

CFH



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**REBUTTAL PROOF
ON BEHALF OF TELFORD HOMES
SECTION 78 APPEAL**

APRIL 2010

- APP/3398/08 ('Scheme 2')
- APP/2393/09 ('Scheme 3')

**PINS Ref. W5780/A/09/2119252/NWF &
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1.0 INTRODUCTION

1.1 This rebuttal proof of evidence comments on proofs of evidence for schemes 2 and 3 prepared by Simon Algar and by Julia Williams, both on behalf of the planning authority.

1.2 In places the evidence presented goes outside my understanding of the reasons for refusal and the SoCG which was emerging whilst the Officers were preparing their proofs. I draw attention to these places in this further proof.

2.0 SIMON ALGAR'S PROOFS

2.1 Mr Algar relies on the Draft Conservation Area Appraisal (hereafter CAA). Paras 2.1 and 2.2 of his Appendix 8 provides background to the designation.

2.2 As explained in Section 4.1 of my Proof of Evidence, I consulted the CAA in preparing my evidence. It is not available on the Council's website and has not been published as a public document. I obtained a copy from Mr Hicks who, I understand, received it by hand from a Council officer.

2.3 The CAA is not a formally adopted Council document. The CAA is not in its final form either. Mr Algar himself (para 3.7, pg 9) notes that more work is needed before the CAA can be adopted.

2.4 Nevertheless Mr Algar (para 3.5, page 8) invites the Inquiry to treat this unadopted document as a material consideration of '*significant weight*' because, he says, '*it has been used for development management purposes since the conservation area designation was confirmed in March 2009*'.

2.5 The CAA is not referred to in the Officer's reports on either scheme, nor was it referenced in the CAP's consideration of these proposals. I am not aware the Council has endorsed it as relevant for development management purposes.

2.6 Additionally the CAA was not relied on either in the Council's pre-Inquiry Statement or the draft Statement of Common Ground with which, I understand Mr Algar was familiar whilst he was preparing his proof.

2.7 In these circumstances the CAA may be relied on for factual information. Its opinions have to be treated cautiously before attaching any weight to them. We do not know when it will be finished, how it might change and what amendments could emerge as a result of any formal adoption procedure.

2.8 On the basis Mr Algar thinks the CAA is relevant, however, I will refer to it in some of the notes that follow.

2.9 I observe here that there is nothing in the CAA to say that the site should not be developed. The CAA was clearly prepared against the backdrop of scheme 1 and I assume also on the understanding that further proposals would come forward.

2.10 At para 2.2, page 5, Mr Algar draws attention to the '*roofscape view of the Roding (Arts & Crafts style) cottages on Nutter Lane . . . as viewed from the southwestern and of Gloucester Rd and the southeastern end of Leicester Rd*'.

- 2.11 He concludes that this is *'one of the most important and attractive views within the Conservation Area, which helps (along with some other key views) to justify the Conservation Area status for this area'*. This view is, then, a most important one in his opinion.
- 2.12 However, the CAA on which Mr Algar relies – and whose purpose was to assess the area's architectural or historic qualities – does not identify this view experience.
- 2.13 Furthermore, the final section of the CAA records comments made in response to a questionnaire distributed by the consultants to local residents. The Question 1 response sheet asked for local people to identify *'Views – specific'*. The view from Preston Drive across the recreation ground (which the Appeal inspector commented on) was identified, and also *'specific vistas across the rooftops to Wanstead Hospital'* (page 51). Three respondents, answering Question 4 on detractors to the *'Estates'*, expressed concern about intrusion of new development into views. This was a generic response (see page 62).
- 2.14 Furthermore, I understand from the appellant and Mr Woods that this *'view'* was not identified in pre-application discussion. Nor am I aware it been raised in the consultation responses to the scheme 2 and scheme 3 applications. It is not mentioned in responses which the Inspectorate received.
- 2.15 At para 2.4, pages 5 and 6, Mr Algar states that the listed building Applegarth and the locally listed building (Roding Cottages) form *'two, strong architectural "bookends"'* to Nutter Lane which should be taken into account when evaluating the character and appearance of existing and proposed properties in between.
- 2.16 His supports this statement with a photograph he has made and reproduced at Appendix LBR2. An accompanying drawing on an aerial view at Appendix LBR3 highlights the assets in red and links them by a thick yellow line following the back edge of the pavement of Nutter Lane.
- 2.17 The purpose of this analysis is to suggest that any new development which comes between them would potentially disrupt their relationship. This suggestion is not, however, followed up in his scheme assessment of either proposal.
- 2.18 His conclusion that these two buildings form a strong set of bookends, a pair essentially, is an arbitrary judgment. The CAA did not discern any obvious relationship. The Appeal Inspector (who did consider the listed and locally listed buildings before the CA designation) did not discern it either. Rather he referred to a continuous panorama of the Nutter Lane frontage as perceived across the recreation ground from Preston Drive.

