

PROOF OF EVIDENCE

My name is David Beardmore, Principal of Beardmore URBAN and I appear at this Inquiry on the instructions of The Planning Bureau for McCarthy and Stone. I hold the following academic and professional qualifications: MSc (from the School of Architecture of the University of Bath) MA (in the History of Art and Design of the University of Bristol) DipLD (Dist), DipLArch (Dist), Dip UD, Dip Bldg Cons, FRTPI, CMLI (Design Division), IHBC.

I have over 45 years professional experience in town and country planning, landscape planning and design, conservation of the built environment and urban design, both in private practice and local government. I have previously been a Main Board Director of the Company of Designers Plc responsible for Planning, Urban Design and Landscape Architecture and later the Managing (and Main Board) Director of GL Hearn Planning. I set up the practice of Beardmore URBAN in January 2008.

I have twice been a member of a Government Gateway Review Team advising on the progress of the proposed development associated with the Stonehenge World Heritage Site. I also gave evidence for the then English Heritage in 2001 at the landmark Public Inquiry into the Heron Tower in Bishopsgate, London. Furthermore I have published a number of professional articles, lectured on a variety of urban design, planning and landscape matters and was a visiting lecturer in landscape design at the University of Plymouth.

PROFESSIONAL WITNESS DECLARATION

The evidence which I have prepared and provide in this proof of evidence (appeal reference APP/Q4245/W/23/3325034) is true and has been prepared and is given in accordance with the guidance of my professional institutions and I confirm that the opinions expressed are my true and professional opinions.

REASONS FOR REFUSAL

1.1 These are set out in Appendix A to this proof of evidence.

2.0 LOCAL PLANNING POLICIES

2.1 The Trafford Core Strategy was adopted in January 2012, ie before the first version of the Framework was published. Policy R1 referred to in the reasons for refusal is contained in Appendix B to this Statement. It is an extremely lengthy policy much of which is of no

relevance to the appeal site. It has therefore been edited in this statement to include only those parts that the appellant considers relevant to this appeal. Reference to the whole policy should nevertheless be made to ensure its aims and purposes are fully understood.

3.0 CENTRAL GOVERNMENT POLICIES

The Framework (National Planning Policy Framework September 2023)

- 3.01 Section 16, 'Conserving and Enhancing the Historic Environment', deals with conserving and enhancing the historic environment and states (Paragraph 195):
"Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise."

In this instance no part of the site is within a conservation area nor is it within the setting of a designated heritage asset, for example a listed building or ancient monument.

- 3.02 Paragraph 203 of the Framework upon which the reason for refusal seeks to rely, at least in part, cannot however be engaged if the building in question is not in fact a non designated heritage asset.
- 3.03 The appellant's case accordingly starts from that part of the Framework set out in Appendix 2 (Glossary) that states such assets (ie a non designated heritage asset) should be:
".. identified by the local planning authority (including local listing)."

4.0 BACKGROUND AND KEY ISSUES

Statutory requirements

- 4.01 Section 66 (relating to listed buildings) and section 72 (relating to conservation areas) of the Planning (Listed Buildings and Conservation Areas) Act of 1990 local planning authorities do not apply in this case since the appeal site and its buildings are not included in either statutory designation. There is therefore no statutory duty to have or pay special regard to changes to it or that may affect its setting or those of the surrounding area.
- 4.02 The concept of non designated heritage assets and their introduction into planning policy occurred with the publication of the first National Planning Policy Framework,

(the 'Framework') in July 2012, the most up to date version of which was published in September 2023.

Non designated heritage assets in Trafford

- 4.03 The current (ie still extant) Trafford Core Strategy was adopted in January 2012 and self-evidently could not have included any policies specifically directed to the subject of non designated heritage assets. On 15th August 2019 Trafford Council adopted the following resolution:

- 1. That the preparation be approved of the local list as a Supplementary Planning Document (SPD).*
- 2. That approval be given to the first stage of publicity and consultation arrangements for the Local List SPD, inviting nominations for inclusion on a draft local list and consultation on the selection criteria to be used for nominations.*
- 3. That it be noted that following the consultation process described in the report a future report will seek approval for the content of the consultation draft SPD and the next stage of consultation and publicity.*

- 4.04 Since that date there has been no public statement by the Council on progress towards the drawing up of the list. The officer report on the current appeal proposal did however make the following comment:

In January 2021, Trafford Council was selected as a pilot area as part of the Greater Manchester Local Heritage List for The Local List Campaign funded by the Ministry of Housing, Communities & Local Government (MHCLG); the project is also supported by Historic England and managed by GMAAS & University of Salford. 35 Oakfield has been nominated for inclusion on Trafford's Local Heritage List. A selection panel is currently assessing the nominations which along with a draft criteria will go out to a second round of consultation.

