

22-01221/F – Response to Applicant’s Committee Report Rebuttal

This submission has been prepared on behalf of Saint Christophers Action Network (SCAN) in response to the rebuttal made on behalf of the applicant further to the publication of the Committee Report (“CR”) in respect of planning application 22/01221/F (St Christopher’s Square, Westbury Park, Bristol, BS6 7JE).

The purpose is to highlight the elements of the applicant’s rebuttal to the CR, numerous parts of which are not accepted by SCAN.

Public Benefits and Planning Balance

The applicant’s rebuttal begins by questioning the planning balance employed during the review of the scheme by the planning officer. The applicant considers that the planning balance according to NPPF policy (Paragraph 11d) should in this case be ‘tilted in favour of approval’ due to Bristol City Council’s inability to demonstrate a 5-year land supply. The applicant argues that whilst this position is highlighted by officers, there is no discussion within the CR that details how this influences the officer’s recommendation.

However, we consider the Planning Officer has no policy or legal obligation to quantify the pulling weight which is attached to the ‘tilted balance’. If the planning officer intends to refuse the application where the tilted balance is engaged, they must only demonstrate, with a balanced assessment, that there is either ‘a clear reason for refusing the permission’ or ‘the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.’

The critical point here is having engaged the tilted balance under 11(d), the officer has identified clear heritage harm to designated heritage assets. Having come to this conclusion, the officer has undertaken the balancing exercise required by NPPF para 202, concluding that this heritage harm is outweighed by public benefits.

However, the officer then concludes that in the overall planning balance, the cumulative detriment to heritage (which must be afforded most considerable importance and weight), trees and climate change significantly and demonstrably outweighs the benefits of the proposal. It is therefore logical to conclude that the applicant’s concern in this respect is groundless.

It is therefore clear that the ‘weighing in the balance’ duty is fulfilled by the officers’ as evidenced by paragraphs 253 and 254, where the benefits of the scheme are clearly assessed against the adverse impacts, and are found to be demonstrably outweighed as a matter of planning judgement.

The applicant also raises concern with regard to the perceived inadequate representation of public benefits of the scheme within the CR. The applicant claims that throughout the 65 pages of considered reasoning from the Officer, that only two lines (paragraph 253) briefly mention the scheme’s benefits. This is clearly incorrect as there are multiple instances throughout the CR where the positives and negatives of the scheme are assessed together, for example paragraphs 37, 160, 176 and 242.

Heritage and the Heritage Balance

The applicant has brought into question the decision-making process and asks why the generic benefits which all developments generate are not included in the weighing up of the heritage pros and cons. The impact on heritage was deemed to be 'less than substantial harm' meaning the applicant is correct in their statement that the wider public benefits of the scheme need to be considered when making decisions on heritage balance.

We believe that whilst every benefit to the surrounding community is not individually listed within this section of the report, this does not imply that they are not considered elsewhere in the CR. The applicant's rebuttal appears to have missed several of the benefits of this scheme being discussed along with their respective drawbacks – for example, the creation of purpose-built housing for the elderly, a sector which currently has very high demand, and the knock-on effect of freeing up family homes for the next generation of buyers (Paragraph 151 and 160).

However, the applicant has also included within their extensive list of wider societal and environmental benefits some elements of policy compliance which should not give weight to the wider benefit argument. For example, working within EU timber regulations or preventing the use of asbestos products in construction – both of which are mandated by UK legislation. These benefits are not a direct result of a well-designed scheme they are secured by existing legislation and therefore should be discounted from the heritage harm / public benefit discussion.

The purported public benefits of the proposal are made clear throughout the CR, for example providing the opportunity for the transition of elderly people into the area - which was concluded to be an overall benefit when weighed up to its drawbacks of securing the future use of Grace House as a listed building. There are numerous examples of a fair evaluation throughout the CR and to imply that none of these topics were considered when deciding on the heritage balance lacks evidence.

NPPF paragraph 200 is most pertinent, stipulating that; '*any loss of, or harm to the significance of a designated heritage asset should require clear and convincing justification.*' This policy provision necessitates the evaluation of all appropriate wider benefits, which must be taken into account before deciding whether a case for any harm or loss of significance of a heritage asset has been successfully made.

In this instance, the issues taken into account by the officer include the lack of a 5-year land supply in Bristol, the delivery of much needed homes and the associated benefits of development, all of which are listed throughout the CR. However, such benefits are tempered by the heritage harm the proposal causes to the listed building, its setting, and the wider conservation area it sits in. In this case the conservation officer has deemed that there is not 'clear and convincing justification' for the proposed harm to heritage assets.

In paragraph 197(c) NPPF it is stated that in determining applications of proposals effecting Heritage Assets, three points should be considered.

(a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.

(b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

(c) the desirability of new development making a positive contribution to local character and distinctiveness.

The applicant takes issue of a 'critical flaw' with flat Block B being referred to as 6-story unit. According to the applicant this renders the CR's decision unbalanced due to incorrect information being identified by the officer. However using the criteria above, a 5-story block would have a similar negative effect on the surroundings of a listed building within a conservation area and the local character and distinctiveness of the wider area. This would entail a potential failure to positively address two of the three criteria.

Density and Overdevelopment

The applicant's rebuttal stated.

"Sections in both the Design and Access Statement and Planning Statement explain why the proposal is not "high density", so it is concerning that this has been missed or ignored."

In contrast, the word density is not mentioned once within the Design and Access Addendum with the most relevant section regarding this being the Reduction in Scale and Massing, which only addresses the changes in the latest submission showing a reduction of 1 story from a block of flats along with 2 houses becoming bungalows as changes to respond to the first set of consultee comments.