- 2.19 Mr Algar's has framed his photograph deliberately with the buildings at either edge. On site, however, this effect is not really apparent. What one actually perceives is a more or less continuous line of development (excepting the appeal site) with landscape features in the fore ground and as a backdrop to the frontage. Equally, looking at the aerial view, one could put a red outline around any other buildings in Nutter Lane and draw a heavy yellow line between them along the back edge of the pavement. That would not make them a set of architectural bookends either.
- 2.20 There is no designed relationship between the two heritage assets. They have very different architectural characteristics. One is a terrace, the other a detached house.
- 2.21 At para 2.5, page 6, Mr Algar states his view that *'it is essential that any scheme forms a coherent whole in terms of its layout and architectural form'* on the appeal site. No reasons are given for this sweeping assertion.
- 2.22 And as a matter of fact the CAA does not offer this advice either.
- 2.23 At the end of para 3.6, page 9 (middle), Mr Algar makes an alarmist claim. If the one or both appeals are allowed, then, he concludes, *'This will hinder efforts in the future to protect the area from insensitive development, and together with the unfortunate development (allowed on appeal) on the corner of The Avenue and Leicester Road, will form a significant group of unsuitable buildings within a highly visible part of the CA which may question the viability of retaining the conservation area as it currently exists'*.
- 2.24 However, if one or both appeals succeed, then the proposals will have been judged at least to preserve the character of the area in line with the statutory obligation on decision makers. It follows logically from this that there would be no harm to the CA's special interest. One or both consents would not invalidate the merits of the designation and its benefits.
- 2.25 His section paras 4.1 through 4.7 assess the history of the site. I have to say, as a professionally trained historian with publications and honours to my credit, that his reasoning is not sound when he concludes that the site has an historic open nature. He expresses this judgment variously throughout his proofs.
- 2.26 *'Historic'* has a very particular meaning. It does not mean, and should not be construed to mean in this context, anything – any event, fact or state of being – which took place in the past. If that were the case then everything, everywhere would be historic for planning purposes. The site in its current condition is not *'historic'* in the relevant sense, or indeed in any academic sense.

- 2.27 For example, at 4.2 he states that historically the Chepstow site had an open aspect – which was true at one point certainly, until the field of which it was part was developed for housing. He states furthermore that it had a '*strong visual connection*' with the land now forming the Recreation Ground. But this was no more significant a relationship than any two adjoining parcels of agricultural land would have enjoyed in any location.
- 2.28 There is no strong topographical relationship between. No one has claimed an historical relationship of ownership or use.
- 2.29 Yes, in the past, the site was part (and only one part to judge from historic maps) of a field that was opposite another field, and this latter has been incorporated into the recreation ground. Yes, this took place in the past, but in itself does convey significance such that relationship is '*historic*'.
- 2.30 Second, whatever the characteristics of these two parcels of land in the C18 and C19, it is their character today which has to be considered in relation to the co-joined appeals. A recreation ground is not a pasture or a garden. The site itself came into existence, it would appear, as nearby development isolated it from the rest of the field system of which it was once part. Maps show that it was divided into two parcels at one point, then one for a large single house more recently.
- 2.31 These are not relict rural landscapes. Even a field in pastoral use in this location would be urban fringe.
- 2.32 Mr Algar makes similar comments at para 6.1 of his Proof, where he states that the character of the Sports Ground and of the site enable visitors to the area '*alike to gain some understanding of the rural origins of the area before it was transformed into an outer London Suburb – origins related to a designed landscape with clear historical and visual links to one of the few remaining buildings from that much earlier designed landscape*'. The landscape character of the Sports Ground is as a matter of fact recreation space: there are tennis courts to the south, a bowls club and buildings to the north, and between the area is laid out for football (to the Preston Drive side) and general recreation along Nutter Lane. In landscape character terms, it is not rural or relict rural.
- 2.33 The landscape character of the site is residential curtilage. Within it was divided up into several areas by planting.
- 2.34 Applegarth is part of a continuous streetscape. Any specific relationship it had with the recreation ground, or indeed Roding Cottages, is not obvious. Once the link is pointed out to someone, then they appreciate it intellectually. Neither scheme 2 nor scheme 3 interferes with that perception.

