



Appeal Decision

Hearing Held on 21 and 22 January 2020

Site visit made on 22 January 2020

by Helen B Hockenhull BA (Hons) B. PI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20th February 2020

Appeal Ref: APP/Z0116/W/19/3237244

Land and buildings at Montague Hill South/Eugene Street/Marlborough Hill, Kingsdown, Bristol BS1 3NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by University Hospitals Bristol NHS Foundation Trust against the decision of Bristol City Council.
 - The application Ref 18/04977/P, dated 8 October 2018, was refused by notice dated 18 March 2019.
 - The development proposed is the demolition of all existing structures and the erection of a hospital transport hub, comprising a 400-space cycle centre, an 820-space hospital only car park, a hospital bus drop-off point and associated works. (all matters reserved except for access and scale).
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Decision

1. The appeal is dismissed.

Procedural matters

2. The appeal proposal is in outline with all matters reserved for later approval except for the matters of access and scale. The submitted General Arrangement Plans, insofar as they show a proposed layout, and the elevation drawings, are for indicative purposes only and I have considered them accordingly.
3. A draft planning obligation by way of an agreement made under section 106 of the Town and Country Planning Act 1990 (s106) between the appellant and the Council was submitted at the hearing. The obligation related to the provision of highway works, CCTV upgrade, travel plan monitoring, Traffic Regulation Order, tree replacement contribution, car parking revenue and hospital car park restrictions. A signed and dated agreement was forwarded after the event.
4. The Council and the appellant submitted an agreed Statement of Common Ground (SoCG) dated 19 December 2019 indicating all the areas of agreement and disagreement between them. This confirmed that following the submission of further evidence as part of the appeal, the Council's sixth reason for refusal, concerning daylight and sunlight, was no longer being pursued. I agree that this matter has been satisfactorily resolved and therefore I have no need to address this issue.

5. In their Statement of Case, the Council confirmed that the reference to Policy DM30 of the Site Allocations and Development Management Policies Plan (SADMP) in the fourth reason for refusal regarding heritage issues was incorrect. Policy DM29 should have been stated. The appellant has confirmed his awareness of this error and as no parties are prejudiced, I have considered the appeal on this basis.

Main Issues

6. In light of the above, I consider the main issues in this case are:
- whether the proposal provides an appropriate level of car parking and the effect of the development on highway safety and the promotion of sustainable travel;
 - the effect of the development on air quality;
 - the effect of the proposal on the provision of housing in the city centre;
 - the effect of the proposal on designated and non-designated heritage assets;
 - the effect of the proposal on existing trees.

Reasons

Parking provision, highway safety and sustainable travel

i) Parking

7. Policy BCS10 of the Bristol Core Strategy supports the delivery of significant improvements to transport infrastructure. It sets out a hierarchy for considering development proposals focussing on the transport user priorities of the Joint Local Transport Plan, namely pedestrians, cyclists, public transport, access for commercial vehicles, short stay visitors by car and lastly the private car. The Policy aims to provide a step change in public transport provision and widen travel choices which help to tackle high levels of congestion in the city.
8. The appeal proposal is for a Transport Hub which provides cycle parking, bus drop off as well as 820 parking spaces. The provision of further parking must be considered in this policy context, which seeks to maximise opportunities and give priority to walking, cycling and public transport.
9. University Hospitals Bristol (UHB) generated around 974,000 visits for health and care services in 2016/17. The appellant indicated that the number of visitors is growing by around 3-4% per year. There are 7 existing UHB car parks providing 676 parking spaces, of which just under 300 are for visitors/patients, the remainder being for staff. The UHB has gathered extensive patient feedback which indicates that the existing level of car parking at the hospital is inadequate, especially for patients who have a medical necessity to park close to the hospital itself.
10. The proposed Transport Hub seeks to address this issue. It would replace 191 existing spaces, either lost to facilitate the scheme or through the planned closure of other existing car parks and provide a net increase of 629 parking spaces.
11. The appellant confirmed at the hearing that the appeal scheme proposes to replace some of the existing staff car parking and to provide parking for those