- 4.05 This makes it clear that 35 Oakfield was being nominated in that pilot study for inclusion in any list of non designated heritage assets that the Council may ultimately adopt, ie after it has carried out the public consultation that its own August 2019 resolution laid down. The study for the Greater Manchester Local Heritage List for The Local List did indeed include 35 Oakfield in its report that was adopted on 6th May 2023, a day after the refusal notice in respect of this appeal was issued. This was not and, in my view cannot, be regarded as the formal identification by the Council of the appeal property as a non designated heritage asset.

- 4.06 Firstly, it merely reflects the role of the study which was to make recommendations and that body had no executive power to do otherwise. It did not have the ability to determine that the subject had any particular heritage status. Secondly the committee report was made by officers acting under delegated powers which did not include deciding whether the building was a non designated heritage asset. The process for including any structure in such a local list was clearly set out in the Council's August 2019 resolution and, equally importantly, it included two tests that must first be passed, namely publicising the proposed list and then undertaking consultation which would allow property owners to make representations regarding the items that it was proposed to include in the list **before** (my emphasis) the list was adopted.
- 4.07 The Council's Statement of Case (SoC) seeks to circumvent the need for proper consultation and scrutiny by reference to the advice of Historic England (2nd Edition 2021) entitled *Local Heritage Listing : Identifying and Conserving Local Heritage* and one of the updates (August 2019) to the NPPG. Neither document is a statement of government policy, the former is a research paper from an executive non-departmental public body while the latter is the government's advice on how its policies are to be applied. The former mentions ways (in the section dealing with definitions) in which non designated heritage assets may be identified.

Non-designated heritage assets can be identified in a number of ways, including:

- Local heritage lists
- Local and Neighbourhood Plans
- Conservation area appraisals and reviews
- Decision-making on planning applications

In my view this latter bullet point does not give officers the freedom to identify non designated heritage assets, since that is not a responsibility that has been delegated to them and the process for such unilateral action is not included in the Council's resolution of August 2019.

- 4.08 Similarly the NPPG advice states:

"In some cases, local planning authorities may also identify non-designated heritage assets as part of the decision-making process on planning applications, for example, following archaeological investigations."

From this statement it is clear that it is primarily related to archaeological features or circumstances where the new evidence emerges whilst the application is under consideration. Accordingly this part of the NPPG needs to be read in conjunction with an earlier paragraph:

“Plan-making bodies should make clear and up to date information on non-designated heritage assets accessible to the public to provide greater clarity and certainty for developers and decision-makers. This includes information on the criteria used to select non-designated heritage assets and information about the location of existing assets.”

- 4.09 The decision on the appeal application (taken by the officers under delegated powers) obviously does not comply with this advice. Trafford Council has not provided the criteria used to select non designated heritage assets and information about the location of existing assets, indeed, its actions have been wholly reactionary and bereft of any criteria used in the selection process. Moreover only when the GMAAS & University of Salford consultation response was received and the Committee Report was published did it emerge that 35 Oakfield was claimed by officers and external advisers to be a non designated heritage asset. This was despite the fact that it had apparently already been considered by the Greater Manchester Local Heritage List study and recommended for inclusion in Trafford’s list, something that could only be done once the procedures set out in the August 2019 resolution had been undertaken. In the light of this chronology the officers, cannot in my view, now claim that their actions are justified by this part of the NPPG advice on the grounds that that this information was previously unknown. It was known to them but they took no action to place it within the context of the August 2019 resolution or to consider whether they had any authority to make the claim that the building is a non designated heritage asset.
- 4.10 In my opinion (based on my experience working in local government) the officers, if they felt the issue was sufficiently important to warrant such action, could have in accordance with the Council’s procedures approached the relevant Committee Chair or referred the matter to the relevant Committee in order to seek the necessary delegated authority for their action. Whether this would have been granted is a matter of conjecture and in any event it would still have breached the August 2019 resolution which provides for public consultation – an essential component of a legitimate decision making process where it affects other people’s property and interests. The fact that this course of action was not taken further underlines the officer’s failure to accept that the identification of non designated heritage assets was not a decision that they had authority to make. In the light of this review of the Council’s position I conclude that the officers and they alone decided that 35 Oakfield is a non designated heritage asset without any substantive evidence to support the claim that they had the right to make that decision. Moreover in attempting to do so they have failed to act in accordance with the Council’s resolution of August 2019 and denied the public (as set out in that resolution) the opportunity to comment upon or contest the inclusion of any building it is eventually proposed to include on that list and its adoption as a Supplementary Planning Document.

