



Appeal Decision

Site visit made on 5 November 2024

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 15 November 2024

Appeal Ref: APP/Z0116/W/24/3345897

Humphry Repton House, Thornfield Road, Brentry, Bristol BS10 6NA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Woodstock Homes (Brentry) Ltd against Bristol City Council.
 - The application reference is 23/04902/F.
 - The development proposed is demolition of buildings and the erection of 26 dwelling houses (Use Class C3) with associated parking and landscaping.
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Decision

1. The appeal is allowed, and planning permission is granted for demolition of buildings and the erection of 26 dwelling houses (Use Class C3) with associated parking and landscaping, at Humphry Repton House, Thornfield Road, Brentry, Bristol BS10 6NA, in accordance with the terms of the application ref. 23/04902/F, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matters

2. The Council failed to determine the application within the required timeframe. A detailed assessment of the scheme, including putative reasons for refusal, was however provided in response to the appeal. The Council's objections related to the absence of adequate information regarding biodiversity net gain (BNG) and on-site wildlife, and the failure to secure contributions towards affordable housing, fire hydrants, and an employment and skills plan. Following the submission of further information and a Unilateral Undertaking (UU) by the appellant, the Council has withdrawn its objections. No matters therefore remain contested between the main parties.

Other Matters

Brentry Conservation Area

3. The site is located within Brentry Conservation Area (the Conservation Area) within which there is a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. Insofar as it is relevant to this appeal the significance of the Conservation Area resides in the collection of listed buildings that it contains, and their landscaped settings.
4. The development currently on site makes no contribution to the significance of the Conservation Area. Indeed, at the time the Conservation Area was designated the site appears to have been undeveloped. Land to the south also appears to have been open at that time, but is now occupied by housing, as is

land immediately to the northeast and northwest of the site, which lies outside the Conservation Area. Whilst it is therefore apparent that the part of the Conservation Area within which the site is located has experienced considerable change since designation, the setting of the site both inside and outside the Conservation Area is otherwise now dominated by modern housing. Within this context the proposed residential redevelopment of the site would have no more than a neutral effect on the significance of the Conservation Area as a whole. Its character and appearance would thus be preserved.

Interested parties

5. Interested parties have raised objections which include pressure on local services, overspill of parking, traffic generation, loss of trees, disturbance during construction and loss of private views. None of these concerns were shared by the Council, and I see no reason to take a different view. This is given a lack of evidence that local services are incapable of supporting the development, and given that the development would provide adequate on-site parking, would give rise to only a minor increase in trips compared to the previous use, and would make provision for the replanting of trees. The potential for disturbance can itself be addressed by condition, and the loss of private views is not a relevant consideration in this case.

Unilateral Undertaking

6. The UU contains several obligations. An obligation securing payment of a contribution towards the off-site provision of affordable housing accords with Policy BCS17 of the Bristol Development Framework Core Strategy 2011 (the Core Strategy) which sets out requirements for affordable housing provision. Though the ability to pay this contribution was previously disputed by the appellant, the appellant has not sought to challenge the Council's wide-ranging critique of its viability assessment. The latter consequently attracts little weight.
7. An obligation securing a contribution towards fire hydrant provision answers a request from the fire service. In this it accords with Policy BCS11 of the Core Strategy, which sets out the general basis for obligations, and the Planning Obligations Supplementary Planning Document 2012 (the SPD) which specifically addresses the provision of fire hydrants.
8. A third obligation securing off-site BNG accords with Policy BCS9 of the Core Strategy which sets out the requirement for development to provide new/enhanced green infrastructure, and scope for off-site provision.
9. I find that the above obligations pass the tests set out in Regulation 122 of the CIL Regulations 2010 (as amended), and paragraph 57 of the National Planning Policy Framework (the tests).
10. Insofar as the UU secures a further contribution towards 'training/employment initiatives', there is no explicit requirement for this set out within either currently adopted policy or the SPD. The Council's identification of the need to fund an employment and skills plan is instead drawn from a recent guidance note which cross references a draft policy within the emerging Local Plan.
11. Whilst the draft Local Plan is undergoing examination, the process has not been completed. The Planning Practice Guidance (PPG) otherwise states that it is not appropriate for plan-makers to set out new formulaic approaches to planning

obligations in supplementary planning documents or supporting evidence base documents. The guidance note clearly postdates the PPG. It further confirms that it does not constitute formal planning policy. It nonetheless specifies the contribution sought by the Council. As this approach is inconsistent with that set out within the PPG, I find that the obligation fails the tests and cannot be taken into account.

12. The UU additionally contains an obligation to pay a contribution towards off-site tree planting. Though the Council has included the contribution within its CIL Compliance Statement, specific justification is lacking. No requirement for this contribution was otherwise identified within the Council's Statement of Case, which notes that an appropriate level of replanting would occur on site. It is therefore unclear why the contribution has been included within the UU. As the contribution both lacks justification and appears to be unnecessary it too fails the tests and cannot be taken into account.

