



# Appeal Decision

Site visit 23 May 2023

**by Helen O'Connor LLB MA MRTPI**

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

**Decision date: 24 May 2023**

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**APP/Y3940/W/22/3313247**

**12 Newtown, Trowbridge, Wiltshire BA14 0BA**

- 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 Michael Thomas against the decision of Wiltshire Council.
  - The application Ref PL/2021/07458, dated 22 July 2021, was refused by notice dated 15 June 2022.
  - The development proposed is the extension and conversion of shop and accommodation to be used house of multiple occupation over three floors.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. I have taken the description used in my heading above from that on the Council's decision notice as it is more concise than that on the original planning application form.
3. Development has commenced at the site, including the installation of a steel frame and works to the shop, but has not yet been completed. Therefore, the development is partly retrospective in nature.
4. The drawing submitted shows a mixed-use proposal for a takeaway unit and seven rooms to be used as a house in multiple occupation. The appellant refers to this drawing as plan number 2 and accepts that this is the plan to which this appeal relates<sup>1</sup>. In addition to plan number 2, I am also provided with two other plans, one labelled MAT3A showing a street scene and site plan. I have had regard to this plan as it shows contextual information that is supplementary to the appeal proposal.
5. The other plan, referred to by the appellant as plan number 3, shows an alternative mixed-use proposal, including five rooms, that was the subject of a separate planning application. The Council resolved to decline to determine that planning application under section 70B of the Town and Country Planning Act 1990 and so it has not undergone public consultation. It is clear from planning application PL/2021/07458 that there is local interest in the development of the appeal site. Consequently, taking account of plan number 3 as an alternative proposal would be likely to prejudice interested parties, as they have been unable to comment. Accordingly, my determination is based on plan number 2.

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<sup>1</sup> Conclusion of Appellant's Appeal Statement

## **Main Issues**

6. The main issues are:

- The effect of the proposal on the character and appearance of the area, including paying particular attention to the significance of the Trowbridge (Newtown) Conservation Area (CA) and the setting of nearby listed buildings.
- The effect of the proposal on the living conditions of the occupants at 13 Newtown, having particular regard to outlook and privacy of their outdoor space.
- The effect of the proposal on the living conditions of future residential occupants of the house in multiple occupation.
- Whether the proposal makes sufficient provision for cycle and car parking.
- The effect of the proposal on biodiversity.

## **Reasons**

*Character and appearance, including designated heritage assets*

7. The CA covers a predominantly established residential area and its significance derives primarily from how its layout and aesthetic qualities reflect a period where the core of Trowbridge was expanded. The CA contains a concentration of mostly residential stone and brick terraced properties of traditional construction. The strong building lines and repeating relatively simple form of houses conveys a pleasing impression of coherence in the street scene in Newtown. Architectural detailing is limited, but the placement and proportions of windows reinforces the sense of order. Of note is the Grade II listed terrace (nos.14-26 Newtown) of three storey late 18<sup>th</sup> century former weaver's houses on the west side of Newtown. This terraced group enriches the aesthetic and historic significance of this part of the CA.
8. The appeal site lies within the CA. It is also sufficiently close to the terrace of listed weaver's houses such that it is in contiguous views along Newtown and would feature in the foreground of such street views when proceeding along Newtown from the northwest. Hence, it forms part of the surroundings in which these heritage assets are experienced and thus, forms part of their setting. I am mindful of the statutory duties<sup>2</sup> to give special attention to the desirability of protecting the setting of listed buildings and of preserving or enhancing the character or appearance of the CA.
9. Although the appellant refers to the historic evolution of the appeal site, the submitted plans show that prior to the works commencing, the three storey component of no12 was set deep into the plot behind a modest single storey protrusion. Accordingly, although it differed in form from most of the terraced development nearby, it had a receding presence that deferred to the listed weaver's houses. As such, it had a broadly neutral impact on the character and appearance of the CA and setting of these listed buildings.