- with a medical need to park close to the hospital. It would not cater for other visitors or patients who could make use of other nearby car parks within the city centre or could use public transport, including the park and ride, and the free hospital shuttle bus. A car park management scheme would be employed to ensure the car park was used by patients with a medical need.
12. In line with the Council's car parking standards set out in Policy BCAP29 of the Central Area Plan, the hospital could provide a maximum of 2000 spaces. The proposed provision would equate to less than 50% of the parking provision allowed by the above standards. This would provide an appropriate balance between parking needs and a recognition of the accessible city centre location of the hospital.
 13. In the Transport Statement of Case¹, the appellant refers to a Travel Survey undertaken by the UHB in 2018. This found that a quarter of patients and visitors failed to find a parking space when travelling to the UHB facilities. The daily patient trip generation detailed within the Transport Assessment calculates that 2135 patients access the UHB facilities by car each day. Accordingly, assuming one quarter of patients cannot find a parking space, this equates to 534 patients a day looking for a space.
 14. However, the above assessment does not consider how many of the 534 patients had a medical need to park at the hospital. UHB research² suggests a figure of around 32% ie. 170 patients had a medical need. This suggests a lower number of patients require a close by parking space.
 15. In considering the level of parking needed, the appellant has provided no information about assumptions made for length of stay and turnover rates. The Department of Health Technical Memorandum 07-03 NHS Car Parking Management Document 2015 provides some guidance. This document suggests that new patient outpatient appointments last around 40 minutes. Allowing time for patients to find their way to where they need to go, appointment waiting times and delays, a length of stay of 2-3 hours would not be unreasonable. This suggests one parking space could be used by 3 vehicles per day. Using the above figure of 534 patients, this would suggest a need for around 178 parking spaces. Even assuming an 85% occupancy rate as suggested by the appellant, the required number of parking spaces would be well below the proposed increase of 629 parking spaces.
 16. At the hearing, the appellant referred to other evidence submitted at the time of the planning application assessing the level of car parking need. In a briefing note provided to the Council's Planning Committee, it was stated that in order to assess the proportion of patients likely to require close by parking, the Trust set up a working group with representatives of over 100 clinical service areas. This produced an estimate that over 334,000 patients and visitors annually or 1190 patients per day, needed parking close to the hospital for medical necessity.
 17. The above data is clearly different to the assumptions used in the Transport Assessment and suggests a higher parking need. Even if I were to use this figure as a baseline, applying a turnover rate of 3 cars per space per day, the

¹ Appellant's Transport Statement of Case, paragraph 4.4

² Appellants Transport Assessment, paragraph 1.8

increase in parking spaces needed would be just under 400 spaces, still below the proposed net increase of 629 spaces.

18. The car park proposes 33 additional spaces for disabled users. Taken across the whole hospital site, disabled parking would amount to 2.5% of the total provision. This is well below the 10% provision required by the Council's parking standards. I acknowledge that this provision could be increased at reserved matters stage when layout is considered.
19. The appellant has referred to parking provision at other similar sized hospitals to provide support to the appeal scheme. In particular my attention is brought to Macclesfield Hospital. Here evidence of long wait times to find a parking space was used to support a proposal for additional car parking at the hospital. However, this hospital is not in a city centre location and has limited public transport or alternative car parks nearby. It is therefore not completely comparable to the case before me, which I have dealt with on its individual merits.
20. The appellant recognises that the net increase of 627 parking spaces would provide more than sufficient capacity to address current patient parking problems, in fact it is suggested that there would be spare capacity of 95 spaces³ to provide for other necessary visitors.
21. Bringing the above assessment together, based on the evidence before me, I am not satisfied that the net increase in car parking proposed has been sufficiently justified. The appeal scheme would therefore provide more car parking than has been shown to be required. Whilst Core Strategy Policy BCS10 makes provision for short stay visitor parking as proposed in this appeal, it gives priority to non-car means of travel in order to reduce congestion in the city. Providing more parking than has been shown to be required would encourage the use of the car as a means of travel to the hospital. It would therefore run contrary to the sustainable travel objectives of the Framework as well as Policies BSC10 and BCS13 of the Core Strategy, Policy DM27 of the SADMP and BCAP29 of the Central Area Plan.

Impact on the highway network

22. The appellant has put forward the view that as the vehicle trips generated by patients and visitors to the hospital are already taking place, the impact of the proposed development on the highway network would be negligible.
23. In order to support this view, the appellant has referred to a proposal for a car park at the Spire Hospital. In this case, the Council accepted that the car parking provided was to meet existing needs and that there would be no increase in patients or staff at the hospital increasing parking demand. However, the scheme at the Spire was for a much smaller car park, 89 spaces providing a 29% increase in parking, at a hospital which was not in the city centre, which had limited public transport and availability of other car parks. The UHB has a very different context to the Spire Hospital and therefore the two schemes are not comparable.
24. All parties agree that the proposal would free up existing on street car parking in the vicinity of the hospital. This would be of benefit to local businesses such as those in the Christmas Steps Arts Quarter. However, in so doing, this would

³ Appellant's Transport Statement of Case, paragraph 4.5

encourage additional vehicle trips as shoppers would seek to park in these spaces. Furthermore, patients may be dropped off by family or friends and the driver then park elsewhere in the centre. In providing more car parking for patients and visitors on the hospital site, it would inevitably free up parking in other town centre car parks. Again, this would lead to increased vehicles on the network as these spaces are then used by others. Encouraging the use of the car to travel to the city centre would be at odds with national and local planning policies aimed at promoting sustainable travel. I do not therefore accept the appellant's argument.

