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## Appeal Decision

Inquiry Held on 10-13 May 2022

Site visits made on 10 & 12 May 2022

**by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 8 July 2022**

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**Appeal Ref: APP/Q4625/W/22/3290303**

**Land at The Oliver Bird Hall, Church Hill Road, Solihull B91 3RQ**

- 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 Mr M Tinson, Lifestory Group against the decision of Solihull Metropolitan Borough Council.
  - The application Ref PL/2021/00905/PPFL, dated 26 March 2021, was refused on 9 December 2021.
  - The development proposed is 54 residential apartments for older people, including demolition of a wing on The Rectory and conversion of The Rectory to residential apartments including additions, with parking, landscaping and ancillary facilities.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The address on the application form was given as The Rectory, St Alphege Close. However, the one I have included in the heading above reflects that used by the Council and the appellant on their Appeal Form, and more clearly describes the location and extent of the appeal site.
3. With the agreement of the main parties, I made an accompanied site visit in advance of hearing heritage evidence and made a further unaccompanied site visit before I closed the Inquiry.
4. The Council's second refusal reason related to a lack of affordable housing provision. The appellant has subsequently proposed to provide a contribution to off-site affordable housing secured through a planning obligation. The Council are no longer pursuing that reason for refusal. I have determined the appeal on the same basis.

### Main Issue

5. Consequently, the main issue raised by this appeal is the effect the development would have on the significance of designated and non-designated heritage assets.

### Reasons

6. The appeal site lies within the Solihull Conservation Area (CA). It contains The Rectory, an inter-war non-designated heritage asset, and the grade II listed

The Ruin, probably the C14 remains of a former rectory. The site is adjacent to the grade I listed Church of Saint Alphege (the Church).

### *Significance of heritage assets – the Church*

7. The Church is a designated heritage asset of the highest significance. This is principally due to its fine architecture dating from a number of phases and its history which is interlinked with that of the town of Solihull. This was a planned settlement of C12 origins where the founding of the Church in the C13 would have been an important element in, and influence on, the urban form of the town and surrounding spaces, as demonstrated by its situation on a relatively high point and at the end of the mediaeval High Street.
8. The Church therefore also derives considerable significance from its setting within the historic core of the settlement and in particular as part of the 'ecclesiastical complex' of sites and buildings which partly surround it and which includes the appeal site.
9. It is clear from historic maps that the undeveloped area to the south of the Church, including areas likely to have been parts of the various Rectories' grounds and gardens, has reduced considerably over the centuries. This has included interwar housing developments to the south and east, and the post-war Oliver Bird Hall and St Alphege Close housing. However, a sizeable undeveloped area remains containing mature trees along with dense areas of shrubs. The appeal proposal would be located within this last sizable undeveloped area of likely former 'glebe' land. This part of the appeal site is relatively unobtrusive from public routes and spaces albeit that its presence as a green space can be perceived and appreciated as a result of some of the large trees on the site which are visible between and above surrounding development.
10. Whilst the C20 buildings have created a notable degree of visual separation between the Church and churchyard with that undeveloped land, some views remain. However, the significance that the Church derives from this component of its setting is not reliant on just a visual relationship given the historic associations and the undeveloped character of parts of the appeal site.

### *The Ruin*

11. The Ruin aptly describes this remnant of a former building in the ecclesiastical complex. Its significance derives mainly from its age, historic associations and the remains of fine stonework still appreciable. Notwithstanding that it is not formally recorded as a building at risk and that there is no evidence of any immediate threat, the structure shows signs of neglect and slow decay from the elements and vegetation which over time will affect its significance.

### *The Rectory*

12. The formal, well detailed but restrained architecture of The Rectory is in many ways typical of the period, but its well considered proportions and its setting backing onto gardens helps it retain a domestic character, and architectural and historic significance. Also, its situation adjacent to the footprint of its C19 predecessor and relationship to the grounds beyond contribute to it being a non-designated heritage asset of some worth whose significance is maintained by its relatively unaltered state and this undeveloped setting to the south and south east.