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<sup>2</sup> Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

10. The proposal would add considerable volume to the building to provide accommodation at first and second floor levels. This would include extending over the single storey front portion, which would dramatically change the appearance of the northwest elevation. The extension would also elongate the width of the upper portion of the building over the side passage. Consequently, the building would appear considerably bulkier, with the increase in width making it appear awkward and having an uncomfortable relationship to the plot.
11. The resulting roof profile would have hipped and flat roof components that would depart further from the simpler roof form evident in nearby terraces, whereby the main roof ridges run parallel to the road. In addition, the grey render horizontal and vertical banding would give an odd, compartmentalised effect to the front elevation. Furthermore, the bands around the windows would emphasise the unsympathetic window placement and casement style proportions. Overall, this would result in a disjointed and unattractive building.
12. Moreover, it would have a prominent and immediate presence in the street which would erode the coherent appearance of the CA and appear disproportionate to the adjacent modest two storey dwelling at no.13. The largely blank north-western elevation would have an obvious presence that would deflect attention away from the listed weaver's houses when proceeding along Newtown from the northwest. Even seen from the southeast, the roof form would protrude uncharacteristically, thereby drawing the eye.
13. Taking these factors together, the proposal would be an insensitive addition in this context. I consider that the CA and listed weaver's houses are intrinsic to the quality of the existing townscape. Therefore, I find the distinction the Council has made to be an artificial one whereby they find harm would result to the townscape but not to the designated heritage assets that form important constituent parts. It follows that I find the proposal would result in harm to the significance of the CA as well as the setting of the terraced group of listed weaver's houses.
14. Cognisant of the relatively modest scale of the proposal, in both instances this would be less than substantial harm. Paragraph 202 of the National Planning Policy Framework (the Framework) indicates that in such circumstances the harm should be weighed against the public benefits of the proposal.
15. The main benefit would be the provision of additional residential accommodation in a reasonably accessible location, which would make more efficient use of the land. Nevertheless, the increase in provision would be modest, and therefore, attracts moderate weight.
16. Paragraph 199 of the Framework stipulates that great weight should be given to conserving the significance of designated heritage assets. The moderate weight attributed to public benefits would not outweigh the harm identified to the significance of the designated heritage assets in this case.
17. The appellant points out that other developments have taken place nearby, including flats and an extension to a car park which is shown on the contextual plan labelled MAT3A. Nevertheless, upon examining the site plan and street scene, I am not confident that the street scene provided is accurately to scale. In any event, the limited details in the illustration provided generally indicate a two-storey terraced structure, with a pitched roof with ridge running parallel to

the road. Hence, it has elements that would better reflect positive qualities of the CA, and so, would not provide sound justification for the appeal scheme.

18. Therefore, I find that the proposal would cause considerable harm to the character and appearance of the area and would undermine the significance of designated heritage assets, contrary to national historic environment policy. Accordingly, it would be contrary to Core Policy 57 of the Wiltshire Core Strategy, January 2015 (CS). This policy, amongst other matters, seeks to ensure high quality design whereby developments respond positively to the existing townscape, and which are sympathetic to the historic environment.

*Living conditions of occupants of 13 Newtown*

19. Amongst other matters, Core Policy 57vii of the CS requires development proposals to have regard to the impact on the amenities of existing occupants. 13 Newtown is a modest two storey dwelling with a small rear outdoor space adjacent to the appeal site.
20. The appeal scheme would result in built form across the depth of the appeal site. Consequently, it would align with the length of the side boundary of no.13 including the full length of the rear garden area. Furthermore, the proposal would enlarge the three-storey element of the building further to the rear and the increase in width would bring the extended form closer to the side boundary with no.13.
21. The combined proximity, height and extent of this built form would have a looming presence above the boundary fence to no.13. Taking into account the limited size of the outdoor space and presence of existing buildings, this would have an unreasonably confining effect on the outlook of occupiers seeking to enjoy the outside area.
22. The Council also raise concerns that introduction of first and second floor windows in the rear elevation of the proposal would compromise the privacy of the garden space at no.13. However, these windows would be positioned at a point broadly equivalent to half the depth of the garden and would face southwest rather than directly towards the outdoor space. Whilst oblique views would be possible, such a configuration is not unusual in urban areas, and indeed is generally evident in the nearby terraced housing. Little substantive evidence has been provided that in this case, such a relationship would be harmfully intrusive. Nevertheless, this would not negate the harm to outlook that I have identified.
23. Accordingly, I find that the proposal would result in unacceptable harm to the living conditions of the occupants of no.13 owing to the effect on outlook. Therefore, further conflict would arise with Core Policy 57 of the CS in this regard.