25. Notwithstanding the above, the appellant's Transport Assessment (TA) takes the likely traffic generated by the scheme, assuming it is all new traffic on the network, to assess a worst-case scenario. The Assessment indicates that the proposal would generate 366 two-way vehicle trips in the am peak and 180 two-way vehicle trips in the pm peak. Taking account of current traffic flows and operating conditions, it undertakes detailed junction assessments and concludes that all the junctions assessed operate within capacity now and will continue to do so with the development.
26. The modelling used has been questioned by the Council as it is unclear whether the existing level of congestion on the network is accurately reflected in the modelled queue lengths and saturation flows. Queuing at junctions downstream on the network would prevent vehicles moving forward. The baseline data of mean maximum queues in the am and pm peak on Marlborough Street east/west⁴ for example appear short, when compared to CCTV footage.
27. My own observations are that the road network in the vicinity of the hospital is regularly congested, particularly in the morning peak hour. The Council's SCOOT data, which gives an indication of static traffic, indicates this to be the case. The appellant at the hearing confirmed that the modelling was indeed validated against observed queue lengths. However, no additional evidence to support this has been provided.
28. Other minor inaccuracies in the TA, pertaining to existing road widths and actual traffic signal configuration have been highlighted by the Council. These discrepancies would potentially affect the accuracy of the assessment and analysis of junction capacities.
29. In addition to providing data on congestion, the main purpose of the Council's SCOOT system is to manage the traffic network and vary traffic signal timings throughout the day to maintain flows. The Council has suggested that the existing city centre micro simulation model would have been more appropriate to assess the impact of the development, as unlike the model used by the appellant, it can take account of flow and signal variations. However, the methodology employed by the appellant was agreed in the Scoping Report in 2016. There has clearly been some delay between this agreement and the submission of the application in 2018. During this time, it appears that modelling has improved, and the micro simulation model has become available. Whilst ongoing discussions between the appellant and the Council could have highlighted this earlier, I consider it would be unreasonable to criticise the submitted modelling on this basis.

⁴ Table 7.11 of the appellant's Transport Assessment

30. In order to illustrate comparable findings using the micro simulation model, the appellant refers to the TA work undertaken for the proposed Callowhill Court development to the south of the appeal site. This assessment led to earlier proposals for 1000 and 750 space car parks being ruled out based on congestion, a not dissimilar scale to the appeal proposal. The fact that this scheme was approved on the basis of a 500-space car park but then subsequently reduced to 300 spaces, does not, as suggested by the appellant, indicate a level of 'spare capacity' on the network. I understand that this reduction was a result of further modelling following the re-routing of traffic to reduce the environmental impact on a conservation area. The circumstances around the Callowhill Court scheme are different to that of the appeal scheme and therefore reliable comparisons cannot be drawn.
31. The appeal scheme would lead to an increase in turning traffic at the Marlborough Street/Dighton Street junction as patients and visitors access the proposed development. The TA indicates a 100% increase in right turning traffic at this junction in the am peak, the time when traffic is at its heaviest westbound. I note the proposed improvements to this junction to facilitate left turns for eastbound traffic into Dighton Street from Marlborough Road. However in light of the concerns raised above with regarding to queue lengths and junction capacity, and the potential for the modelling to underestimate capacity and the impact on the network, I am not satisfied that it has been shown that the increase in traffic at this junction would not cause adverse effects to traffic flows and congestion.
32. In light of the above, I am not persuaded that the TA is robust and that the proposal would not have an unacceptable impact on the highway network. Accordingly, I cannot be assured that the residual impact of the development on the traffic network would not be severe in the terms of paragraph 181 of the Framework. The proposal would also fail to comply with Policy BCS10 of the Central Area Plan which addresses the impact of development on the transport network to support growth.

Safe and suitable access

33. The appellant's Transport Assessment highlights that there have been 18 accidents in the vicinity of the hospital over the 5-year period from Jan 2013 to Dec 2017. Many of these involved cyclists. Whilst a busy and congested road is likely to have a high accident record, additional traffic and turning movements by both vehicles and cyclists, would have the potential to increase accidents.
34. The Stage 1 Road Safety Audit prepared by the appellant, confirms that there are no road safety issues raised by the proposed access to the proposal. That being said, I acknowledge the limitations of this Audit as it does not consider detailed design matters.
35. It is proposed that Eugene Street be stopped up as highway as once the appeal scheme has been implemented it would only serve to access the Transport Hub and provide servicing to the hospital. The submitted drawings, whilst being indicative show that access to the car park would be gained by a shared surface arrangement along Eugene Street. The appellant advised at the hearing that it was likely that different surfacing materials would denote pedestrian and vehicular areas, and raised table tops would indicate crossing points. Manual for Streets suggests that shared surface streets are best in

relatively calm traffic environments. It goes on to refer to research that such surfaces can cause problems for disabled people, the blind or partially sighted. In the context of this appeal, many of the users of the car park may be vulnerable and find a shared surface difficult to interpret. It is therefore essential that if a shared surface is to be provided it is very well designed. Based on the information before me at the appeal, I am unable to conclude that a safe and suitable access would be achieved.