Conditions

13. A range of conditions have been proposed by the Council. I have reworded and rationalised the content of the conditions as necessary, and as set out below.
14. Conditions (1) and (2) set out the time period for commencement and identify the approved plans for sake of certainty. The wording of Condition (2) provides scope for minor modifications to the plans required in order to comply with other conditions as detailed below.
15. Condition (3) incorporates the content of a number of proposed conditions relating to ecology. The required Ecological Mitigation, Enhancement and Management Strategy will ensure that on-site biodiversity is safeguarded, enhanced, and subsequently managed. A pre-commencement condition is required as precautionary methods of working will need to be implemented from the outset. There is no need for a further condition addressing potential expiry of the submitted survey, as this can be covered, if necessary, within the context of the above.
16. Condition (4) secures a Detailed Arboricultural Method Statement as is recommended within the submitted Arboricultural Report. This will help to safeguard trees retained on site, and obviates the need for a number of proposed conditions covering related matters. A pre-commencement condition is required as protective measures will need to be implemented from the outset.
17. Condition (5) secures provision of a Demolition and Construction Management Plan, incorporating the relevant content of proposed conditions relating to these matters, the purpose of which is to safeguard neighbour amenity and highway safety. A pre-commencement condition is required as management measures will need to be implemented from the outset.
18. Condition (6) secures an intrusive investigation of the site for contamination and any necessary remediation measures as recommended in the submitted Phase 1 survey, together with provisions covering unexpected contamination. This is in the interests of health and safety.
19. Condition (7) requires provision of construction details of proposed adoptable roads and footways within the site in order to ensure that they are built to the correct specification.

20. Condition (8) secures a minor modification to the parking layout in order to provide a second required accessible parking space, and secures implementation and retention of parking spaces. This is to help improve the inclusivity of the development, and to ensure that it caters for the parking demand that it will generate.
21. Condition (9) incorporates the content of a number of proposed conditions, securing design details of cycle and refuse stores shown only in outline on the plans, and the provision of Sheffield stands to cater for visitors. This will help to support sustainable travel and proper waste management.
22. Condition (10) secures the implementation of the scheme of proposed soft landscaping, and in this regard partly overlaps Condition (3) which deals more specifically with biodiversity enhancement. This is in the interests of providing a high standard of amenity.
23. Condition (11) secures implementation/provision of proposed energy efficiency, renewable energy generation, and climate change adaptation measures/features in the interests of environmental sustainability.
24. Condition (12) secures the provision of measures to mitigate the generation of noise by air source heat pumps in the interests of safeguarding amenity.
25. Condition (13) secures details of external lighting, complementing the bat sensitive lighting scheme secured as part of Condition (3), again in the interests of safeguarding amenity.
26. Condition (14) secures implementation of works to the highway outside the site which are required in order to provide pedestrian connectivity.
27. A number of proposed conditions are either unnecessary or lack adequate justification. A condition requiring details of electric vehicle charging points is not required, as these are shown on the approved plans, and their provision is covered by the Building Regulations. Insofar as a condition has been proposed relating to overheating, this is again an area covered by the Building Regulations, which, like the Council, prioritises the use of passive options. Though a number of conditions relating to drainage have also been proposed, the details sought are either contained within the submitted Flood Risk Assessment or shown on the plans, and I have no reason to doubt that the development could be connected to the sewer network. A further condition relating to provision of an Employment and Skills Plan, which was also the subject of a planning obligation considered above, appears unnecessary given that the application was accompanied by a statement covering the matters in question. Insofar as one further condition sets out legal requirements in relation to a public right of way, these remain applicable without the need for their reiteration within a condition.

Conclusion

28. For the reasons set out above I conclude that the appeal should be allowed.

Benjamin Webb

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Unless modified in compliance with the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans: 1557-01D; 1557-02A; 1557-03A; TES181-TES-00-XX-DR-C-0512 Rev.P04; TES181-TES-00-XX-DR-C-0513 Rev.P04; TES181-TES-00-XX-DR-C-0681 Rev.P04; 22564-3600B; 22564-3601B; 22564-3602B; 22564-3603B; 22564-3604B; 22564-3605B; 22564-3606 Rev.A; 22564-5001L; 22564-6000.1B; 22564-6000.2B; 22564-6001.2B; 22564-6001.1B; 22564-60010.1A; 22564-6002.1C; 22564-6002.2C; 22564-6002.3C; 22564-6003.2B; 22564-6003.1B; 22564-6004.2C; 22564-6004.3C; 22564-6004.1C; 22564-6005.2B; 22564-6005.1B; 22564-6006.2B; 22564-6006.1B
- 3) Prior to the commencement of the development hereby permitted an Ecological Mitigation, Enhancement and Management Strategy (EMEMS) shall be submitted to and approved in writing by the Local Planning Authority. The EMEMS shall be informed by the Ecological Impact Assessment and the Biodiversity Net Gain Report, each dated September 2024, and shall include:
 - a) precautionary method statements for the removal of any features on site which may be of biodiversity value/any works which may cause disturbance to protected species;
 - b) full details of all ecological enhancements to be provided on site;
 - c) full details of mitigation measures, including a scheme of bat sensitive lighting and hedgehog friendly boundary treatments;
 - d) a timetable for implementation; and
 - e) a management plan outlining the way in which the ecological enhancements/mitigation measures will be maintained, setting out objectives and responsibilities, including in relation to monitoring.The development shall then be implemented, and thereafter managed in accordance with the approved EMES.
- 4) Prior to the commencement of the development hereby permitted a Detailed Arboricultural Method Statement (DAMS) based on the Arboricultural Report dated December 2023 shall be submitted to and approved in writing by the Local Planning Authority. The development shall then proceed in accordance with the DAMS.
- 5) Prior to the commencement of the development hereby permitted a Demolition and Construction Management Plan (DCMP) shall be submitted to and approved in writing by the Local Planning Authority. The DCMP shall be fully compatible with the EMEMS and DAMS approved in relation to Conditions (3) and (4), and shall include the following details:
 - a) a programme of demolition and construction works;
 - b) working hours;
 - c) a delivery schedule, including timetabling, the expected number and type of vehicles, and measures that will be taken to avoid obstruction of the highway;
 - d) arrangements for/the locations of parking for site operatives and visitors;