*Living conditions of future residents*

24. Core Policy 57vii of the CS further stipulates that development proposals should have regard to the compatibility of adjoining buildings and uses and ensure that appropriate levels of amenity are achievable within the development itself. Furthermore, paragraph 130f of the Framework states that planning decisions should ensure that developments create places with a high standard of amenity for existing and future users.

25. Neither local nor national policy expressly mention the provision of outdoor space nor set a mandatory requirement. However, in the absence of other evidence, it is reasonable to suppose that this is a factor that could directly influence the living experience of future residents in the proposed house in multiple occupation.
26. No provision has been made for outdoor space, which the appellant points out has historically been the case at the appeal site. However, the provision of seven rooms as part of a house in multiple occupation would be likely to increase the number of residents living at the site. Moreover, unlike accommodation whereby residents have access to a number of rooms within a building, the majority of the rooms have a single aspect window and the four rooms across the first and second floors towards the front of the building are small. Consequently, future occupants would have limited internal space and no alternative outlook from within the property.
27. Given these circumstances, it is foreseeable that the level of provision of outdoor space would significantly affect the quality of the day to day experience for such occupants. No evidence has been provided to show that nearby, suitable public open space would adequately address this. Accordingly, I find that the lack of such provision would render the living conditions of future occupants unsatisfactory and considerably below the high standard of amenity encouraged by the Framework.
28. Furthermore, the seven rooms would be provided above or behind the ground floor takeaway food outlet. Such an enterprise is highly likely to generate some cooking odours, customer activity, noise from equipment and associated refuse. Furthermore, such activity is likely to be greater in the evenings and at weekends, which would coincide with when residential occupants could be more likely to want to relax or sleep. No substantive evidence has been provided to show that these matters would be adequately managed in order to avoid unacceptable levels of disturbance being caused to future residents due to noise or smells.
29. To my mind, these matters could potentially erode the standard of living conditions for future residents in this case to such an extent, that they are too important to be left to a condition on the assumption that a suitable solution might be found at a later date. My concerns are reinforced by the objection of the Councils Public Protection Officer regarding the lack of a noise assessment and details of ventilation and extraction. Given their experience and expertise, this carries considerable weight.
30. Accordingly, based on the evidence before me, I find that the proposal would fail to provide an adequate standard of living conditions for future residential occupants of the appeal site contrary to Core Policy 57 of the CS.

#### *Parking provision*

31. Amongst other things, Core Policy 60 of the CS seeks to promote sustainable transport alternatives to the use of the private car. This generally aligns with the encouragement given to promoting sustainable transport in section 9 of the Framework.
32. The Wiltshire Local Transport Plan 2011-2026, Cycling Strategy March 2014 (the cycling strategy) reinforces the role that cycling can play in this regard,

- and identifies that providing suitable cycle parking assists in reducing barriers to higher levels of cycling. It goes on to specify cycle parking standards for new developments in Appendix 4. This does not explicitly deal with mixed-use development, nor houses in multiple occupation.
33. The closest reference is in relation to class C3 houses and flats which requires 1 covered space per bedroom for up to 3 bedroom dwellings, then 3 covered spaces per unit for 4 bedroom dwellings and 4 covered spaces per unit for 5 bedroom dwellings and so on.
  34. The Council do not explicitly state the minimum amount of cycle parking provision that they consider should apply in this instance. However, given the thrust of the cycle parking standard published, it would be reasonable to expect provision for one cycle parking space per room in the house of multiple occupation.
  35. The cycling strategy goes on to state that residential cycle parking should be in an internal area or within a covered, lockable enclosure where access to the highway must be convenient. The appellant does not dispute the need to provide suitable cycle parking and highlights some of the environmental benefits of promoting sustainable travel choices.
  36. However, the submitted plan does not identify dedicated cycle storage space. Although the appellant asserts that provision can easily be accommodated within the development and suggests the use of a condition, this is in relation to an alternative scheme with fewer rooms than the appeal proposal before me. As such, it is unclear where such provision would be accommodated, and therefore, imposing a condition in these circumstances would not be appropriate.
  37. In addition, Core Policy 64d of the CS refers to residential car parking standards. It goes on to explain that new residential development will be based on minimum parking standards but that reduced levels will be considered where there are significant urban design or heritage issues, where parking demand is likely to be low or where any parking overspill can be controlled.
  38. The Wiltshire Local Transport Plan 2011-2026, Car parking Strategy sets out minimum residential car parking standards<sup>3</sup>. For dwellings with more than 4 bedrooms this indicates a minimum of three spaces. It also provides flexibility to allow for a lower level of provision where specific circumstances can be demonstrated.
  39. In this case a mixed-use takeaway and house in multiple occupation development is proposed and no off-street parking would be provided. Although no off-street car parking presently exists for the business or accommodation, the proposal would be likely to increase the number of residents at the appeal site.
  40. The Council calculate that to meet the required minimum standard, the extension to provide seven rooms in the house of multiple occupation would require a net additional 5 off-street car parking spaces to be provided, and I have not seen evidence to the contrary. There is insufficient space at the appeal site to do so.