36. The proposed bus stop and drop off layby, as well as the pedestrian footway would be sited to the southern edge of Eugene Street. The footway would be around 1.6 – 1.7 metres in width. This is below the minimum standard set out in Manual for Streets. The appellant suggested that as the matter of layout was not being applied for in the appeal, the siting of the building could be amended so that Eugene Street could be widened. I have no evidence to suggest that this would not provide an appropriate solution. As the matter of layout is not being applied for, this matter could be addressed by the imposition of an appropriate condition, setting out a minimum road width to be provided.
37. The main walking route to the hospital from the proposed car park would be along Montague Hill South and Marlborough Street. The scheme includes the widening of the footway on Montague Hill South, footpath refurbishment along Marlborough Street/Dighton street/Jamaica Street and improvement to the steps south of Montague Hill. These measures are to be supported.
38. However, due to the topography of the area, these footpaths, particularly Marlborough Hill South, have steep gradients. This makes access for those using a wheelchair, either motorised or self-propelled very difficult and in some cases impossible.
39. The appellant at the hearing, suggested that measures could be introduced to overcome these access difficulties, such as a porter support system. Whilst the details of such a scheme have not yet been determined, I am advised this could take the form of manual assistance to help wheelchair users to where they needed to go or the use of electric buggies. Such measures could be included in a car park management strategy and or travel plan. Acknowledging the topography and the lack of viable options to regrade footways or provide alternative pedestrian routes from the proposed car park, I consider that such measures would address the gradient issues and difficulties for disabled users.
40. In terms of the cycling provision, the hospital site is in proximity to the Bristol Cycle Network. The local road network around the hospital has a 20-mph speed limit and cycle stop lines are provided at all signalised junctions. Whilst the existing network already accommodates cyclists, I recognise that the proposed cycle centre would encourage further cycling. The Council has raised safety concerns with the increased numbers of cyclists turning particularly at the Dighton Street /Marlborough Road junction. The appellant has offered a financial contribution to fund further cycle infrastructure. No feasibility study has been undertaken and neither the Council nor the appellant has indicated what these measures could entail. Accordingly, I cannot be satisfied that the proposal provides a safe and suitable access for cyclists.
41. In summary, I consider that based on the submitted plans, it has not been demonstrated that the scheme would not have an adverse impact on highway

safety for all users. The proposal would therefore be contrary to paragraph 108 of the Framework, Policies BCS2, BCS10 and BCS21 of the Core Strategy and Policy BCAP30 of the Central Area Plan.

Travel planning and sustainable travel

42. The UHB estate is located in the city centre and is accessible by a range of travel modes other than the car, including walking, cycling, bus and train services. The proposed development with the provision of a 400-space cycle centre, bus drop off and car club space would in principle promote sustainable travel.
43. The appellant has prepared a Travel Plan to support the appeal scheme. This document updates the UHB Trust's 2013 Travel Plan. This earlier document included targets for different transport modes to be achieved after 5 years. The updated Travel Plan, however, looks at the progress that has been made since 2013 to reduce car usage and discusses a range of measures to continue this. It does not however set new targets. As drafted, I consider it to be inadequate. However, a revised more robust plan could be secured through the imposition of an appropriate planning condition should the appeal be allowed.
44. Policy DM33 of the SADMP requires development to provide, amongst other things, a parking management regime. It would be important for the proposed Transport Hub to be managed to ensure it is used as intended by hospital patients and visitors only for short stay parking. Restrictions on staff car parking and charging regimes should also be addressed. Such a detailed plan has not been provided by the appellant and thus the appeal scheme is in breach of Policy DM33.
45. However, bearing in mind the outline nature of the scheme, I consider that this issue could be addressed through a condition should the appeal succeed. The management of the proposed Transport Hub should be consistent with the management of other car parks on the UHB estate. An obligation to this effect is included in the submitted section 106 agreement.

Overall Conclusion on parking provision, highway safety and sustainable travel

46. I accept that there are existing parking difficulties at the hospital and that there is a need for additional parking close to the hospital for those with a medical need who would have difficulty using other means of transport. However, I am not satisfied that the level of car parking proposed in the appeal scheme has been justified. Accordingly, the scheme would encourage the use of the car, contrary to the sustainable travel objectives of national and local planning policies. I am also not satisfied that the submitted Transport Assessment is robust, that the residual cumulative impacts of the development on the surrounding road network would not be severe in the terms of the Framework or that the scheme would be acceptable in terms of highway safety. Whilst I have concluded that an appropriate travel plan and car park management scheme could be revised, this does not alter my overall conclusion on this issue.
47. Accordingly, the appeal scheme would conflict with section 9 of the Framework and Policies BCS10, BCS11, BCS13, BCS21 of the Core Strategy, Policy DM27 of the SADMP, and Policies BCAP29, BCAP30, BCAP34 and BCAP43 of the

Central Area Plan. These policies amongst other things aim to secure highway safety for all users, promote the use of transport modes other than the car and encourage sustainable development.