- 4.11 For this part of the LPA's case to be credible it has to demonstrate that it has 'identified' the alleged asset, ie 35 Oakfield, in a way that would accord with the August 2019 resolution. In my judgment it has failed to do so. Claims that it has done so appear to rely on either officers (or consultees) claiming that it is a non designated heritage asset but without citing any clear basis that would substantiate the claim. An early example of this lack of evidence may be found in the consultation response sent to Council Officers on 29th March 2023 by Greater Manchester Archaeological Advisory Service (GMAAS). The report merely states "*GMAAS considers the building to constitute a non-designated heritage asset*". Given that the same report quotes the Framework extensively it is surprising that it did not pay the same level of attention to detail when making a claim that was not entitled to make.
- 4.12 This means that the Council is seeking to rely on the views of professional advisers which then have to be included in a new SPD and on which there then has to be public consultation before adoption. In those circumstances I conclude that the Council cannot realistically claim (paragraph 6.5 of the SOC) that:

The 'Good Practice Advice Note 2: Managing Significance in Decision-Taking' published by Historic England (2015) provides definitions for a variety of terms related to the historic environment. The 'Good Practice Advice Note 2: Managing Significance in Decision-Taking' published by Historic England (2015) clarifies non-designated assets as those "...that have been identified in a Historic Environment Record, in a local plan, through local listing or during the process of considering the application."

- 4.13 The only part of this analysis that could be thought to support the Council's position is the phrase "*or during the process of considering the application.*" However to make such a claim would be wholly disingenuous. The decision on the appeal application was made by officers purportedly under their delegated powers. The power to make such a decision by officers has not been evidenced. This point is not legal pedantry – the need to objectively assess, justify by reference to existing criteria and engage the public before the decision seems to me be clear by reference to the NPPG it cannot reasonably be taken to mean that the officers also have delegated powers to decide on whether a building is a non designated heritage asset when that would place it outside of the process to which any other candidate for inclusion in an SPD would be subject.
- 4.14 The Council's Statement of Case offers no explanation as to why no substantive progress has been made in the drawing up a draft list for inclusion in the SPD, which would then allow for public consultation to be carried out. National planning policies indicate such a course of action should follow once an authority announces publically that it intends to

commence this process. Instead the Council seeks to claim that internal consultations as part of the preparation of an unpublished list of non designated heritage assets meets the advice on drawing up such lists. This claim is then contradicted by the same paragraph of its own Statement of Common Ground where it states that the building has been:

“...nominated for inclusion on Trafford’s Local Heritage List.”

The authority cannot on the one hand state that the building **is** (my emphasis) a non designated heritage asset while on the other offering the claim that it **will** be included in Trafford’s Local Heritage List at some unspecified date in the future. The two positions are mutually exclusive. Indeed, if the Council were to be allowed to do so it would condone its failure to engage with the public (plus any informed consultees not involved in the pilot study) and deprive building owners the right to challenge the decision on its merits to include their property on the list.

- 4.15 The point I made in paragraph 5.09 above regarding the need for the authority (not officers without delegated responsibility) to be seen to make the final decision in these matters is further supported by Chapter 2, Section 5 of the Historic England advice note, “Local Heritage Listing: Identifying and Conserving Local Heritage” which states the following:

5. Approval - finalising and confirming the contents of the local heritage list

56 For local authority-compiled lists, once the assets on the shortlist for nomination have passed all the necessary checks, final endorsement can be sought at the appropriate level within the local planning authority, which might include Committee or Cabinet Member sign-off. Nevertheless, as a local list is unlikely to be considered definitive and further additions may be required during the course of planning decisions, local planning authorities should ensure that officers have the ability to assess heritage assets for inclusion within the local list and either the delegated authority to add them to the list, or to seek a rapid decision through a clearly-defined procedure.