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<sup>3</sup> Table 7.1

41. There is no dispute that the appeal site is within a reasonable walking distance to public transport facilities in the town centre. However, it does not automatically follow that all future residents of the appeal proposal would be car free as a result. It is foreseeable that some future occupants would own a car, even if the accessible location means that they might use it less frequently. Moreover, the ability to park on-street within the vicinity of the appeal site is constrained owing to double yellow lining and car parking restrictions.
42. As such, the proposal would be likely to intensify competition for unrestricted on street parking spaces within the vicinity of the site. The evidence before me suggests that the demand for such spaces is high given the incidence of predominantly terraced housing, often with no off-street parking facilities.
43. In turn, this would be likely to increase instances of anti-social parking problems such as restricting visibility near junctions and preventing the free flow of traffic. This would be detrimental to highway safety, and it would also add to the everyday frustration for existing residents who are reliant on on-street parking in finding available space.
44. As such, the evidence presented does not show that the proposal would fall within the circumstances whereby a lower provision of off-street parking would be supported by Core Policy 64d of the CS. Rather, the proposal would lead to an unmet parking demand likely to increase the level of on-street parking within the vicinity of the site.
45. Therefore, I find that the proposal would fail to make sufficient provision for cycle and car parking. Consequently, the proposal would conflict with Core Policies 60 and 64 of the CS respectively.

### *Biodiversity*

46. Amongst other things, Core Policy 50 of the CS states that all development should seek opportunities to enhance biodiversity. This broadly aligns with paragraph 180d of the Framework which outlines the principle that opportunities to improve biodiversity in and around development should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity.
47. The Council is concerned that no information has been provided to show that no net loss of biodiversity would result owing to increased coverage of outdoor space by built form.
48. However, the appeal site is in an urban area and the footprint of the existing buildings and hard surfaces largely cover the plot. As such, the extent of these constraints would have rendered it highly unlikely to be conducive to supporting meaningful biodiversity. Additionally, the additional built form of the proposal is largely at upper levels. Hence, the changes to the footprint would be likely to have only a marginal impact and I have not seen substantive evidence to show otherwise.
49. Given the context and relatively modest scale of the appeal site, insisting on the provision of an ecological survey for this reason would be disproportionate. Moreover, it is likely that small scale improvements to biodiversity could be secured by a planning condition.

50. The site falls within the Bradford on Avon and Bath Bat Special Area of Conservation (SAC). However, it is clear from the Council's case officer report that their concerns on this main issue derive principally from increased coverage of the plot rather than impact to the SAC. Given my findings in relation to the other main issues, the impact on the SAC is unlikely to be determinative and therefore, it is unnecessary to consider it further.
51. Accordingly, based on the evidence before me, I do not find a conflict with Core Policy 50 of the CS would arise in these circumstances.

### **Other Matters**

52. The appellant explains that he commenced work on the appeal property in the expectation that he would be able to take advantage of amended permitted development rights. Be that as it may, there is no dispute that the proposed development does not constitute permitted development. Therefore, I am required to consider it against the development plan, taking into account material considerations.
53. The appellant also gives an account of the events that led to formal enforcement action being taken by the Council. This includes concerns regarding the behaviour and comments of some local residents, a Councillor and Council officers. These are matters that fall outside the scope of my determination, which I have based on the planning merits of the scheme.

### **Conclusion**

54. Planning law requires decisions to be made in accordance with the development plan, unless material considerations indicate otherwise<sup>4</sup>. I have found that the proposal conflicts with the development plan taken as a whole, and there are no other material considerations that would outweigh that finding. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

*Helen O'Connor*

INSPECTOR

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<sup>4</sup> Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70 (2) of the Town and Country Planning Act 1990.