Air Quality

48. The appeal site lies within an Air Quality Management Area. This has been declared due to monitored exceedances in short- and long-term air quality objectives for nitrogen dioxide. The legal limit for nitrogen dioxide is set at 40 μgm^2 as an annual mean concentration. There are a number of existing receptors in the vicinity of the hospital where this limit is currently exceeded.
49. The Air Quality Assessment submitted by the appellant concludes that the development would result in a moderate impact on air quality. This assessment was revised for the appeal as updated monitoring results had become available. Whilst it showed some improvements at certain receptors, it indicated a substantial negative impact at the receptor by the Children's Hospital.
50. The appellant argues these findings represent a worst-case scenario, bearing in mind the position that the scheme would not generate new vehicular trips. As I have concluded above, I do not agree with this proposition.
51. I recognise that in general terms air quality is likely to improve as technology advances and the use of electric vehicles increases. I have also considered that air quality will change as a result of spatial variation, such as distance from the roadside, height, and the canyon effect of buildings.
52. I have been advised that in order to tackle the air quality problem in the city centre, Bristol City Council are proposing a Clean Air Zone, where non-compliant vehicles would be charged for entering the Zone and there would be a ban on diesel vehicles during certain times. This proposal is with Government for approval. The appellant has hypothesized that should the Zone be introduced; the air quality impact of the development would reduce to slight. However, whilst this may be the case, the scheme has not yet been approved and cannot be considered to be committed. Therefore, I give limited weight to this consideration.
53. The Framework in paragraph 181, states that planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants. On the basis of the findings above, the proposal would result in a worsening of air quality and would therefore not achieve this stated objective.
54. Policy DM33 seeks to ensure that development is accompanied by an appropriate scheme of mitigation and to resist potentially polluting development that cannot be satisfactorily mitigated. By way of mitigation, the appellant points to the range of green infrastructure proposed including public realm improvements, green walls and a landscaped roof. Current research⁵ suggests the impact of this on nitrogen dioxide emissions is likely to be insignificant.
55. The appellant also relies on the sustainable travel attributes of the scheme, such as the 400-space cycle centre, electric car charging points and other

⁵ Air Quality Research Group

travel plan measures to reduce the use of the car. However, these aspects are part of the proposal and not mitigation measures. They would have already been modelled in the transport assessment and would have a negligible impact on air quality.

56. In light of the above, I conclude that the measures proposed would not satisfactorily mitigate the identified air quality impact of the development. If the impact on air quality is not adequately mitigated, it would be more difficult for the Council to meet its legal obligations to achieve compliance with the Air Quality Standards Regulations 2016. The proposal would therefore fail to meet the requirements of Policies BCS21 and BCS23 of the Core Strategy and Policy DM33 of the SADMP, and the air quality objectives of the Framework. These policies seek to deliver a healthy built environment and address the potential impacts of developments on pollution.

Heritage Impacts

Designated heritage assets

57. Section 66 and 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 prescribes a duty upon a decision maker to give special attention and regard to the desirability of preserving or enhancing the character or appearance of a conservation area as well as the desirability of preserving the significance of a listed building or its setting. Whilst no statutory protection is afforded to the setting of Conservation Areas, paragraph 194 of the Framework confirms that the significance of a designated heritage asset can be harmed by development within its setting.
58. The Bristol Core Strategy was adopted in 2011 and therefore predates the Framework. Policy BCS22 concerns Conservation and the Historic Environment and is not consistent with the Framework in that it does not require any harm to a designated heritage asset to be weighed against the public benefits of the scheme. The main parties agree that in this regard, greater weight should be given to the Framework.

Listed Building at 2 Dighton Street

59. This Grade II listed building lies on the corner of Dighton Street and Marlborough Hill South. The building was originally constructed as a house in the late 18th century for Joseph Harford, a Quaker merchant. The listing states that the property was modelled on Clifton Hill House in Bristol, a Grade I listed building constructed in 1747 designed by Bristol architect Thomas Paty. It is believed that Paty also constructed No. 2. The building is of mid Georgian style extending to three storeys in height built of limestone ashlar with rendered gable chimney stacks and a slate mansard roof. The frontage of the building is divided into nine bays with the ground floor being rusticated. The significance of the building lies in its architectural and historic interest (aesthetic and historical values). Large scale modern development including the construction of flats immediately to the east of the listed building have made a negative impact on its setting.
60. The proposed demolition of the existing multi storey car park, would in my view have a slight positive impact on the setting of the listed building by increasing the space to appreciate its architecture. The existing Eugene Street flats, being of a modest scale, make a positive impact to the setting of the asset

especially when viewed looking north up Montague Hill South. The proposed Transport Hub however, being of 8 storeys in height (when seen from the south), would be a building of greater scale to the existing Eugene Street flats. Set on slightly higher ground, it would appear more dominant in the setting of the listed building. Additionally, the proposal would be visible above the roof line of the heritage asset. This would have a negative impact on its aesthetic value and thus significance.

61. In the SoCG, the main parties agree that the appeal scheme would result in a degree of harm to the setting of the Listed Building. In light of my assessment above, I consider this harm would be less than substantial.
62. In line with paragraph 196 of the Framework, this harm must be weighed against the public benefits of the scheme. I will undertake this heritage balance once I have considered the impact of the appeal proposal on other designated heritage assets.

