.
25. Accordingly, I find on this matter that the proposal would cause less than substantial harm on the significance of the Henbury Conservation Area and the adverse effect on the setting of the neighbouring listed building would harm its significance.
26. These heritage assets strongly and positively determine the character of this area and therefore development that would visually alter and harm this historic environment would not present a high-quality design. I have found that this would be so in this case, and as such the proposal would significantly harm the character of the area.

Ecology

27. The appellant's Ecology Report shows that the appeal site has habitats that support protected species, and the wildlife protection area that would be retained in a corner of the site seeks to address this matter. The appellant states that the Council's Ecologist is satisfied with the proposed mitigation in respect of this matter. However, the evidence indicates that while the Ecologist expressed support in principle, this was without the benefit of reviewing the details of the proposed site plan. Moreover, the Council's Ecologist did raise concerns at the application stage.
28. The wildlife protection area amounts to a comparatively small section of the site, and minimal evidence has been provided as to whether this relatively confined space would be sufficient to support the species in question. Also, I share the Council's concerns as to whether the buffer zone measures would be an acceptable mitigation measure as this would cover a considerable proportion of rear gardens of proposed Units 11 – 13. While this may create an environment suitable for the protected species, annotations on the submitted plans show that this would be 'tall, dense thorny vegetation up to 10m buffer zone', such that this measure would likely impact on the quality of living conditions for future occupants of these dwellings.
29. Furthermore, there is conflicting information as to whether the appellant is proposing suitable access for the species across the residential development. While the submitted plans state that fences would be permeable to wildlife, the appellant states that this is an error. In which case, I am not satisfied based on

the submitted information, that the largely contained zone would be suitable provision for the protected species.

30. In light of the above, I find that there is insufficient information to conclude that the proposal would not have an unacceptably harmful impact on the on-site ecology. In this regard the proposal would fail to accord with Policy DM19 of the Bristol Local Plan Site Allocations and Development Management Policies (Local Plan). This Policy states that development which would be likely to have any impact upon habitat, species or features which contribute to nature conservation will be expected to, amongst other matters, be designed and sited, insofar as practicably and viably possible, to avoid any harms to identified habitats, species and features of importance.
31. The proposal would also fail to accord with the National Planning Policy Framework (the Framework) in respect of conserving the natural environment.

Affordable Housing

32. Policy DM3 of the Local Plan specifies that residential developments comprising 10 to 14 dwellings should make an appropriate contribution towards the provision of affordable housing on-site or, where on-site provision cannot be practicably achieved, as an equivalent financial contribution.
33. The Council states that the site falls in a North Bristol ward and, in accordance with Policy DM3, the site is required to deliver 10% affordable housing. This would equate to one affordable unit on the site. The remaining percentage of affordable housing in order to reach the stated 10% would be a payment of £77,640, to be secured by legal agreement, to contribute to affordable housing elsewhere in the City.
34. The appellant's viability report concludes that this scheme would have a viability deficit. As such the appellant does not propose any affordable housing on the site and there would be no financial contribution in respect of this matter. Despite the Council stating that it is seeking an independent review of this report, no additional information has been submitted on this matter.
35. This aside, while noting that the viability report references advice set out in Planning Practice Guidance (PPG), I have uncertainty over some of the assumptions and evidence in this report. For example, with reference to the estimated gross development value, there is limited reasoning for the sales values adopted per square meter for the proposed larger new dwellings. Related to this matter, although Catbrain Hill is reasonably close to the site, the modern built environment surrounding that development is very different to the relatively leafy and historic setting of the appeal site. It is unclear whether this factor has informed the estimated sales value of the proposed dwellings in this scheme. Also, the report states that the external works cost allowance would need to fund a relatively high level of external works in this case, but there is limited information to allow consideration of this matter.
36. In light of the above, I find insufficient information before me to conclude that this proposal would make satisfactory provision for affordable housing, having regard for relevant development plan policies. In this respect, the proposal would fail to accord with Policy BCS17 of the Bristol Development Framework Core Strategy (Core Strategy) and Policy DM3 of the Local Plan which are relevant to this matter.