This further reinforces the point that I made above about the need for the involvement of elected members in this process of deciding what is non designated heritage asset.

- 4.16 My clear and unequivocal conclusion is that the Council has advanced no substantive evidence that 35 Oakfield is in fact a non designated heritage asset. Accordingly those parts of the reasons for refusal that relate to heritage issues should be dismissed by the Inspector. In any event there remains, in my professional judgment, a large question mark over whether this building (35 Oakfield) should even be credibly put forward as a candidate for inclusion in an SPD that would comprise a list of locally listed buildings. This matter is examined again below but was also considered in detail in the appellant’s

Statement of Heritage Significance that accompanied the appeal application and the Inspector is referred to that document for further background on those issues. Finally in that context it should be pointed out that this earlier document was deliberately described as a Statement of Heritage Significance since it was not considered to be an assessment of a known heritage asset.

5.0 CONSIDERATION OF HERITAGE VALUE

- 5.01 One of the Council's criticisms of the appellant's original Statement of Heritage Significance was that it made reference to the statutory selection criteria as a bench mark. This was done because local lists often provide a useful shortlist for considering whether to make any additions to the statutory list. The appellant's approach was however recognised in and was consistent with Historic England in its publication "Local Heritage Listing, Historic England Advice Note 7," latest version 2021.

"Commonly applied selection criteria for assessing suitability of assets for local heritage listing (such criteria are often adapted from those used for national designations which refer specifically to historic or architectural interest)."

This comment when read in conjunction with the Framework (Conserving and Enhancing the Historic Environment, Section 16) underlines the fact that some degree of selectivity is required (albeit that the threshold is clearly lower for locally listed buildings) and that the concept of proportionality has also been applied. In the appellant's submission the Council has not exercised either part of this advice with sufficient care and balance to justify a claim that the building has sufficient heritage significance for it to be retained.

- 5.02 Taking first the question of age (the Council put this at between 1841 and 1872 - apparently based on historic mapping) there is no evidence that the building is old enough to qualify on that ground since if it was it could possibly be statutorily listed for that reason alone. This then leads to consideration of architectural or historic interest. In this context the original Statement of Heritage Significance submitted in support of the appeal application stated:

"As far as Aesthetic Interest and intrinsic design value are concerned only the front elevation displays value of any kind. This must not however be overstated. It is not entirely without its weaknesses, principally the failure to create any real sense of arrival at the front door, the porch being visually 'squeezed' by the two wings that it separates. In addition its value has to be weighed against the fact that in all other respects this is (at best) a utilitarian design with a more accurate description probably being mediocre."

5.03 In the Council's Statement of Case it is claimed that the existing building:

"...is a villa designed in the Domestic Revival style."

The latter is defined by the Oxford University Press as:

"Offshoot of the cult of the Picturesque and the Gothic Revival, it was essentially a style of domestic architecture that incorporated forms, details, and materials found in English vernacular buildings, including steeply pitched tile roofs, dormers, timber-framing and jettied construction, small-paned mullioned and transomed windows (often with leaded lights), tile-hung walls, tall chimneys (often of the Tudor type in carved and moulded brick), and carefully contrived asymmetrical compositions. Also called Old English style."

This quotation also gives as further sources works by the late Marc Girouard (1977); J. Curl (1990); Dinsmoor & Muthesius (1985);

5.04 Dr Jaqueline Banerjee, editor of 'The Victorian Web' also references Girouard and others to identify the characteristics of 'Domestic Revival' architecture among which she notes are:

A "little genuine Queen Anne";

A "little Dutch" (or Flemish);

"[S]mall window panes, bay windows, with wooden balconies" etc

Other decorative elements

The latter includes "hung tiling" which "could enliven and vary the upper level, in gables and angles where it sometimes repeats patterns on the roofing." She also states that:

"However, what makes it really easy to identify a house of this period (and distinguish it from a well-preserved seventeenth-century one, or a more recent take on one, is the "cocktail" of embellishments."

Finally she points out that the style was originally and more commonly:

"...found in the Weald of Kent, Sussex and Surrey."

- 5.05 Taking all of these factors together there is very little to justify the claim that the property is in the 'Domestic Revival Style' and even if it could be so described whether it is an example worthy of retention.