### *Conservation Area*

13. The three principal heritage assets on or adjacent to the site share an interrelated, overlapping and interdependent significance where both the structures and their settings also contribute varying degrees of significance to one another. This is captured by their inclusion within the CA where the ecclesiastical complex forms an area of distinct character and the above mentioned aspects of significance contribute to that of the CA.
14. Along with the churchyard and the wide High Street, the undeveloped part of the appeal site is one of the key open spaces within the CA, differing from those public areas by its largely enclosed and private character. The undeveloped part of the appeal site retains significance as it remains as a sizeable fragment of the former extent of the gardens, grounds and former glebe land. This enables an understanding of the landscape context in which the Church and the planned settlement were established.
15. The character of this part of the CA differs from that of the mercantile and commercial character of High Street and adjoining roads, where the regularity of mediaeval plots is still evident in some of the older properties. However, given the importance of the Church to the history and urban morphology of the CA, its character is complemented by that of the ecclesiastical complex where mature trees surround buildings and provide a degree of continuity across the complex. The appeal site consequently makes an important contribution to particularly the character, but also the appearance, of the CA as a whole.

### *Effects on significance*

16. The undeveloped part of the site is unique in the CA due to its situation, extent and history. Consequently any development on it needs to be considered with the utmost care in light of its contribution to the significance of heritage assets. The proposed building would be in an approximately F shaped plan. Except where it would be built into the upper slopes of the site, it would be three storeys high and on whole topped by pitched roofs whose ridges would be slightly lower than that of the two storey Rectory.
17. The three storey scale of much of the building would visually and spatially dominate the undeveloped part of the site. Whilst the building's function has dictated level access on each floor this has expressed itself in an extensive built form and roofs of consistent height across the development which does not reflect, nor positively respond to, the gently sloping topography of the site.
18. The building would be of a greater scale than that of other buildings on or adjacent to the site. Although the homes at St Alphege Close are largely linked they are relatively narrow in plan and two storey. The Oliver Bird Hall is itself a sizeable building in a more prominent location. However, its taller pitched roof auditorium is flanked by lower flat roofs which from within the inner part of the site predominantly read as a single storey structure. By contrast the proposed building would appear as being markedly and harmfully more extensive.
19. Outside the CA the combination of intervening buildings, topography and retained trees would limit the degree to which the proposed building would be experienced from public spaces from many aspects. An exception to this would be in views across The Oliver Bird Hall car park where the current backdrop of large mature trees would be replaced by the three storey gable and flank wall

of the development. The effect would be moderated slightly by the lowered eaves levels and proposed tree planting but this would only have a very limited influence on the considerable intrusive effect of the scale of the development when experienced from Church Hill Road.

20. Beyond those, within the CA the effects would be mainly experienced from within the appeal site. However, it would transform the character and appearance of the undeveloped area. The flat roof link element would only have a very limited effect on breaking up the mass and height of the building particularly given the relative proximity of the projecting wings either side. Whilst the configuration of the building in a series of broad wings would go some way to spreading the mass out on the site it would otherwise result in a scale and massing harmfully at odds with its surroundings. The detailing of the upper floors with lower eaves broken by the window tops would do very little to alter the harmful effects of the scale and mass of the building.
21. The significance of The Rectory in terms of its architecture and fabric would be largely retained through its subdivision and extension. However, the significance that it obtains from its setting would be eroded through the extensive development opposite and the effective loss of its former, if not current, gardens. Despite its set back from The Rectory and slightly lower ridge height, the scale and mass of the proposed building would overwhelm the existing.
22. The visual effects on the setting of the Church would effectively be limited to a view south from the central part of the churchyard where the current aspect of mature trees between The Rectory and The Oliver Bird Hall would be replaced by the three storey wing of the building. Although set down on the slope and set well back from the existing buildings this would create a notable and harmful change in the setting of the Church. However, other visual facets of the Church's setting would be unharmed.
23. Greater harm would result from the combination of the scale, mass and extent of the building in considerably eroding the open space leaving significantly more fragmented and limited remains of former open areas within the ecclesiastical complex. This would harm that part of the Church's significance not dependent on visual aspects. For these reasons the harm would be greater than the appellant's assessment of it being very minor.
24. Apart from an area in the south east corner of the site which would be retained for nature conservation purposes, much of the open space would be in the form of a margin around the proposed building. Where it would broaden out this would have the potential to provide pleasant grounds for residents and maintain areas of habitat, however it would be elongated in form and largely divorced from The Rectory and other parts of the complex. Whilst the development would leave undeveloped space which would be landscaped, its configuration would significantly diminish any value it would have in preserving the significance of heritage assets. This would not simply be by way of the loss of former gardens of an inter-war rectory but the loss of space where there has been a continuity of openness throughout the centuries.
25. This adverse effect would not be confined to the non-designated Rectory but would contribute to the harm to the significance that the Church derives from its setting. By the considerable erosion of one of the important undeveloped areas of the CA it would have a particularly harmful effect on the historic

interest and character of the CA. Visual effects would be more limited but where seen the extensive built form of the development would create a considerably more developed aspect from those views from outside the CA.