37. It has also not been demonstrated in this case whether the proposal would accord with the guidance set out in the Affordable Housing Practise Note.

Waste Management

38. The Council has raised concerns that the proposed waste management arrangements at the site would not comply with local waste management policies and guidance. I agree that the proposed communal space would be clearly insufficient for a development comprising fourteen family homes. However, this is a sizeable plot such that a waste management scheme could be readily accommodated that would have sufficient capacity for the needs of future occupants.
39. Also, while the Council may not be satisfied with the suggested waste collection arrangements set out in the appellant's Transport Statement, the site abuts the public highway, such that I am reasonably certain that a suitable compromise could be reached to ensure that bins are positioned appropriately for the convenience of waste operatives on waste collection day. Moreover, it is not uncommon for these matters to be addressed by condition.
40. I therefore find that the proposal would make suitable provision for waste management. In this regard the proposal would not conflict with Policy DM32 of the Local Plan which guides recycling and refuse in new development
41. The proposal would also not be contrary with guidance set out in the Waste and Recycling Storage and Collection Facilities Guidance for Developers of Residential, Commercial and Mixed-Use Properties.

Other Matters

42. It has been highlighted that the proposed dwellings would have sufficient internal and external space and that the development would include a communal outside space. Assessments of noise, sun/daylight and overshadowing suggest that the proposal would not result in harm to living conditions in respect of these matters. The appellant contends the proposal would have adequate parking provision. The Council has also not raised concerns about impacts on residents' living conditions or highway safety, subject to conditions.
43. Be this as it may, all residential development should be expected to provide a reasonable quality of living conditions for existing and future occupants, and development should not give rise to harmful effects. Accordingly, these are neutral factors in this appeal.
44. There is also intent for a legal agreement to address required alterations to the public highway. However, a signed legal agreement has not been submitted with this appeal and if I had been concluding differently this is a matter I would have had to address.

Planning Balance

45. I have found less than substantial harm to the significance of the CA and the setting of the neighbouring listed building. Also, I have found that there is insufficient information to conclude whether the proposal would be acceptable in terms of impact on on-site ecology and in this regard the proposal would fail

- to accord with development plan policies that seek to safeguard protected species.
46. With regard to the designated heritage assets, the Framework states that great weight should be given to an asset's conservation, with any harm to the significance of a designated heritage asset, including from development within its setting, requiring clear and convincing justification. Moreover, if less than substantial harm is caused to the significance of any asset, that harm should be weighed against the public benefits (heritage balance).
47. Policy BCS22 of the Core Strategy and Policy DM31 of the Local Plan collectively require proposals will safeguard or enhance heritage assets, and the character and setting of areas of acknowledged importance, and in this respect, they are largely consistent with the provision of the Framework.
48. A further balance is found in section 38(6) of the Planning and Compulsory Purchase Act 2004, which says development should be in accordance with the development plan unless material considerations indicate otherwise (the planning balance).
49. In undertaking these balances, the evidence shows that the Council can only demonstrate 2.45 years of housing land supply. As such there is an urgent need for housing in the Bristol area.
50. The proposal would provide fourteen family homes and there is support for good sized family homes in Policy BCS18 of the Core Strategy. There is also policy support for higher density of development in the Northern Arc regeneration area. This proposal would significantly contribute to the urgent need for homes in the area. Also, this is a previously developed site, in a built-up area, that is reasonably well connected to a range of services and transport options. Moreover, as a small to medium sized windfall site the homes could be available to the open market relatively quickly. I attach considerable weight to these benefits in this appeal.
51. The appellant has expressed a willingness in this appeal to accept a pre-commencement condition requiring legal agreements for contributions to the Council's employment and skills plan. However, PPG advises that a positively worded condition which requires an applicant to enter into a planning obligation is unlikely to be enforceable. This aside, there would be a significant economic benefit to the local area through Community Infrastructure Levy contributions and through the construction of the dwellings. There would also be social and economic benefits through the contribution that future occupants would make in supporting local businesses and services. Collectively, these would amount to significant public benefits.
52. However, while the proposal would resolve the dereliction at the site, this would be at the cost of harming identified existing positive features. While the site may have originally contained some incongruous features, I have found this proposal would also be incongruous such that I do not see this as a benefit of the development. Moreover, the site has some unique qualities which may lead to a proposal that differs from the prevailing development pattern, but as outlined above, in my view, this distinctly suburban scheme would not amount to high quality design at this site. In any event, good design should be an expectation of all development and therefore this would be a neutral factor if this was to be achieved.

