
**OPENING STATEMENT ON
BEHALF OF THE APPELLANT**

1. These appeals concern two alternative schemes for the redevelopment of land at 49, Leicester Road, previously occupied by the now demolished house named "Chepstow".
2. These alternative proposals (Schemes 2 and 3) follow an unsuccessful appeal in respect of a previous scheme (Scheme 1) when planning permission was refused for a development of a similar density.
3. Certain other elements of Schemes 2 and 3 are similar to Scheme 1, namely the inclusion of 6 semi-detached houses in three blocks in the Gloucester Road frontage and a single block of flats at the corner of Gloucester Road and Leicester Road. The principle of these elements of the overall development was accepted by the Inspector in his decision letter ("DL") on Scheme 1.
4. In respect of the Nutter Lane site frontage, the proposal in both Schemes 2 and 3 is to build two similar blocks of flats in place of the larger single block in Scheme 1 which the Inspector found to be unacceptable.
5. It is apparent from the evidence of Wood in particular, that the Appellant has been at pains to design proposals which would be acceptable to the local planning authority ("the Council"). In respect of Scheme 2 the design has progressed through no fewer

than at least six iterations to take account of the views of planning officers and English Heritage. The planning officers in turn had taken into account the views of the Conservation Area Panel, the Conservation and Urban Design officers within the Council, as well as the views of local residents.

6. In consequence of this, Scheme 2 received the support and recommendation in favour of the grant of planning permission from the planning officers in three successive reports by the two different Acting Heads of Development Control to the Council over a 6 month period in 2009 as well as meeting the concerns of English Heritage so that no objections remained outstanding on the part of English Heritage. However the Council chose to ignore the views of English Heritage as arbiter of acceptable development in a Conservation Area and to reject the planning officers' recommendation and refuse planning permission on a single ground of impact on the Conservation Area.
7. Although Scheme 2 was not favoured by local residents' organisations, Scheme 3 has been supported by the Counties Residents Association ("CRA") and in large part by the Wanstead Society. Nevertheless, this time in accordance with the planning officers' recommendation, the Council again refused planning permission on similar grounds to Scheme 2, although once again, English Heritage maintained no objection when consulted.
8. In order to address the criticisms of the Council and to assess independently the effect of Schemes 2 and 3 on the Wanstead Grove Conservation Area the Appellant has engaged Dr. Miele as a suitably qualified and independent expert to express his views

upon Schemes 2 and 3 with the benefit of his extensive experience, specialist knowledge and peer reviewed expertise.

9. Dr Miele, as an outside consultant not previously involved with the site, is able to support both Schemes 2 and 3 because neither will harm the character or appearance of the Conservation Area, in his expert opinion, but rather preserve and enhance both. His views therefore accord with the expert view of the relevant national organisation, responsible for advising Central Government on these matters, English Heritage, by whom he has been employed in the past and whose approach to these matters he well understands.

10. There are certain matters which are not in dispute about the development of the appeal site:
 - (i) The site is suitable for residential development which would make efficient and effective use of brownfield land in an urban area, in accordance with PPS3.
 - (ii) The proposed density of the development in both Schemes 2 and 3 complies with Local Plan (“LP”) policy, did not form part of the grounds of refusal in either case and was withdrawn as an objection to a similar amount of development in Scheme 1 with costs awarded to the Appellant on this point by the Inspector.
 - (iii) The housing mix complies with LP policy.
 - (iv) Car parking space and amenity space comply with LP policy and internal space within the dwellings exceeds LP standards.
 - (v) The loss of two TPO trees is not in issue between the Council and the Appellant and replacement species and locations have been agreed.

(vi) A Unilateral Undertaking under s.106 of the Town and Country Planning Act 1990 has been prepared to meet the Appellant's obligations in respect of contributions concerning affordable housing, community care and social services, educational facilities, healthcare, libraries and public health and is accepted by the Council as sufficient.

11. The single ground of refusal in the case of both Schemes 2 and 3 alleges that the respective designs are "out of keeping" with the CA, and adjacent locally listed buildings and therefore harmful. The wording varies slightly but the point is the same.

In neither case, either in the grounds of refusal or the Rule 6 Statement, is any criticism of the semi-detached houses or Block A specifically articulated or particularised. In each case it is the respective Blocks B and C which are the focus of the reason for refusal.

12. If it is found that either scheme at least preserves or enhances the Conservation Area and therefore does not harm it, then there is no reason why planning permission should be refused for that scheme in accordance with S.38(6) of the Planning and Compulsory Purchase Act 2001 and ss. 66 and 72 of the Listed Buildings and Conservation Areas Act 1990. Each appeal turns solely on the issue of the effect of the development upon the Conservation Area. It is the Appellant's case that both Schemes 2 and 3 are in accordance with the Development Plan, specifically in respect of policies in issue and Government policy in PPS5 in particular.

13. Although these appeals are necessarily determined against the backdrop of the appeal site being within a Conservation Area designated by delegated authority, there is no approved statement to support the designation, neither has any appraisal been carried out and adopted by the Council.

In evidence, the Council's witnesses purport to rely upon a draft document entitled ~~Conservation~~ ^{Character} Area Appraisal which has not been published, approved or adopted by the Council and is plainly subject to further revision and so is clearly not a "Final Draft" as claimed. Even though the appeal site is referred to on several occasions in the document, the Appellant was not consulted on its contents, unlike other residents and landowners in the area. The Appraisal is therefore a wholly unsatisfactory and inchoate examination of the merits of the Conservation Area on which the integrity of its designation depends. This undermines rather than underpins its designation and the weight to be attached to criticism about the effect of Schemes 2 and 3 upon the character and appearance of the Conservation Area.

14. When the weakness of the case made against each of the appeal schemes is weighed against the evidence in support of the proposals, planning permission ought to be granted and both appeals allowed..

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