The front elevation is asymmetrical

There is use of tile hanging and a bay window; and,

The embellishments (that are not particularly flamboyant) include barge boards and a modest finial to the gable of the right hand pavilion.

None of the other features mentioned, namely:

A "little genuine Queen Anne";

A "little Dutch" (or Flemish);

"[S]mall window panes,, with wooden balconies" etc

a "cocktail" of embellishments."

can realistically, be said to form part of the front elevation. Of the remainder mentioned above those that are present appear predominantly on the front elevation with, very few being seen anywhere else. The remaining external elevations are not even a 'pale echo' of the front elevation since any architectural features of note they may once have had have been erased in any meaningful sense by later alterations. These verge on mutilation and what appears to be years of neglect and decay.

- 5.06 For example, what might once have been an imposing chimney stack on the south elevation (although of itself showing little evidence of the *Domestic Revival* style) has been severely truncated and altered to the point of now having little architectural significance. The treatment of all three elevations (ie excluding that fronting Oakfield) seems to have been completely ignored by the Council as have the poor quality of the freestanding buildings in the grounds. All of this illustrates the failure by the authority to exercise any degree of proportionality. The building as a whole has been invested by the Council with an inflated heritage significance based on an assessment that rests almost entirely on the perceived value of the front elevation.

- 5.07 The same lack of proportionality or balance is true of Council's assessment of the interior of the building, which the appellant's original Statement of Heritage Significance (SoHS) described in some detail. In response to this the Council's officer report claimed that notwithstanding, the SoHS seeing little of significance in the interior, there were features of 'some' heritage value. This remark is in fact meaningless since any original feature that survives in a building that is over a hundred years old has 'some' value but such a simplistic assessment does not address the key question of heritage significance which should have regard to the concept of proportionality. Given the survival nationally of so many buildings from (roughly) the third quarter of the nineteenth century it would be totally unrealistic to expect – or more importantly – to require the retention of all original features irrespective of their originality or heritage significance. The coming of the railway age made standard fittings and features common across the country and this standardisation of many features such as internal doors, skirting boards and light fittings means that few internal features exhibit true originality in terms of design and craftsmanship and where these occur they are usually found in larger, grander houses. In the case of 35 Oakfield there is little or nothing in terms of its internal layout, fixtures or fittings that could not be found in thousands of similar properties across the country. Finally many of the existing fittings in the property today are in fact new or replacement of features (such as internal doors) and not part of the original house.
- 5.08 The Historic England advice Note; "Defining the Scope of the Local Heritage List - from Historic England Advice Document HE Advice Note 7", refers to possible *Group Value* as a contribution to which a building may contribute. There are only two other surviving buildings of similar age in reasonable proximity to number 35. Immediately to the south what is now the Forest Park Preparatory School appears on all the OS maps from 1877 onwards when it was originally known as 'Ellesmere', a private house. It has been considerably extended to the side and rear as part of its educational role and its grounds also comprise large all-weather play and sports facilities. Immediately to the north east of number 35 is another detached villa built between 1877 and 1898. Beyond this to the north on both sides of the road are modern blocks of flats before any other Victorian villas are reached. Having regard to these facts there is nothing to support a case that these three surviving buildings might, collectively, have group value. For this claim to be advanced the curtilage buildings within both number 35 and the Park School would have to be discounted and that would not be a reasonable step to take when all the evidence is examined.
- 5.08 On the general question of heritage significance I would refer to a recent (22nd September 2023) Appeal Decision (Appendix C) which sets out the Inspector's assessment on the matter, particularly in paragraphs 5 to 10 of his decision letter. In that case the building

in question was within a designated Conservation Area and thus statutorily protected by virtue of Section 72 of the 1990 Planning Act. It had also been properly identified (through Conservation area Appraisals adopted by the Council) as a non designated heritage asset. Notwithstanding that policy context the appeal was upheld. In my submission this decision underlines the need for balance and proportionality in assessing the significance of heritage assets. This is even more important in my submission when the very status of the 'asset' is contested by the parties.

- 5.09 The HE advice then refers to possible *Archival Interest* but here there is nothing of which the applicant is aware to suggest that there are any surviving records of the building. Its date is probably pre-1875, in which case no plans would have been submitted under Building Byelaws as required by the 1875 Public Health Act. If, for example, it was decided to archive the best part of the existing building (ie the front elevation) it could be offered to an organisation such as the Brooking Collection of Architectural Detail which operates in association with the University of Greenwich.