- 2.35 There is, thus, no evidential basis for this for Mr Algar to refer repeatedly to the site's '*historic open nature*' (see for example para 4.6, five lines from bottom) in a way which suggests there is some significance to that fact. I
- 2.36 At para 4.4 Mr Algar refers to the national policy context (PPS1 and PPS3) which advises maximising the efficient use of land, and at para 4.5 he seems to be raising an issue of density (not a ground of refusal) and then to withdraw from it.
- 2.37 The Council has not objected to the proposed density or housing mix. The character of the site will change as a result of the agreement that there should be housing on it.
- 2.38 Mr Algar expresses concern that the development will reduce openness in the area, and that this is harmful because openness is historic. We clearly differ on whether this characteristic is significant; it should be pointed out that all of the proposed buildings are well set back from the pavement and that the junction of Leicester Road and Nutter Lane will be open because of the area required for tree retention.
- 2.39 And any development on the appeal site is bound to change views across it, such that the incidental view of the rear elevation and chimneys of Roding Cottages he admires would either be reduced or obscured.
- 2.40 On Policy, he cites all parts of BD1, when I had understood that 3, 5, and 6 were not at issue.

Mr Algar's Scheme 2 Assessment

- 2.41 In his Scheme 2 Proof, section 6.0 Mr Algar makes specific comments on the scheme design.
- 2.42 At 6.1 he states that the site is '*understood to be valued by local residents*' as a visual relief from the other largely built-up nature of the conservation area. However, this part of the CA is not unrelieved; it has a large recreation ground and to the east is another public open space, laid out as turf with a pleasant tree-lined walk.
- 2.43 He does not cite the evidence for local sentiment. I have reviewed Section 10.0 of the CAA which records local responses in detail. I did not identify any specific response to support this statement, and Mr Algar offers no new evidence. What people did say as part of the CAA study was that they valued the '*area's feeling of openness*' which, the CAA observes, '*was ascribed in many answers to the width of the historic street plan, as well as the density of the buildings, their regular spacing and position and set-back from the pavement with regular sized front gardens*' (page 55). The appeal site was clearly in the background to this document, and yet no respondent singled out this part of the then proposed CA as so intensely developed that it needed '*visual relief*' which is not surprising given the scale and position of the recreation ground and the associated open space to the east. The area will still have an open character if either scheme is implemented.

- 2.44 In this section of his proof, Mr Algar describes both schemes as three storey. I give the storey heights (which do not of course equate to a height) as follows:
- In Scheme 2, Block A is 2.5 and 3 storeys, and B & C are three storeys each.
 - In Scheme 3, A is again 2.5 and 3 storeys and B & C are 2.5 storeys.
- 2.45 He cites the height to support his statement that the layout is 'cramped'. Cramped layout – often cited in relation to overdevelopment – is not a reason for refusal.
- 2.46 Then he describes various relationships with surrounding, existing development, claiming that the proposed blocks are 'close' but he does not say the proximity produces overbearing or undermines amenity through overshadowing or overlooking. Excessive proximity is another physical indication cited to support an objection of overdevelopment. This has not been cited in the reason for refusal.
- 2.47 In fact there will be views into the site, through gaps between buildings, and across a corner, and the buildings are set well back from the edge of the pavement.
- 2.48 At 6.3, Mr Algar cites the CAA's opinion on an appropriate scale of development, saying that B & C's design 'clearly do not take this advice into account', as though this is sufficient to document an inappropriate scale relationship with the cottages. The opinions offered in the CAA are not planning policy or even guidance, material this observation was, I understand, never raised in pre-app discussions.
- 2.49 At 6.4 he states that the parking area will harm the appearance of the CA because it would provide a significant visual focus on the site. This is, again, not a reason for refusal. In the Appeal decision letter the Inspector at para 20 did not consider that this feature was inappropriate to the suburban character of the area – Mr Algar says it will produce a 'significant urbanising effect'. That was before the CA designation; subsequent to the designation, however, officers did not raise it.
- 2.50 At 6.5 Mr Algar criticises the height of Block A which he states is three storeys, but has 2.5 and three storeys. He thinks three storeys is inappropriate. His principal concern with height at this point is that it would block out the view of the rear of the locally listed buildings. But then a traditional two storey terrace or group of semis would have the same effect.
- 2.51 His conclusion states that the standard of design is low by which I think he is referring to detailed design, but there is no analysis to support this sweeping conclusion.