26. It is of note that Historic England<sup>1</sup>, whilst not explicitly objecting to the development (deferring to the Council's heritage balance), expressed concerns regarding the application on heritage grounds and identified heritage harm to the Church and the character of the CA. They considered that the intensive development would remove much of the greenspace which recognises the historical relationship between the Church, The Rectory and former open countryside. They regarded that this would be changed for the worst. As the government's statutory adviser on the historic environment, these views are a consideration of particular importance.
27. Notwithstanding its contribution to the understanding and experience of the ecclesiastical complex, given the discrete extent of The Ruin and its particular situation relative to existing buildings, the effect of the development to its setting and consequently significance would be negligible.
28. Although not advanced as enabling development as such, the proposal would provide for, through the planning obligation, a package of works and measures to secure, consolidate, present and interpret The Ruin. This should help to preserve its special interest in the long term, better reveal its significance and enhance the understanding and appreciation of the listed building. It would also, in a minor way, contribute to enhancing the character and appearance of the CA. In line with the National Planning Policy Framework's (the Framework) approach, conservation of this designated heritage asset carries great weight.
29. It is unlikely that interpretation and presentation of The Ruin would take place in the absence of the development. Even if the Council were to use its statutory powers to require its preservation this would not extend to any interpretation and presentation. Although local residents felt they may be able to raise funds to do so as an alternative, the not inconsiderable costs would be challenging to raise independently and there is no guarantee that this would necessarily occur. However, as there is limited evidence that the level of risk it is under is pressing, the benefit of those works would be moderate.

#### *Conclusion on effects*

30. Whilst the works to The Ruin would accord with them, considered overall the development would conflict with Solihull Local Plan<sup>2</sup> (Local Plan) Policies P15 and P16. Together, and amongst other criteria, these require development to preserve or enhance heritage assets, making particular reference to the historic core of Solihull, and to conserve and enhance local character and distinctiveness, ensuring that scale, massing, density and layout respect the surrounding historic environment. Although Local Plan Policy P5 supports housing on unallocated sites in accessible locations where they help meet housing needs, this is with the proviso of enhancing local character and distinctiveness, qualities which it requires to be maintained in making efficient use of land. The development would consequently not accord with this Policy.
31. I have had special regard to the desirability of preserving the setting of the listed building and paid special attention to the desirability of preserving or

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<sup>1</sup> Letter of 21 October 2021.

<sup>2</sup> Solihull Local Plan – Shaping a Sustainable Future, 2013.



enhancing the character and appearance of the CA. In so doing, again with the exception of securing works to The Ruin, I have found that the development would not preserve the setting of the Church nor would it preserve or enhance the CA, contrary to the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

32. The main parties agree that the site has potential for some form of residential development although it has no formal allocation. Other than recognising that heritage and trees would be a constraint on development, the Proposals Form<sup>3</sup> does not provide any substantive assessment of any heritage impact. I am not convinced that the inclusion of the site within the SHELAA<sup>4</sup> with a capacity of seventeen units provides any support for a development of the scale and extent proposed, nor any certainty that the site may otherwise be developed in future with an effect on heritage assets' significance similar to that of the appeal proposal.

#### *Heritage and planning balance*

33. It is not a matter of dispute between the main parties that this harm to the significance of designated heritage assets would be less than substantial, circumstances which the Framework requires such harm to be weighed against the public benefits of the proposal. This classification of the harm does not mean that it is diminished. The Framework's approach to the harm to The Rectory's significance is that it is taken into account with a balanced judgement made, a distinct approach to that of the effect on designated heritage assets.
34. The harm carries significant importance and weight and the Framework identifies that great weight should be given to designated assets' conservation, the weight increasing the more important the asset. Therefore, although the harm to the Church's significance would be limited this carries great weight, increased as a result of its grade I importance. The harm to the significance of the CA would be greater in extent to that to the Church and considering the effect on the CA overall would be moderate. But this would nevertheless also carry considerable importance and weight.
35. The public benefits of the development would include the provision of housing in a sustainable location and in particular sheltered market housing for older people as well as making a contribution to affordable housing elsewhere. This is likely to have the associated benefit of reducing demands on healthcare and other services by ensuring older people are well housed and freeing up family housing elsewhere. There would be economic benefits including through the construction phase and longer term ones including residents' spending in the town centre as well as that arising from the ongoing management of the facility.
36. There is no dispute that there is a shortfall in a five years' deliverable housing land supply. The main parties' respective figures for the extent of the shortfall do not differ greatly and put it between 3.02 and 3.6 years albeit the evidence in support of the lower figure is more extensive. Nevertheless, the main parties were not far apart on their analysis of the implications of this shortfall with

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<sup>3</sup> Call for Sites Proposals Form and attachments completed by Birmingham Diocesan Board of Finance.