Whilst this is a step in the right direction, it is still a long way from the preservation of the setting of Grace House. However, it is not just a matter of density but also the grain, orientation, and overall architectural design of the scheme as a whole, which has a direct bearing when considering whether the proposal constitutes overdevelopment. It is a combination of these factors which makes the blocks of flats stand out greatly when compared with the mostly 2/3 story Georgian terrace vernacular of the local area. This scale and mass is in direct conflict with DM27, which enforces that developments should be appropriate to the immediate context, site constraints and character of adjoining streets.

Ultimately, the proposal in these terms is contrary to multiple Development Management Policies in respect of design matters, notably; BCS21, BCS22, DM27, DM31.

Highways

The rebuttal asserts that the applicant has received no tangible information on the level of under provision of parking they have provided. However, within the CR the officer highlights that the development would likely cause overspill parking and the surrounding streets already suffer from parking stress, due to sitting on the boundary of the city centres residents parking scheme, adding further strain from commuters. Due to these concerns, Transport Development Management (TDM) consider it necessary to reference the below in their consultee response.

*"Design Principles for Extra Care Housing (3rd edition) June 2020 sets out that "Parking standards will need to be negotiated with the planning/highways authority as there are often no defined standards for 'housing with care". **TDM maintain this view.**" This is in addition to the highways consultee comments, which make clear how the local council wish to resolve this*

issue, through open dialogue as opposed to being provided with multiple sympathetic parking need metrics.

TDM note within their consultee response that the calculations made whilst presuming this development fell into use class C2 are not felt to be appropriate. They justify this position by outlining that there are key differences between the transport needs of a typical C2 development such as a care / nursing home and the 'retirement community' being proposed by the applicant.

The main difference in the opinion of TDM is that a much larger percentage of 'retirement community' residents are likely to be engaging in more active lifestyles than someone in a care home, thus, they will typically retain a greater reliance on the private vehicle in day-to-day life than would be expected of a typical C2 use. As such, this is likely to give rise to an increased level of on-site parking to ensure that the proposal does not give rise to discernible harm to the existing highway network.

In addition to the above, if the applicant was still in need of a quantitative example of the amount of parking which could be acceptable, the example offered in the CR implied that the proposed parking provision of 0.56 parking spaces per dwelling is some way short when assessed comparatively to another similar scheme within the area which offered approximately 1 parking space per dwelling.

Whilst the officer has not offered an determinative number of spaces that the applicant is required to provide for, a ballpark and eminently reasonable comparative, which is considerably higher than the applicant's provision, has been clarified through ongoing dialogue. Ultimately, it is the responsibility of the applicant to demonstrate that their proposal is acceptable in planning terms, and it is clear in this case that this threshold has not been met in respect of highway considerations.

Sustainability

The applicant asserts that there is no requirement for their application to provide an Overheating Assessment as this is not expressly referenced within policy BCS13. This position does not withstand scrutiny. Policy BCS13, expressly states that developments should contribute to both mitigating and adapting to climate change:

Developments should contribute to both mitigating and adapting to climate change, and to meeting targets to reduce carbon dioxide emissions.

Development should adapt to climate change through measures including:

- *Site layouts and approaches to design and construction which provide resilience to climate change.*

A demonstration, through the provision of a Thermal Comfort Assessment, that a new development will not overheat when assessed against the standard TM59 climate scenarios (2020, 2050, 2080) quite clearly falls within this remit.

In addition. Part 3 of the Bristol Urban Living SPD offers assistance to officers when making decisions on developments of approximately 30 meters or higher. Villas B, C and D are all of the appropriate height to trigger assessment via this adopted Development Plan document. Q3.7 (b) of the SPD states:

Minimising excess solar gain that could lead to overheating risk through use of external shading and careful consideration of façade design. Thermal Comfort Assessments (following CIBSE guidance or similar) should be prepared to demonstrate that the building will not overheat in current or future climate change scenarios, accounting for the urban heat island effect where relevant.

In tandem, BCS13 and the Urban Living SPD patently make clear that considerations of thermal comfort within new development is a material consideration in the determination of a planning application. The applicant's complete failure to provide such evidence to provide officers comfort that the development will be able to adapt and mitigate to climate change provides officers with a clear policy conflict which in itself is sufficient to recommend refusal – as they have done so.

Whilst the applicant's agent makes reference to the 'sustainability credentials' and commitment of the applicant, ultimately, these statements provide no determinative, or evidence based detail to confirm that their proposal is compliant with BCS13.

Trees

The loss of trees T52 and T65 is contrary to both policies DM17 and BCS9. Both trees, as per the applicant's schedule submitted with their application fall into Category A and both are also under the protection of a TPO.

BCS9 states the following:

Individual green assets should be retained wherever possible and integrated into new development. Loss of green infrastructure will only be acceptable where it is allowed for as part of an adopted Development Plan Document or is necessary, on balance, to achieve the policy aims of the Core Strategy. Appropriate mitigation of the lost green infrastructure assets will be required

Policy DM17 states:

All new development should integrate important existing trees.

Where tree loss or damage is essential to allow for appropriate development, replacement trees of an appropriate species should be provided, in accordance with the tree compensation standard below:

Due to the development resulting in the loss of two trees of 'greater importance' the scheme submitted by the applicant cannot, by definition have integrated these green infrastructure assets into the development, as required by both BCS9 and DM17. The acceptability of replacement trees in lieu of the existing can only be considered acceptable in principle if they are of the view that the development is 'appropriate' in the first instance. Having come to the respective conclusions in respect of design, heritage and adapting to climate change, it is logical to conclude that officers do not consider that the scheme proposed is 'appropriate' and therefore, replacement tree planting to the schedule set out within DM17 do not remedy the loss of the existing Grade A trees on-site.

Yours faithfully,

Rapleys LLP

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