

**TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (INQUIRIES PROCEDURE) (ENGLAND)
RULES 2000**

APPEAL BY OAKHILL GROUP LTD

FORMER HARTWELL GARAGE, NEWBRIDGE ROAD, BATH, BA1 2PP

PINS Reference: APP/F0114/W/20/3258121

**OPENING SUBMISSIONS
ON BEHALF OF BATH & NORTH EAST SOMERSET COUNCIL**

A. INTRODUCTION

1. The site description and planning history are summarised in the Council's Statement of Case (at section 2). In brief summary:
 - a. The Site is known locally as Hartwells of Bath, which is on Newbridge Road, Newbridge, Bath.
 - b. In policy terms, the Site forms part of a site allocated for redevelopment in the adopted Placemaking Plan (Policy SB15). A safeguarded sustainable transport routes passes through the Site following the alignment of the former railway line (Policy ST2).
2. By an application submitted on 18 April 2019 (Ref: 19/01854/OUT, the "**Application**"), the appellant sought outline planning permission for the following description of development (the "**Appeal Proposal**"):

"Outline application with all matters reserved except for access and layout comprising the demolition of the existing buildings on the site; construction of replacement buildings ranging in height from 3 to 5 storeys providing a mixed use development comprising up to 104 residential units (Class C3 Use), up to 186 student bedrooms (Sui Generis Use), and a commercial retail unit (flexible A1/A3 Use); formation of new vehicular access from Newbridge Road, construction of new access ramp, and provision of vehicle parking spaces; provision of new shared bicycle and pedestrian sustainable transport route through the site and formation of new access and linkages on the eastern and western boundary; and provision of hard and soft landscaping scheme across entire site."
3. The Application went to the Council's Planning Committee with an officer recommendation to grant permission, subject to the imposition of planning conditions.
4. The Application was refused by the Council's Planning Committee by Decision Notice dated 16 March 2020, with six reasons for refusal, which are set out in full at paragraph 1.6 of the Council's Statement of Case.

B. REASONS FOR REFUSAL

5. The remaining reasons for refusal¹ are as follows.

- “1. *The application seeks outline consent for, amongst other things, the provision of up to 186 student bedrooms (Sui Generis) in addition to 104 residential units (Class C3). The application site is allocated for residential redevelopment by Policy SB15 of the Placemaking Plan. This policy, and its supporting text, is clear that the site (including the adjacent concrete batching plant) is allocated for 80-100 dwellings and that this cannot include student accommodation. By including student accommodation the proposal is therefore in direct conflict with Policy SB15 of the Bath & North East Somerset Placemaking Plan and as such is unacceptable in principle.*
2. *The proposed development by virtue of its inappropriate layout which comprises of 4 blocks of deep plan form with limited space around that is uncharacteristic and alien to the locality, and which is principally a consequence of the excessive quantum of development, fails to enrich the character and quality of Newbridge and fails to contribute positively to local distinctiveness, identity and history. The submitted illustrative scheme fails to demonstrate that a development of the quantum/uses proposed can be achieved on this site whilst also responding positively to the site’s context; the illustrative scheme fails to do so and accordingly is contrary to Policy CP6 of the Bath & North East Somerset Core Strategy and Policy D1 and D2 of the Bath & North East Somerset Placemaking Plan.*
3. *The proposed development fails to provide an appropriate mix of housing. The non-student element of the scheme comprises one and two bedroom flats only, alongside the purpose built student accommodation. The housing mix put forward is therefore contrary to the objectives of Policy CP10 of the Bath & North East Somerset Core Strategy which requires new housing development to provide a variety of housing types and sizes.*
5. *The proposed development generates a need for additional recreational open space but fails to meet this need on site or off site. The application is therefore contrary to Policy LCR6 of the Bath & North East Somerset Placemaking Plan as well as the Council’s ‘Green Space Strategy’ and the Council’s ‘Planning Obligations’ Supplementary Planning Document (SPD).”*

C. POLICY CONTEXT

6. The Council’s Development Plan comprises:

- a. Bath & North East Somerset Core Strategy (July 2014)

¹ The Council no longer seeks to defend reasons for refusal 4 and 6.

- b. Bath & North East Somerset Placemaking Plan (July 2017)
 - c. West of England Joint Waste Core Strategy (2011)
 - d. Bath & North East Somerset saved Local Plan (2007) Policy GDS1 (K2; NR2; V3 & V8) only
7. Council's Statement of Case (at Section 3) and the Statement of Common Ground (at Section 3) summarise what is largely an agreed, relevant, policy context.

D. THE COUNCIL'S CASE

Evidence

8. The Council has produced evidence in support of the remaining four reasons for refusal:
- a. Proof of Evidence and Appendices of Ms Funda Kemal, which addresses reason for refusal 2; and
 - b. Proof of Evidence and Addendum of Ms Tessa Hampden, which addresses reasons for refusal 1, 3 and 5.
9. It is hoped that three Councillors will also be able to participate in the Inquiry², subject to timetabling.