53. Also, while this scheme would include on-site renewable energy sources, energy efficiencies and electric vehicle charging points, I am not convinced that this harmful scheme is the only solution to ensure that the much-needed residential development, with these features, are delivered at this site, or that this is the only means of ensuring this prominent site would be used effectively and efficiently for this use. The significant public benefits of the proposal identified above are significantly countered by these factors.
54. The site would include a wildlife area, however as already outlined there is insufficient information to establish whether this would be suitable mitigation. Even if I found that the proposal was acceptable in respect of this matter, development should not result in harm to protected species and this would be a neutral factor.
55. The appellant indicates that ensuring a biodiversity net gain (BNG) in respect of this development, to address national and local policy, could be dealt with by condition. However, given the proposed comprehensive redevelopment of the site, and the limited information provided regarding potential enhancement measures, it is not possible at this stage to conclude what level of BNG could be delivered and whether this would amount to a significant benefit of this proposal.
56. Poorly maintained vegetation and trees would be removed in this proposal. However, the benefit of improved ground maintenance at the site would be severely countered by the loss of healthy specimens that currently positively contribute to the verdant character of the area.
57. Also, I find nothing before me to provide certainty that there would be mitigation for the loss of this green infrastructure, in line with Local policy and guidance on this matter. Furthermore, while I observed the vandalism at the site, as already stated, I am not satisfied that this harmful scheme would be the only solution for securing benefits, including addressing the dereliction and vandalism at the site. These matters do not weigh significantly in favour of the proposal for this reason.
58. Assessing the factors above in the context of the heritage balance, there would be public benefits of providing much needed homes and some significant social and economic benefits of providing these homes. However, even if taken together, and if I was to give greater weight to the re-use of a derelict site, these benefits would not outweigh the substantial harm that has been identified to the designated heritage assets.
59. I have found that the development would cause less than substantial harm to the significance of the Henbury Conservation Area and the adverse effect on the setting of the neighbouring listed building would harm its significance. In the absence of clear and convincing justification, this harm is not outweighed by public benefits. In this regard, the proposal would be contrary to Policy BCS22 of the Core Strategy and Policy DM31 of the Local Plan which seek to preserve heritage assets.
60. Also, with regards design and impact on character and appearance, the proposal would conflict with Policies BCS9 and BCS21 of the Core Strategy and Policies DM15, DM17, DM26 and DM27 of the Local Plan. These Policies collectively require that development in Bristol should deliver high quality urban design and that the design of development proposals will be expected to

contribute towards local character and distinctiveness. These Policies also require, amongst other matters, that development should integrate important existing trees and individual green assets should be retained wherever possible and integrated into new development. With regards the above matters, the proposal would also be inconsistent with the Framework, which seeks well-designed places.

61. The provisions set out in Paragraph 11 d) of the Framework are engaged in this case. This applies a presumption in favour of sustainable development where the policies which are most important for determining the application are out-of-date, granting planning permission, unless, amongst other matters, the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.
62. The Framework confirms that policies relating to designated heritage assets provide clear reasons for refusing planning permission, and for the reasons already outlined, I find this provides a clear reason to refuse permission in this case. Therefore, the presumption in favour of sustainable development does not apply in this case.
63. As already outlined, I find uncertainty over the appellant's viability evidence, and that could have been tested through a hearing if I found otherwise on other main issues in this case. However, even if there had been a delivery of affordable housing, the benefits of that would not have affected my overall conclusions.
64. Attention has been drawn to local policies and guidance that are not in dispute in this case. However, I have found for the reasons stated that this proposal would conflict with the development plan when read as a whole.

Conclusion

65. For the reasons stated above and having regard to the development plan, the Framework and other material considerations, the appeal should be dismissed and planning permission is refused.

A J Sutton

INSPECTOR