Kingsdown Conservation Area

63. Kingsdown Conservation Area is located to the north of the appeal site. The Kingsdown Conservation Area Character Appraisal states that the unique character of the area is directly influenced by local topography and geology. The principle streets follow the contours of the steep slopes with Georgian terraces exploiting the landform to gain panorama and views of the city. Adding to the interest of the area is the quality of the distinctive Georgian buildings and the traditional townscape features. The significance of the conservation area results from its historical and aesthetic values and its role in the development of Bristol as the first planned residential suburb.
64. The Character Appraisal highlights key views, including long vistas from dwellings on Marlborough Hill Place and views over the city from Marlborough Hill and Montague Hill. The appellant has prepared a series of Accurate Visual Representations (AVR's) which I have taken into account along with my observations on site. Views from Marlborough Hill and Montague Hill are largely channelled by built development either side of the respective roads. A small part of the appeal proposal would be visible from the top of Marlborough Hill; however, this would be seen in the context of other buildings along the road. I consider that the proposal would have a negligible impact on this longer view.
65. Looking south from Marlborough Hill Place, a building of the scale proposed would be visible in views over the city. Whilst this would be in the backdrop of other modern and larger buildings in the centre of Bristol, I consider that the proposal would have a negative impact on these views, particularly at the more local level. The development would also be visible in local views from the foot of Montague Hill. It would be partially screened by existing vegetation and trees; however, this would be less effective in the winter months. I therefore consider the scheme would have a slight negative impact on the skyline.
66. Looking from Montague Hill South in a northerly direction, the existing Eugene Street flats and the trees beyond contribute positively to the setting of the conservation area. The proposed building, bearing in mind its scale relative to the more modest buildings in the surrounding area, together with the loss of trees, would cause harm to the character and appearance and significance of the conservation area.

67. Views from the conservation area to the south are important to its setting and contribute to its significance. Having regard to the extent of the impact of the development in relation to the conservation area as a whole, I consider this harm to be less than substantial.

Stokes Croft Conservation Area

68. Whilst not mentioned in the reason for refusal, the Council's evidence argues that the proposal would cause harm to the setting of the Stokes Croft Conservation Area. The appellant has addressed this in his evidence and therefore I give consideration to this matter in my decision.
69. The Stokes Croft Conservation Area Character Appraisal describes the area as having a vibrant local community and a spirit of diversity which gives it a more informal nature to the city centre and a unique sense of place. The area exhibits a mix of quality architecture with buildings from the 17th to the 19th century. The significance of the area results from its architectural diversity and informal character, though there is evidence of physical decline.
70. There are verdant views from Kings Square looking west along Dove Street South towards the appeal site. As with the Kingsdown Conservation Area, the Character Appraisal highlights certain key views. The view along Dove Street South is not one. Partial views of the upper storeys of the building are likely to be visible in the skyline. I have had regard to the nature of the townscape, the height and scale of existing residential and other commercial buildings and the screening offered by existing trees and boundary features. This leads me to conclude that the appeal scheme would have a negligible impact on the character, appearance and significance of the Stokes Croft Conservation Area through its setting.

Heritage balance

71. The Framework in paragraph 193 advises that great weight should be given to an asset's conservation. I have found that the appeal proposal would cause less than substantial harm to the setting of the listed building at 2 Dighton Street and to the character and appearance of the Kingsdown Conservation Area. In accordance with paragraph 196 of the Framework, this harm should be weighed against the public benefits of the proposal.
72. In this case, the provision of additional car parking for patients and visitors to the hospital, would be of benefit particularly to those with a medical need to park nearby. However, this benefit must be tempered by my finding that the level of car parking proposed has not been adequately justified and that this overprovision would encourage the use of the car contrary to sustainable travel objectives. Additionally, the use of the car park would be restricted through a car park management scheme. I therefore attribute moderate weight to this benefit.
73. The appellant views the provision of a 400-space cycle centre to be a further public benefit of the scheme. This is in the main for staff to use, thus its wider public benefit would be limited. The demolition of the existing multi storey car park forms an additional benefit of the proposal. However, the impact of this would be relatively modest and as such it attracts limited weight. The public realm improvements proposed are required to mitigate the impact of the

development and as such rather than being a benefit of the scheme, they form a neutral factor.

74. Overall, I consider that the combination of the above public benefits does not outweigh the harm to the designated heritage assets. The proposal therefore conflicts with the objectives of section 16 of the Framework, Policies BCS21 and BCS22 of the Core Strategy and Policies DM26, DM27, DM28, DM29 and DM31 of the SADMP which seek to achieve high quality design and conserve and enhance the historic environment.