Mr Algar's Scheme 3 Proof

- 2.52 At 6.4 of his Scheme 3 Proof Mr Algar states that the height of B & C alone, at 2.5 storeys, would in itself be harmful to the setting of Roding Cottages without considering the significant gap between C and the nearest part of the existing terrace.

Ref.
David's
height
calculations

2.53 The similarity in character would, he concludes, *'have the effect of creating a housing estate form of development, totally inappropriate for this site with its [purported] historical origins'*. However, the consistency which contributes to the special interest of the CA is the result of coordinated estate development as reflected in its name: the Grove Park and Counties Estates. I cannot see how – if a large part of the site is accepted as suitable for flats – that these can be provided without a coordinated approach. That coordinated estates approach will ensure that the shared landscape will be maintained to a high standard. This should be welcomed since poorly maintained front gardens detract from the CA's special interest. The proposed form of development will thus ensure that significant frontages to Nutter Lane and Leicester Road will be maintained as part of a single management strategy as it usual in such developments.

3.0 JULIA WILLIAMS' PROOFS

- 3.1 Ms Williams also places significant weight on the draft, unadopted CAA as the basis for her judgments.
- 3.2 In particular she develops one of the comments in that document, namely that this part of the CA has a '*rural feel*' to it, the result of its relative sense of openness and the less formal building line on Nutter Lane (see 3.2.1, 3.2.2)
- 3.3 Many parks and open spaces in urban and suburban areas have informal boundaries and a sense of openness, but that makes them parks or some other kind of urban green space not rural landscapes. Suburban streets very often are informal, but that does not make them rural in character. There are many things which make up the character of a place, not least traffic noise and an awareness of surrounding development and infrastructure.
- 3.4 At para 4.2.1 Ms Williams states that the architect's streetscape elevations are inaccurate (and so misleading) for only showing the front face of Blocks B and C and not the taper at the back, where the buildings are closer together.
- 3.5 No elevation is a true picture of what can be seen. An elevation has no viewpoint. This sort of elevation – a composite streetscape – involves an even greater level of abstraction than a single building elevation, particularly where, as is the case there is no uniform building line. Such elevations are used to establish overall heights, the pattern of development, materials, characteristics, frontage widths and so forth. It would of course have been possible to show in perspective the flank walls, but then this would require picking one imaginary viewpoint on which to base a projection. This is why all elevations submitted for planning have to be assessed with the benefit of a site layout plan or floor plan.
- 3.6 At 6.3.1 Ms Williams criticises the scheme on the basis that the flat roofs on Blocks B & C are not '*typical of the area*' in the sense of being common or widespread. This is true.
- 3.7 But it is not fair to look at the roof form (flat or not) in isolation. She has not come to the design in its own terms, as set out in the D&A, which was to introduce stylistic variety for a particular reason. She does not mention that both officers and English Heritage encouraged this approach, even if only to distance herself from it. The relevant consideration is not whether the roofs are flat or not but whether the overall approach to the appearance of the building (which entails a flat roof) is acceptable in this position. She has also overlooked the vertical element (stair and lift tower) which projects from the front face of each building and has an effect on the way the form of the roof is perceived. The slightly recessed rendered top floor has a similar architectural effect when seen in combination with the flat roof. It is the totality that must be considered, not an isolated element.

- 3.8 And even if not typical, the listed Shrubbery is an example of an estate development with a flat roof, and it is consistent with a type of development found within the period encompassed by the range of architecture found within the CA.
- 3.9 On scale, at para 6.4.1, she draws attention to the difference in height between Block B and the bungalow to the west. In doing this she means to suggest that this difference in scale is in itself disjunctive and therefore harmful.
- 3.10 The two buildings are, however, separated from one another across a road junction. Block B is set further back from this junction behind a large retained tree. The Bungalow is itself seen in the context of development closer too. I do not see this relationship as harmful in these circumstances. Distance and context ensure there will be no visual disruption.
- 3.11 At para 6.4.2, Ms Williams discusses the relationship of Block C in particular to the locally listed terrace, Roding cottages. She says the flat roof would be incongruous next to the sloping roof. I presume she is assessing the effect one would have approaching the site from the east along Nutter Lane.
- 3.12 She has not taken into account the mediating effect of the recessed top floor, which will be rendered. This difference in material reduces the apparent mass of the building and will actually enable the roof slope of the locally listed building to be seen clearly against it. The interest of the older building will in this way be highlighted by contrast, which is one, common approach to building in the setting of older buildings, much as following their architectural patterns is the other. Indeed, even the CAA encourages such a difference in character, and English Heritage endorsed this sort of response.
- 3.13 At 6.5.1 Ms Williams criticizes the similar design approach of Blocks B & C on the basis there is no precedent for this in Nutter Lane. There are pairs of large similar buildings in the western part of the road near Applegarth. Of course it is possible to adopt deliberately different stylistic or formal expressions for new adjacent buildings, but that was not the approach encouraged here. I think that the interest of what is proposed is increased by the pairing. The informality she sees as redolent of the area's rural origins reflects the fact that this part of the area was developed less comprehensively than some other parts. Across the CA there are many larger groups of similar buildings.
- 3.14 At 6.7.1 Ms Williams criticises the Art Déco inspired B & C for having detailing that provides '*little visual interest*', particularly on the side elevations. This overlooks the centre feature of the building, the curving stair and lift shaft group, the balcony detailing, the slit stair window anticipated to be filled with characteristic glass blocks.