Reason 1: student accommodation

10. In terms of "Development Requirements", Policy SB15 allocates this site for:

"1 Residential development of around 80 - 100 of dwellings, which could include a variety of specialist older persons housing types but not student accommodation, where this would prejudice the achievement of Policy DW.1 and B1 in respect of boosting the supply of standard market and affordable housing".

² Cllr Manda Rigby (Planning Committee); Cllr Michelle O'Doherty (Ward Councillor); and Cllr Mark Roper (Ward Councillor).

11. The supporting text that accompanies Policy SB15 advises that *“this site is required to help deliver the city’s 7000 net additional dwellings and therefore the opportunity cost of developing for student accommodation is considered too great”*. The accompanying *“Vision”* is set out as follows:

“203.

Residential redevelopment, not including student accommodation, that makes the most of the sites location on sustainable transport routes, is sympathetic to the Victorian context of terraced housing on the Upper Bristol Road and conscious of its appearance from higher ground.”

12. It is clear therefore that Policy SB15 anticipates that student accommodation on the site has the potential to adversely affect the realisation of the vision and spatial strategy for the city (see also Policies B1 and DW1), as well as the Council’s vision for the Site.

13. The Council’s evidence demonstrates that:

- a. In allocating the Site for 80-100 dwellings, the Council undertook an assessment of the Site and concluded that this was the level of development that the Site could suitably accommodate whilst complying with the policies of the Development Plan;
- b. The harm that arises from the Appeal Proposal inherently stems from the Appellant’s desire to deliver a quantum of development on the Site that far exceeds that which was outlined within the allocation;
- c. The Appeal Proposal would undermine the vision and spatial strategy for Bath and for the district as a whole therefore bringing it into conflict with Policies SB15, DW1, and B5 of the Development Plan;
- d. The Council’s vision for the site, as set out in the preamble to the allocation policy, cannot be achieved with the current proposals;
- e. The introduction of student accommodation into the mix of uses inevitably reduces the opportunities to utilise more of the Site for a more appropriate

mix of house types, and a well-designed scheme that would comply with the policies of the Development Plan;

- f. There is an intrinsic link between the lack of ability to provide a suitable housing mix, and the provision of student accommodation within the scheme;
- g. By including student accommodation, the quantum of development is excessive for this Site, which compromises the Site's ability to satisfactorily deliver the number of units envisaged within the policy; and
- h. If the number of residential units that can be delivered is above that set out in the allocation, then this should be used as a means to contribute to meeting the objectives of boosting housing supply as set out in policy DW1 and B1. The inclusion of student accommodation prejudices this aim.

Reason 2: character, appearance and overdevelopment

- 14. The Site currently has an industrial use. It is bounded by residential uses to the north, east and west (including south-east and south-west) and industrial uses to the south beyond the former railway line.
- 15. The Council's evidence describes the context of the Site, along with the associated constraints and opportunities for development. It then demonstrates that:
 - a. The Appeal Proposal comprises aspects of poor design, with reference to the Council's design-related policies, Supplementary Planning Documents, the NPPF and guidance, including the National Design Guide;
 - b. The site context has not been responded to adequately in terms of layout and access, which results in a proposal that is incongruous in the townscape and thus contrary to Policies D1, D2, SB15 and CP6, as well as to national guidance relating to design.

- c. The Appellant's approach to accommodate the desired quantum of development has led to a layout that is incongruous with its surroundings by being of a deeper plan and larger block size with poor quality public realm in between. The Council considers that approval of this layout would prejudice developing a design response that ties in with surroundings successfully at later design stages.
 - d. The quantum of development contributes to a lack of sufficient space to create a high quality public realm that provides adequate separation between public and private areas, good overlooking for natural surveillance and space to locate hard landscaping for cars away from pedestrian areas to the south of the Site.
 - e. The overriding constraint to achieving a successful design is the proposed quantum of development, which prevents the buildings in the layout having an appropriate height, scale and massing or being site, orientated, accessed and served with high quality public space around them that is proportionate to their size and that reinforces local distinctiveness.
16. In summary, therefore, the Appeal Proposal has failed to demonstrate how the proposed quantum / uses could be delivered whilst responding appropriately to the Site's context, and so would not provide an appropriate replacement for the existing buildings.

Reason 3: inappropriate housing mix

17. A key objective of the NPPF is to create mixed and balanced communities to promote inclusion and social interaction (see paragraph 91). This is reflected in Core Strategy Policy CP10 (Housing Mix), which deals with the mix/nature of housing provided on residential developments.
18. Policy CP10 aims to ensure that developments incorporate a variety of housing types and sizes so that a range of different households are provided for. The supporting text explains that the policy is aimed at ensuring that new residential

development provides for a range of housing types and needs, to help support mixed and inclusive communities and to respond to demographic change.