- e) identification of locations within the site for loading/unloading, the storage of waste, plant and materials, the site office, and welfare facilities;
- f) measures to be taken to limit the spread of debris onto the highway, and the production of airborne dust/pollutants, noise and vibration;
- g) routes for construction traffic; and
- h) a 24 hour emergency contact number.

The development shall then proceed in accordance with the approved DCMP.

- 6) With the exception of demolition and site clearance works, the development hereby permitted shall not commence until an intrusive assessment of the risks posed by contamination has been carried out in accordance with BS 10175: Investigation of potentially contaminated sites - Code of Practice, and Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the Local Planning Authority. If any contamination is found, no development shall take place until:
 - a) a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority;
 - b) the site has been remediated in accordance with the approved measures and timescale; and
 - c) a verification report has been submitted to and approved in writing by the local planning authority.

If, notwithstanding the above, any contamination is subsequently found which was not previously identified, this shall be immediately reported to the Local Planning Authority. Development on the part of the site affected shall be suspended and a further risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the development is resumed or continued.

- 7) Construction of the development hereby permitted shall not commence until detailed drawings showing the construction of roads and footways identified as 'adoptable' on the approved plans have been submitted to and approved in writing by the Local Planning Authority. The roads and footways shall then be constructed in accordance with the approved drawings.
- 8) Notwithstanding the details shown on the approved plans, construction of the development hereby permitted shall not commence above slab level until a revised parking layout showing 2 accessible car parking spaces has been submitted to and approved in writing by the Local Planning Authority. All parking spaces shall then be provided in accordance with the revised layout and made available for use prior to the first occupation of any part of the development to which they relate. They shall thereafter be retained and kept available for parking at all times.
- 9) Construction of the development hereby permitted shall not commence above slab level until design details of the domestic refuse/cycle storage facilities shown on the approved plans, together with details of the location and number of Sheffield stands to be provided on site for visitors, have been

submitted to and approved in writing by the Local Planning Authority. The refuse/cycle storage facilities and Sheffield stands shall then be provided in accordance with the approved details and made available for use prior to the first occupation of any part of the development to which they relate. They shall thereafter be retained and kept available for their intended functions at all times.

- 10) Construction of the development hereby permitted shall not commence above slab level until a timetable covering full implementation of the programme of soft landscaping shown on the approved plans has been submitted to and approved in writing by the Local Planning Authority. This shall complement the details and timetabling provided as part of the EMES approved in relation to Condition (3). The soft landscaping shall then be implemented in accordance with the approved timetable. Any trees or plants which then die, are removed or become seriously damaged or diseased within a period of 5 years following completion of the development shall be replaced in the next planting season with others of similar size and species.
- 11) The construction of the development hereby permitted shall incorporate the energy efficiency, renewable energy generation, and climate change adaptation measures/features both specified within submitted Energy and Sustainability Statement dated December 2023, and shown on the approved plans. All such measures/features shall be fully implemented/installed and made operational, as applicable, prior to the first occupation of any part of the development to which they relate.
- 12) Prior to the installation of any of the air source heat pumps hereby permitted, details of measures to minimise the noise generated by their operation shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall then be implemented in conjunction with installation of the air source heat pumps, and shall thereafter be retained for as long as the air source heat pumps remain in use.
- 13) No external lighting shall be installed within the development hereby permitted until details have been submitted to and approved in writing by the Local Planning Authority. These details shall include the location, height and luminance of each fixture, a lux level contour plan, measures which will be taken to prevent light spill onto neighbouring properties and land, and shall otherwise be consistent with the EMEMS approved in relation to Condition (3). The lighting shall then be installed in accordance with the approved details.
- 14) The development hereby permitted shall not be occupied until the existing footway on the north side of Thornfield Road has been extended westbound to connect with the footway provided within the site, and a dropped kerb pedestrian crossing, including tactile paving, has been constructed across Thornfield Road, in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.