



# Appeal Decision

Site visit made on 9 August 2022

**by Emma Worley BA (Hons) Dip EP MRTPI**

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

**Decision date: 22 September 2022**

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**Appeal Ref: APP/B1605/W/22/3294230**

**The Bungalow, 9 All Saints Villas Road, Cheltenham GL52 2HB**

- 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 Wheeler against the decision of Cheltenham Borough Council.
  - The application Ref 21/01891/FUL, dated 18 August 2021, was refused by notice dated 14 October 2021.
  - The development proposed is the demolition of existing bungalow and replacement with a pair of semi-detached properties and associated works and infrastructure.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Amended plans have been submitted to address a technical issue with the survey of the neighbouring property which misinformed the design of the proposals. The amended plans include the reduction in height of the proposed dwellings. While I understand the reasons for the amendment, the appeal process should not be used to evolve a scheme. Given that the Council and interested parties have not had the opportunity to comment on the revised proposals, an injustice would occur should I determine the appeal on the basis of the amended plans. I must therefore consider the proposal as submitted.

## Main Issues

3. The main issues are a) whether the proposed development would preserve or enhance the character and appearance of the Conservation Area and b) the effect of the development on the living conditions of the occupiers of 7 All Saints Villas Road, having regard to outlook.

## Reasons

### *Conservation Area*

4. The appeal site contains a hipped roof detached bungalow and its garden. It is bound by residential development to both sides and the rear. The site lies within the Fairview and All Saints' Character Area of the Central Conservation Area (the CA), located to the north-east of Cheltenham town centre. The significance of this part of the CA is derived in part from the varied layout of the residential streets. This includes wider avenues in the eastern part of the CA such as All Saints Villas Road, which comprise properties of a range of styles and ages including traditional Georgian and Victorian buildings, as well as modern developments. The presence of the Grade 2 listed All Saints'

- Church, and a number of other listed buildings also contribute to the architectural interest and historic significance of the area.
5. The character and appearance of the CA in the vicinity of the appeal site is defined by well-spaced development in medium sized plots with off road parking to the front. The distant views of the Cotswold escarpment through the gaps between the buildings and presence of mature trees and hedges contributes to the pleasant verdant character of the CA.
  6. Whilst of differing designs, the adjoining properties in the row on this side of All Saints Villas Road are set back a similar distance from the road, which creates a strong and consistent front building line which contributes positively to the pleasant character of the street scape. The siting of the proposed dwellings would represent a continuation of this arrangement. Furthermore, the resulting plot widths would reflect others in the vicinity, and the rear gardens would be of a size commensurate with those nearby.
  7. The proposed semi-detached townhouses would be of a contemporary design, with a flat roof and rendered finish. Given the eclectic mix of property types in the vicinity, the modern design would not be intrinsically at odds with the prevailing character of the area in that regard.
  8. The dwellings in the area vary in scale and height, they are made up of traditional 2 and 3 storey dwellings, and also a small number of taller buildings up to 4 storeys high, including a modern flatted development. Those dwellings in closer proximity to the appeal site are predominantly 2 and 3 storeys. Immediately adjoining the site at 15 and 17 All Saints Villas Road are a pair of semi-detached villas, which are characteristic of the area. Whilst typically 3 storeys, with rooms within the roof space, they have a hipped roof and lower ground floor which reduce the overall scale and bulk of the properties.
  9. The proposed dwellings are 4 storeys, albeit with the fourth floor set in from the parapet which would reduce the mass of this element of the building to a degree. The design of the building would incorporate decorative banding at the eaves height of the neighbouring dwellings. However, the top of the parapet would be above the eaves resulting in an appearance of greater scale and bulk. The height and mass would be further emphasised by its largely flat frontage and window arrangement, primarily that the horizontal alignment of the ground and first floor openings, while informed by the neighbouring double height bays, would fail to reflect that of the neighbouring properties.
  10. In addition, the front elevation of the building would extend almost the full width of the plot and would be set in only a short distance from both side boundaries of the site. This would reduce the space between the existing and proposed buildings which would be at odds with the prevailing character of the area and would result in a cramped development.
  11. As a consequence, by virtue of the height, scale and massing, the proposed building would be an anomalous and incongruous feature that would be unduly visually dominating in the street scape. The proposal would therefore fail to preserve or enhance the character and appearance of the CA and would give rise to harm to the significance of the CA as a designated heritage asset.
  12. Whilst the appellant has indicated that the Yew tree to the front of the property would be retained, in order to help soften the appearance of the dwellings in

the street scene, this would not address the harm I have identified above with regards to the overall scale and massing of the building. Furthermore, it is not a certainty that the tree will remain in perpetuity.