- 3.15 Furthermore, this comment misunderstands the stylistic vocabulary of the 1930s. Distinctive buildings in the Moderne style are often deliberately simple because the architectural detail tends to be subordinated to the overall mass of the form. There are exceptions, of course, but the general direction of travel was towards the simplification of form and sculptural composition. The listed Shrubbery, a Modern estate in Grosvenor Avenue at the other end of the CA, is a good example of this stripped-down approach which relies on large expanses of contrasting materials and flat roofs to express a single form.
- 3.16 All designs need to be understood in their own terms, with reference to the particular language of expression and the materials adopted.
- 3.17 Second, the flank elevations are in fact articulated by a rendered element which will read visually in association with the slightly recessed and rendered top floor. Flanks are secondary elevations, and they are always simpler; this characteristic is found throughout the CA. These are relieved.
- 3.18 At 6.7.2 she states that the external balconies to Blocks B & C have '*little precedent*'. This is true, but there are such balconies on the corners of the listed Art Déco the Shrubbery in Grosvenor Road. Again, external balconies are characteristic of 1930s Moderne architecture. Balconies of some sort are, I understand, required to enhance the external amenity of the flats, and it seems to me perverse not to provide flats with some private open space overlooking a large open sports ground. She seems to be suggesting in this comment that it would be better if the flats were designed to look like individual houses or terraces or semis, but I don't think this practice would be consistent with good design principles. She advises that balconies within the body of the block might be preferable, but I am not aware that there is any precedent for such features in the CA.
- 3.19 At 6.8.1 she criticises Block A on the basis that its hipped and mansard roofs are also without precedent. Officers encouraged the design approach to Block A; nevertheless, her comment misunderstands the approach taken here in discussion with English Heritage. This was to design a building which drew inspiration from the flatted accommodation of the 1920s when architects, builders and developers adapted the vernacular-revival to more intensive forms of development. This roof format has been adopted for a particular architectural reason: to articulate the long range which is set back from the corner feature. It should be seen in those terms, in relation to the surrounds, as a considered part a building which is massed as two connected blocks and seeks to develop the architectural language which is characteristic of the area.

Julia Williams Comments on Scheme 3

- 3.20 Ms Williams criticises the design approach of B & C on the basis they are a '*poor imitation*' of Roding Cottages (para 6.2.1). But that was never the object of the design, as explained by Mr Woods in his Proof and corresponding D&A Statement.

- 3.21 His object was to design buildings that reflected certain characteristics of the locally listed building. By doing this, one reinforces what is special about them.
- 3.22 At 6.2.2 she criticises B for being closer to the street frontage. This arises because the blocks are placed perpendicular to one another, not on the skew as in scheme 2. She does not explain whether this new position is harmful to the character of the area. ?
- 3.23 At 6.3.1 Ms Williams acknowledges that the pitched roofs of B & C would *'blend better into the roofscape panorama when viewed from Preston Drive'*, but then complains that the roof forms are too complex. The roof forms are not complex. They are straightforward reflections of the gables and dormers which serve and articulate the top floor accommodation.
- 3.24 Like Mr Algar, Ms Williams is critical of the comprehensive approach proposed for Blocks A, B & C, concluding this would be harmful for creating *'the impression of an estate form of development'* (at 6.4.1). She advises a *'distinct but complementary design approach'*, but that is actually what is proposed. Block A is a distinctive interpretation of neo-vernacular early C20 architecture, Block C picks up on a theme found in Roding Cottages, and Block B varies that pattern. They are each distinct and complementary. This approach –providing a single landscape and access strategy for three buildings – is entirely acceptable. In other words, each of the three flats are different, but B & C are variations of a single type. If variety with complementarity is preferred then she should have welcomed Scheme 2, which provides that as well.

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