6.0 CONCLUSIONS

- 6.01 It is my view that the Council has failed to justify its assertion that the building is a non designated heritage asset. I have gone carefully through the process by which buildings should be identified as non designated heritage assets and have been unable to identify anything in the Council's Statement of Case that would support the contention that 35 Oakfield has been appropriately identified by the Council. The Council's attempts to justify its action have not followed their own laid down procedures and start with a claim that decisions taken by officers is sufficient to meet all policy and advice on the subject. This is notwithstanding the fact that no substantive evidence is advanced in support of this submission.
- 6.02 The argument then falls back on what amounts to a plea for expediency on the grounds that officers had to act quickly, ie as part of the application and decision making process. This is at best disingenuous as the likelihood that the building would be put forward for inclusion as a non designated heritage asset had been known for some time and yet no attempt had been made to act on this information by seeking authority for it to be recognised as such. In any event I am doubtful that such a course could have been followed since the Council had already laid down the procedure it wished to adopt in its resolution of August 2019 and 'one off' decisions of this kind fall outside those provisions.

- 6.03 The Council has also failed to produce any substantive evidence to support a claim that the building has sufficient heritage significance to be considered as such an asset should the due process of designation be successfully pursued. Essentially there are two reasons why in my judgment that the building fails to meet any reasonable test of heritage significance.
- 6.04 Firstly, it does not exhibit enough design quality or originality in the external use of proportions, range of workmanship or materials, or of the internal fittings that survive.
- 6.05 Secondly, the Council has failed to exert any reasonable degree of proportionality in its assessment of significance by failing to take account of the extremely poor external appearance and highly degraded state of three of the four main elevations, ie excluding the frontage to Oakfield.
- 6.06 Having regard to all of the available evidence in the light of the factors discussed above I respectfully request the Inspector to conclude that the Council has failed to demonstrate that the building is a non designated heritage asset. In addition I also consider that, in any event, the building simply does not have sufficient heritage significance to be added to a Local List of such assets. Accordingly there is no heritage case for the appellant to answer in this instance and the outcome of the appeal should rest on other evidence.

APPENDIX A – REASONS FOR REFUSAL

THE TOWN AND COUNTRY PLANNING ACT 1990

Application Number: 109745/FUL/22

35 Oakfield, Sale:

Demolition of existing buildings and erection of a part 3 storey part 4 storey building comprising 25 no. retirement flats, closure of both existing vehicular accesses and formation of new vehicular access onto Oakfield with associated landscaping and car parking.

Part II – Particulars of Decision

That Trafford Borough Council hereby gives notice in pursuance of the Town and Country Planning Act 1990 that PERMISSION HAS BEEN REFUSED for the carrying out of the development referred to in Part 1 hereof for the following reason(s):-

Refusal Reason(s):

1 The proposed development would lead to the total loss of a non-designated heritage asset and its setting (35 Oakfield) which would have an adverse and irreversible impact on its significance and as such its demolition would result in unacceptable harm to the character and appearance to the surrounding area. On balance, the benefits of the scheme would not outweigh the severe harm that would be caused to this non-designated heritage asset, contrary to Policy R1 of the Trafford Core Strategy and paragraph 203 of the National Planning Policy Framework. The application also fails to avoid or minimise the conflict between the asset's conservation and the proposal, contrary to paragraph 195 of the National Planning Policy Framework.

NB The remaining reasons for refusal do not relate to heritage issues and are dealt with elsewhere in the appellant's pre Inquiry Statements, principally those relating to Planning and Design matters.

APPENDIX B**Policy R1 Historic Environment**

Heritage Assets R1.5 In addition to preserving or enhancing Conservation Areas, the Council will identify, preserve, protect and enhance the positive features and characteristics of Trafford's historic environment, through the Land Allocations DPD, the maintenance of the Historic Environment Record, the preparation of local lists, Supplementary Planning Documents and development briefs, as appropriate.

APPENDIX C - CHIPPENHAM DECISION LETTER
NB Conditions and appearances have been omitted



The Planning Inspectorate

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.

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

<https://www.gov.uk/planning-inspectorate>

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 now 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 CP09 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 41no. 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 forward 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