19. The Appeal Proposal comprises 104 dwellings (excluding the student accommodation) as follows:

- 24 x one-bed one-person flats;
- 40 x one-bed two-person flats;
- 5 x two-bed three-person flats;
- 5 x two-bedroom four-person flats.

20. Although it is acknowledged that Policy CP10 is not prescriptive in the mix that must come forward, Members considered that the proposed mix was unacceptable, raising concerns that the non-student part of the development proposes only one- and two-bedroomed flats.

21. The Council's evidence demonstrates that:

- a. The Appeal Proposal fails to provide a suitable range of housing types, tenures and needs to help support mixed and inclusive communities and respond appropriately to demographic change. In particular, the Appeal Proposal fails to provide family and low income housing;
- b. The Site allocation as a whole is of a sufficient size to accommodate an appropriate mix, but the proposed provision of the student accommodation compromises the ability of the scheme to deliver a more appropriate wider housing mix. There is no adequate justification for the appeal proposal's failings in these regards; and
- c. The units are not suitable for a wider range of the community due to their limited size, lack of gardens, limited or poor quality communal space, and proximity to the student accommodation. All of which is likely to make them less desirable to families.

Reason 5: green space provision

22. Open space should be provided as part of new development in line with the Bath and North East Somerset standard as set out within the Council's Green Space Strategy and the Council's Planning Obligations SPD. Where it is not practical to provide open space on site, there should be new provision off site or enhancement to existing facilities.

23. PMP Policy LCR6 relates to new replacement sport and recreational facilities ,with the supporting text (at paragraph 430) stating that:

"All new development will be required to contribute to the provision of new additional sport and recreational facilities to a level at least commensurate with the additional population generated by that development and in accordance with the standards in the Green Space Strategy which provides details on how the prescribed standards should be applied."

24. The development of 104 residential dwellings and 186 students bedrooms is expected to be populated by 425 residents (186 students and 239 other residents).

These residents will create a demand for greenspace as follows:

- Parks & Green Space 5525m²
- Amenity Green Space 1275m²
- Youth Play 128m²
- Allotments 1275m²

25. Subject to a signed legal agreement, the Council has accepted that the Appellant's commitment to making a financial contribution of £25,000 towards allotments meets the additional need for this form of green space.

26. However, Members concluded that the development fails to provide for the remaining typographies of green space.

27. Although the wording of Policy LCR6 allows for contributions for off-site provision, this is where it cannot be met on site, rather than simply where it has not been provided on site. Put another way, the Council considers that the fact that off-site contributions are permissible in some circumstances, should not be used as a justification for Green Space to be omitted from a scheme in order to accommodate additional built form.

28. The improved sustainable transport route (“STR”) does not fall neatly into any typology of Green Space within the Green Space Strategy. Moreover, and although the Ecological and Arboricultural objections to the Appeal Proposal have been removed during the appeal process due to increased planting adjacent to the STR, this does not necessarily mean that the STR now represents a high quality green infrastructure facility; in particular, the route is still compromised by the provision of the large overflow car park directly adjacent to the north of the route, which compromises not only the size of space available but also the verdant and tranquil quality of this space.
29. Although a financial contribution would be secured in the s.106 to improve off-site connections of the STR, it has not been demonstrated that this is sufficient in meeting the full recreational needs of the residents. The Council considers that the need to provide recreational space within the development is particularly critical given the lack of gardens for any occupiers and the absence of any Green Space immediately adjacent to the development.

Other matters

30. The Council and Appellant have a travelling draft s.106 agreement, which is in agreed form, save for the approach to be taken in respect of vehicle management as it relates to the access through the Maltings. The Council notes that this remains a live issue as between Standard Life and the Appellant. The Council has not been involved in Appellant’s ongoing discussions with Standard Life, and has only very recently been provided with a copy of the Statement of Common Ground between the Appellant and Standard Life. Therefore, the Council has not been in a position to adopt or communicate a final position as to the most appropriate means of dealing with the point.
31. Historically, the Council has always understood the Appellant’s intention to be to provide a signed vehicle management plan (in the form of an agreement between the Appellant and Standard Life) that would address the point and would remove any need for Standard Life to be a party to the s.106. In the absence of any such

agreement, and not having been part of the discussions between the relevant parties on the issue, the Council will engage with the roundtable discussions with a view to exploring and understanding the parties' proposed approaches, with a view to finalising the s.106 for submission to the Inspector as an agreed document.

E. CONCLUSIONS

32. The Council considers that i) the benefits of the Appeal Proposal are outweighed by the identified harms and the conflicts with the Development Plan policies; and ii) there are no material considerations that indicate otherwise.
33. For the above and other reasons, which will be explored during the course of the Inquiry, the Council will in due course invite dismissal of the Appeal.
34. Should the Inspector choose to grant permission on appeal, then the Council will submit that any such permission ought to be i) conditional upon imposition of the list of agreed conditions (see Statement of Common Ground); and ii) subject to the planning obligations as set out in the draft s.106 agreement, which will be finalised prior to the close of the Inquiry.

16 February 2021