Non-Designated Heritage Assets

75. Eugene Street flats form a non-designated heritage asset (NDHA). The Framework in paragraph 197 requires that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect such assets, a balanced judgment will be required having regard to the scale of harm or loss and the significance of the heritage asset.
76. The flats were built under the Housing Act of 1925 as social housing. Their construction involved the demolition of an area of slum housing. They consist of a range of single, 2 and 3 bed units. In recommending the three blocks of flats to be put on the Local List, the Panel referred to them as illustrating the exemplary nature of Bristol's social housing and their high-quality architectural detailing and materials. Their significance results from their social and communal value.
77. The appellant draws my attention to two court cases which consider the application of paragraph 197. The Bohm⁶ judgement advises that a balanced judgment is required taking account of the significance of the non-designated heritage asset and the scale of any harm or loss, and that such judgment should take account of the application as a whole, not just the scale of harm or loss.
78. There is dispute between the parties in terms of the heritage significance of the flats. The appellant considers they are of negligible significance whilst the Council refers to them as being landmark buildings and being of strong historic and aesthetic significance. The flats are only visible and experienced in the immediate vicinity. Whilst they make a positive contribution to the local character, I do not agree that they can be considered to be landmark buildings. The appellant has referred to another example of flats constructed as social housing following slum clearance on Hotwells Road in the city. These are also non designated assets which the appellant argues are of greater significance. While there may be other examples of social housing in Bristol, the decision for me in this appeal must relate to the significance of the assets in question.
79. The appeal scheme would result in the loss of the NDHA. Policy DM31 of the Bristol Local Plan SADMP 2014, states that where a proposal affects the significance of a heritage asset, including a locally designated heritage asset, a demonstration of the reasonable efforts made to sustain the existing use to mitigate the harm would be expected. It goes on to require the recording of a heritage asset in the circumstances of a partial or total loss.

⁶ Dorothy Bohm and others v London Borough of Camden [2017] EWHC 3217 (Admin)

80. In this case, for the proposal to be implemented, it is clearly not possible to sustain the existing use or mitigate the harm. In taking account of the application as a whole, the proposal would result in several benefits which I have already outlined above in the heritage balance. However, I have found that based on the evidence before me, it has not been demonstrated that the proposal would be acceptable in relation to highway and air quality considerations. In making a balanced judgement and having regard to the significance of the NDHA, its demolition and loss is not justified.
81. The appeal scheme would therefore conflict with paragraph 197 of the Framework and Policy DM31 of the SADMP 2014 which seek to conserve and enhance heritage assets.

Loss of Housing

82. The Eugene Street Flats provide 36 units of accommodation in three blocks. The Council is concerned about the loss of this family sized housing in a sustainable city centre location. I am advised that the flats were purchased by the appellant from the Council in 2008. The flats were then let to hospital staff, with the intention to redevelop the site for hospital uses sometime in the future.
83. Whilst not specifically referred to in the reason for refusal the Council in their Statement of Case expresses the view that the flats can be considered to form 'affordable housing' as defined in the glossary of the Framework. I have not been provided with any evidence about rent levels thus it is not possible to determine if the rents are set in accordance with the governments Social Rent or Affordable Rent policy. Nevertheless, the Hospital Trust is not a registered social provider and accordingly I do not consider that the flats can be viewed as meeting the affordable housing definition.
84. Policy BCS5 of the Core Strategy 2011 states that in order to maintain the net housing stock, existing homes will be retained unless they are unsuitable for residential uses, would be used for essential local community facilities or would be replaced. The flats are for the most part occupied and therefore are suitable for occupation, though I accept they need some minor refurbishment. The Local Plan does not define local community facilities. The provision of a car park for the hospital could in part be considered to form such a facility. However, as it is for staff cycles and its public use would have some restrictions, it would not meet this requirement. Additionally, the appellant does not propose to directly replace the flats once they are demolished, though I acknowledge that the Hospital Trust has contributed to the provision of city centre housing in recent years. Accordingly, the proposal would not comply with Policy BCS5.
85. A further consideration is Policy BCS2 of the Core Strategy which provides for the continuing consolidation and expansion of the hospital estate. Policy BCAP 11 of the Central Area Plan states that the Hospital Precinct will be developed for healthcare and ancillary uses associated with the UHB Trust. The policy encourages the development of new facilities or the redevelopment or renewal of existing facilities. It goes on to say that development that would impede the consolidation and expansion of the hospital facilities will not be permitted. There is therefore a conflict between the policy objective of retaining housing in Policy BCS5 and the development of facilities in the hospital complex, in line with Policy BCAP11.

86. It seems to me that the inclusion of the appeal site in the defined Hospital Precinct, as shown on the Policies Map, indicates that development of the appeal site should be considered against Policy BCAP11. It is notable that this policy seeks to prevent development that may impede expansion. If Core Strategy Policy BCS5 was the overriding policy, its strict application could cause a barrier to the expansion of the hospital facilities. I consider it most unlikely that this would be the policy objective of the local plan. Therefore, I conclude that the appeal proposal should be assessed against Policy BCS2 and Policy BCAP11.
87. Whilst the loss of housing would be a regrettable consequence of the scheme, the proposal within and supporting the facilities of the hospital, would comply with Core Strategy Policy BCS2 and Policy BCAP11 of the Central Area Plan.