<sup>4</sup> Reviewing the Plan for Solihull's Future- Solihull Local Plan Review: Draft SHELAA [Strategic Housing and Employment Land Availability Assessment] Update, 2020.

both considering it to be significant; the appellant concluding it to be very much so.

37. Either way this shortfall means that the benefit of providing housing of any type now would be a considerable one. This would be irrespective of when the emerging local plan and its allocations might be adopted and especially taking into account the urban location of the development in a borough with extensive green belt. Added to this, the planning obligation would secure a £237,000 contribution to offsite affordable housing which would be a public benefit.
38. In particular there is also a shortfall in the supply of specialist housing for older people which needs addressing now particularly given the extremely limited new permissions in the Borough over recent years. The Planning Practice Guidance (PPG) is clear that the need to provide housing for older people is critical and that specialist housing can include retirement living or sheltered housing, of which the appeal development would be a market offer.
39. The Local Plan does not make any particular provision for such housing and although policies in the emerging local plan would do, the main parties agree this carries limited weight given unresolved objections to it. As things stand the Council is reliant on schemes such as the appeal proposal coming forward to address local needs and the nationally identified critical need. The Council's confidence expressed in inquiry evidence that specialist housing developments are competitive with general housing sites, and therefore avoiding a necessity to provide for sites, is undermined by the overall housing supply situation.
40. The main parties' figures of the extent of this need in the local context differed considerably, in part due to different provision rate assumptions. Nevertheless, it is clear that there is particular need, a substantial shortfall in provision and limited opportunities to address this at this point in time.
41. In some respects, given their responsibilities for adult social care, it is unsurprising that the Council consider that there is a particular need for extra care type of older peoples housing as well as the benefits of supporting people to remain in their homes. However, I am unconvinced that this necessarily reduces the need for other forms of specialist accommodation for older people. The PPG does not set a hierarchy of importance for the different types it identifies. The particular requirements of prospective residents catered for in those distinct types of specialist housing, whilst unlikely to be mutually exclusive, would likely to be based on different requirements and priorities.
42. Local circumstances are particularly important in understanding the need for such specialist accommodation. Despite the difference in numbers even the Council's figures show a considerable unmet need at this time for sheltered accommodation. They consider that the need for additional specialised accommodation for older people in Solihull is significant. The development's part in responding to this need is also a significant public benefit and one that would be greater than the moderate weight the Council attribute to it.
43. I have had regard to a number of appeal decisions where Inspectors have given various expressions of significant or considerable weight to the need for specialist housing including the recent Wyndley Garden Centre<sup>5</sup> appeal

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<sup>5</sup> APP/Q4625/W/21/3285876.

elsewhere in the Borough. My findings in respect of the importance of helping to address the need for specialist homes for older people reflect those.

44. I am conscious that the Inspector in the Wyndley Garden Centre decision found that benefits including that of providing specialist housing for older people helped to amount to very special circumstances in the green belt. The Framework's policies set a 'high bar' in those respects, as it does for development in an AONB as illustrated in another appeal<sup>6</sup> albeit in a different district. However, the Framework also sets out a clear approach for considering the potential impacts on designated heritage assets' significance and the importance of their conservation. I do not consider that these decisions necessarily indicate that helping to meet such a need is an overriding consideration in this case.
45. The development's public benefits in addressing both a shortfall in housing delivery and in particular helping to address the critical need for specialist housing for older people nevertheless carries significant weight, albeit moderated somewhat given the indications that the site could provide some housing.
46. The proposal would include provision for the repair, consolidation, protection and interpretation of The Ruin, a moderate benefit in itself but one which nevertheless carries great weight especially as no other convincing alternatives to achieve this have been presented. Other planning obligations for contributions to offsite tree planting and biodiversity would effectively be mitigation and weigh neutrally.
47. Together the public benefits of the development would be very significant. Nevertheless, as the harm to designated heritage assets' significance, particularly that of the CA, and the consequent conflict with the development plan and the Act, carries considerable importance and weight, it would outweigh those public benefits.
48. These findings mean that the Framework's policies that protect designated heritage assets provide a clear reason for refusing the proposed development. Notwithstanding a failure to demonstrate a five years' supply of deliverable housing sites, the Framework's presumption in favour of sustainable development is consequently not engaged.
49. Although the development would deliver the conservation and enhancement of The Ruin, overall the development would not accord with development plan policies and would be contrary to the Act. Taking a balanced judgement on the non-designated The Rectory, the harm to whose significance would be moderate, this also weighs against the proposal.
50. There would be considerable public benefits in favour of the development but also clear heritage harm and conflict with policy and legislation. Therefore, even with those aspects in favour of the scheme, all things being considered those considerations would not be sufficient to outweigh the harm that would be caused.

