

## 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**



## 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

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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