Loss of trees

88. The appeal submission includes a Tree Survey report which assesses the quality of the trees on the appeal site. The report does not specifically identify trees to be retained, removed or replaced. However, the tree constraints plan suggests the removal of 10-12 trees of fair to good condition to facilitate the development. This was confirmed verbally at the hearing.
89. Whilst landscaping forms a reserved matter, the indicative plans identify areas of public realm improvement where replacement tree planting could take place. Based on the submitted evidence it is not possible for me to determine whether the appeal scheme would provide sufficient mitigation within the site to accord with the Council's Tree Replacement Strategy. Though I note that the Strategy does make provision for off-site replacements if necessary, through appropriate financial contributions secured through a section 106 agreement.
90. I acknowledge the Council's position having regard to the lack of information submitted. However, bearing in mind the outline nature of the scheme, I consider that this matter could be resolved through the submission of further details required by appropriate conditions and if necessary, an obligation to fund off site replacements in the section 106 agreement.
91. I therefore consider that the scheme would comply with Policy BCS9 of the Core Strategy, DM17 of the SADMP and Policy BCAP25 of the Central Area Plan 2015.

Planning Obligation

92. A draft planning obligation by way of an agreement made under section 106 of the Town and Country Planning Act 1990 (s106) between the appellant and the Council was submitted and discussed at the hearing. The obligation makes provision for a range of matters including highway works, CCTV upgrade, travel plan monitoring fee, Traffic Regulation Order fee, tree replacement contribution, car parking revenue and hospital car park restrictions.
93. The Framework confirms that planning obligations should only be sought to mitigate the effects of unacceptable development therefore making it acceptable. The Framework in paragraph 56 and CIL Regulation 122 (2) set out 3 'tests' for seeking planning obligations. They must be necessary to make the development acceptable in planning terms, be directly related to the development and fairly and reasonably related in scale and kind to the development.

94. The CIL Compliance Schedule prepared by the Council, concludes that the provisions of the section 106 agreement meet these tests. I have no reason to reach a different conclusion.

Conclusion

95. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

96. I acknowledge the objective of the appeal scheme to provide parking for those who need to park close to the hospital and to promote non car means of travel particularly through the proposed cycle centre and bus drop off facility.

97. Whilst I have concluded that matters such as the travel plan, car park management and trees could be resolved through the submission of further details, and the loss of housing is in principle acceptable, I have found that the proposal would result in several adverse impacts. In particular, the level of proposed car parking has not been adequately justified, encouraging the use of the car contrary to sustainable travel objectives. I am not satisfied that the traffic impacts of the proposal would not be severe, or that the proposal would not cause harm to highway safety. In this regard the appeal scheme would conflict with Policies BCS10, BCS11, BCS13, BCS21 of the Core Strategy, Policy DM27 of the SADMP, and Policies BCAP29, BCAP30, BCAP34 and BCAP43 of the Central Area Plan. Furthermore, the scheme would have an adverse impact on air quality with insufficient mitigation provided, contrary to Policies BCS21 and BCS23 of the Core Strategy and Policy DM33 of the SADMP. Finally, I have found that the scheme would cause harm to the significance of designated and non-designated heritage assets thereby failing to comply with Policies BCS21 and BCS22 of the Core Strategy and Policies DM26, DM27, DM28, DM29 and DM31 of the SADMP.

98. Accordingly, I conclude that the appeal proposal conflicts with the development plan and the Framework when considered as a whole. There are no other material considerations that suggest the decision should be taken otherwise than in accordance with the development plan.

99. Therefore, having regard to all other matters raised, I dismiss this appeal.

Helen Hockenfull

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY

| | |
|-----------------|--|
| Susannah Pettit | Senior Planning Officer, Bristol City Council |
| Steve Crawshaw | Sustainable City Team, Bristol City Council |
| Jane Woodhouse | Principal Transport Development Management Officer, Bristol City Council |
| Lawrence Fallon | Highways Officer, Bristol City Council |
| Peter Insole | Historic Environment Officer, Bristol City Council |

FOR THE APPELLANT:

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|---------------------|---|
| Julian Belitho | Director -Planning, White Young Green (WYG) |
| Nigel Mann | Director – Environmental Scientist WYG |
| Simon Roper-Presdee | Director for Built Heritage, WYG |
| Neil Wisher | Head of Transport South, WYG |

INTERESTED PERSONS

| | |
|---------------------|---|
| Andrew Kinnear | Community Campaign Against Kingsdown Car Park |
| Dr Sue Fahy | Community Campaign Against Kingsdown Car Park |
| Councillor Kye Dudd | Ward Councillor |
| Bob Harding | Resident |
| Chris Leeks | Resident speaking on behalf of Mr Collard |
| Hugh Adams | Resident |
| Hamilton Caswell | Traders of Christmas Steps Arts Quarter |
| Juliet Carmichael | Resident |
| Charles Stirling | Resident |

DOCUMENTS SUBMITTED AT THE EVENT

1. Draft Planning Obligation under Section 106 of the Town Country Planning Act 1990.

DOCUMENTS SUBMITTED AFTER THE EVENT

1. Signed and Dated Planning Obligation under Section 106 of the Town Country Planning Act 1990.