13. Given the scale of the development and the fact that the site does not occupy an unduly prominent position in the CA, the effect with regards to harm to the CA would be localised. Accordingly, I conclude that the proposal would lead to less than substantial harm to the significance of the CA as a designated heritage asset.
14. There would be short term economic benefits during construction, albeit modest. The proposal would also provide for a net gain of one additional family home in a sustainable location close to the town centre, which benefits from a high degree of accessibility to a wide range of services and amenities. This would make only a small contribution towards boosting housing supply, although as there is no dispute that the Council cannot currently demonstrate a 5 year supply of deliverable housing land, this therefore carries moderate weight.
15. The appellant suggests that the existing bungalow is out of character with the site context and its replacement with the appeal proposals would be a benefit of the scheme. However, given the harm I have outlined and the fact that the existing bungalow is identified as being a neutral building in the CA, I do not find this to be the case. The Framework indicates that great weight should be given to the conservation of heritage assets. Therefore, the moderate public benefits of the proposal would not outweigh the less than substantial harm to the designated heritage asset, such that the heritage policies of the Framework provide a clear reason for refusing the development.
16. I conclude that the proposal would fail to preserve the character or appearance of the CA and would cause less than substantial harm to its significance as a designated asset. The development would therefore conflict with Policies D1 of the Cheltenham Plan adopted 2020 (CP) and SD4 of the Gloucester, Cheltenham and Tewkesbury Joint Core strategy 2011- 2031 adopted 2017 (JCS) which seek high quality design which among other things respects the character of the locality. The proposal would also conflict with the aims of JCS Policy SD8 which strives to conserve and enhance heritage assets, including ensuring that development makes a positive contribution to local character and distinctiveness. The proposal would also fail to accord with advice contained in the Council's Development on Garden Land and Infill Sites Supplementary Planning Document adopted June 2009 (SPD) which requires infill development to be of the highest design quality, in keeping with the character of the local area.

### *Living Conditions*

17. The private garden area to 7 All Saints Villas Road lies to the side of the dwelling, there are a number of windows in the elevation of No 7 overlooking its garden space. Although the top floor would be set back from the main elevations, the proposal would still result in a building of considerable height and length running along a significant proportion of the side boundary to the garden space of No 7, in close proximity to the shared boundary. Given the height, scale and siting of the proposed building, it would appear as an unduly overbearing and imposing feature when viewed from the adjoining property at No 7, from both the windows in the property and the garden. Whilst the

existing boundary treatment between No 7 and the appeal site includes tree planting, which would provide a degree of screening, this would not overcome the harm I have identified. Furthermore, the longevity of the trees is not guaranteed and cannot be relied upon in perpetuity.

18. As such I find that the proposal would have an adverse effect on the living conditions of the occupiers of No 7 by virtue of harm to outlook. The proposal would therefore conflict with CP Policy SL1 and JCS Policy SD14 which seek, among other things, to ensure that new development would not harm living conditions, as well as the SPD which sets out that proposals that result in unacceptable harm to the amenity of neighbouring dwellings will not be permitted.

### **Planning Balance and Conclusion**

19. Given the land supply situation, paragraph 11 of the Framework indicates that permission should be granted unless the application of policies in the Framework that protect assets of particular importance provide a clear reason for refusing the development proposed. I have found that those policies seeking to protect heritage assets provide such a clear reason. Therefore, the proposal does not benefit from the presumption in favour of sustainable development, outlined at paragraph 11.
20. I note the appellant's concern regarding third-party representations, in particular the accuracy of the submitted photomontages. However, I have reached my decision using my own judgement based on the plans submitted as part of the application. Whether or not a number of trees have been felled on the site, this has not affected my decision.
21. For the reasons given, the appeal scheme would conflict with the development plan and there are no material considerations, including advice in the Framework, worthy of sufficient weight that would indicate a decision other than in accordance therewith. The appeal should therefore be dismissed.

*Emma Worley*

INSPECTOR