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<sup>6</sup> APP/Q3115/W/20/3265861, Little Sparrows, Sonning Common, Oxfordshire.



## Other Matters

51. I note that the development has the support of the Parish Wardens, albeit this depends in part on an expectation of a financial receipt to support assets and activities and the amount is currently unknown. Whilst the development would see Diocesan land used for housing with a social purpose and broadly accord with the spirit of the recommendations of the Coming Home report<sup>7</sup>, I am conscious that this does not have the status of adopted policy and is strategic in scope. In any event the principle of residential development on the site is not in dispute and the site may still serve such a role. It is not a consideration that materially adds to the weight in favour of the scheme.

## Conclusion

52. For the above reasons, the proposal would harm the significance of heritage assets. The development would be contrary to the development plan considered as a whole, the Act and the Framework. Material considerations do not indicate that the development plan should not be followed. The appeal is therefore dismissed.

*Geoff Underwood*

INSPECTOR

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<sup>7</sup> Coming Home - Tackling the housing crisis together: The Commission of the Archbishops of Canterbury and York on Housing, Church and Community, 2021.

## APPEARANCES

### FOR THE APPELLANT

Mr Charles Banner of Queen's Counsel, instructed by Pegasus.

He called:

|                                                   |                                             |
|---------------------------------------------------|---------------------------------------------|
| Mr Nigel Appleton MA(Cantab)                      | Executive Chairman, Contact Consulting      |
| Mr Matthew Goode MA, MRTPI                        | Pegasus                                     |
| Mr Chris Cox BSc(Hons) MA MRTPI                   | Associate Planner, Pegasus                  |
| Ms Hannah Armstrong BA(Hons) MSc IHBC ACIfA       | Associate Heritage Consultant, Pegasus      |
| Mr Peter Icke BA(Hons), DipArch, DipUD, RIBA, ARB | Architect, Gould Singleton Architects       |
| Mr Stephen Cox MCIAT                              | Director, Gould Singleton Architects        |
| Mr Mark Tinson                                    | Senior Development Manager, Lifestory Group |

### FOR THE COUNCIL

Mr Ian Ponter of Counsel, instructed by Mr Santokh Gill, Team Leader Litigation and Planning, Solihull Metropolitan Borough Council (SMBC).

He called:

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|---------------------------------------------------|---------------------------------------------------------|
| Mr John Pitcher BA, MSocSci, MCiH                 | Senior Housing Strategy Officer, SMBC                   |
| Mr Jon Beesley BSc(Hons), DipLA, MSc, MRTPI, IHBC | Senior Development Officer (Historic Environment), SMBC |
| Ms Becky Matravers BSc, MA, MRTPI                 | Senior Development Officer (Major Projects), SMBC       |
| Mr Gary Palmer                                    | Group Manager- Policy and Engagement, SMBC              |

### INTERESTED PERSONS

|                          |                                      |
|--------------------------|--------------------------------------|
| Mrs Susan Wakeham        | Local Resident                       |
| Councillor Joe Tildesley | St Alphege Ward Councillor, SMBC     |
| Mr Melvyn Haigh          | Local Resident                       |
| Mr David Coldicote       | Local Resident                       |
| Mr Daniel Mayes          | Birmingham Diocesan Board of Finance |

## DOCUMENTS

Submitted during the Inquiry:

1. Council's list of appearances
2. Appellants' Opening Submissions

3. Council's Opening Submissions
4. Call for Sites proposals form and attachments, completed by Birmingham Diocesan Board of Finance.
5. Note on loss of green space
6. Revised, agreed schedule of suggested conditions
7. Council's Closing Submissions
8. Appellants' Closing Submissions

Submitted after the Inquiry:

9. Appeal decision letter Ref: APP/D0121/W/21/3286677, Rectory Farm, Chescombe Road, Yatton, Bristol

Richborough Estates