



Appeal Decision

Inquiry held on 23-25 March & 15 – 17 June 2010

Site visit made on 18 June 2010

by **Simon Rawle BA (Hons) Dip TP MRTPI**
Solicitor

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

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Decision date:
21 July 2010

Appeal Ref: APP/B1605/A/09/2115655

Cheltenham General Hospital, Sandford Road, Cheltenham, GL53 7AN

- 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 Vinci Park & Gloucestershire NHS Trust against the decision of Cheltenham Borough Council.
- The application Ref 08/01253/FUL, dated 22 August 2008, was refused by notice dated 30 April 2009.
- The development proposed is the construction of a 407 space multi-storey car park and associated engineering and landscaping works.

Procedural Matters

1. During the application process, the number of car parking spaces was reduced and I have amended the description of the development to reflect that fact. Originally, the Council were concerned about the flood risk implications of the proposal and the application was rejected on flood risk grounds. However, the appellant submitted a revised Flood Risk Assessment. On the basis of this information, the Environment Agency advised that the proposed development would neither increase flood risk elsewhere, nor put future users at an unacceptable risk of flooding. I have very carefully considered this matter and having taken account of all of the evidence I agree with that view and I have drafted my main issue on that basis.

Decision

2. I dismiss the appeal.

Main issue

3. I consider that the main issue in this case is whether the proposal would cause harm to the significance of any heritage asset and if it would, whether there would be any public benefits delivered by the proposal that would outweigh that harm.

Reasons

4. The development plan for the area includes the saved policies in the Gloucestershire Structure Plan – Second Review and within the Cheltenham Borough Local Plan – Second Review. During the course of the Inquiry, Planning Policy Statement 5: Planning for the Historic Environment (PPS 5) was published and I have taken this document into account in the determination of the appeal.
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5. The proposal would involve the construction of a multi storey car park which would provide 407 spaces. The appeal site is located within the Cheltenham Central Conservation Area. The Lido is located to the east and Sandford Park is located to the north-east of the appeal site.
6. Sandford Park and the Lido have been included on the Index of Buildings of Local Importance. Local Plan Policy BE11 seeks to ensure that the demolition or, harmful alteration of such a building will be resisted. There is no mention of the setting of such a building. The Council have prepared a Supplementary Planning Document which deals with the Index and does deal with the setting of indexed buildings. There was some debate at the first session of the Inquiry on how much significance should be given to the setting of a non-listed building. However, to a certain extent that debate was overtaken by events due to the publication of PPS 5.
7. PPS 5 sets out that those parts of the historic environment that have significance because of their historic archaeological, architectural or artistic interest are called heritage assets. Such assets are divided into designated and non-designated assets. The Government's overarching aim is that the historic environment and its heritage assets should be conserved and enjoyed for the quality of life they bring to this and future generations.
8. It is common ground that the Conservation area is a designated heritage asset and the Lido and Sandford Park are non designated heritage assets. PPS 5 sets out policy principles guiding the determination of applications for consent relating to heritage assets. Under Policy HE7 it is necessary to identify and assess the particular significance of any element of the historic environment.
9. The appeal site is located within the College Character Area of the Conservation Area. The Council have undertaken an appraisal of the area and have found that it contains a high number of listed buildings, which enhance the special historic and architectural qualities of the area. Furthermore, important open spaces make a significant contribution to the prevailing sense of space within the character area and the area contains important civic buildings including Cheltenham College, the Hospital and the Fire Station and these dominate the character area and are an important contrast to the strong residential character of the other character areas. I agree with that assessment. I also agree that the extensive car parking area at the front of the main hospital buildings has a negative impact on the setting of the hospital buildings and the overall character and appearance of the area and that the original hospital is surrounded by uncoordinated modern additional blocks and units, some of which are of a poor quality. In short I accept that much of the hospital site (including the appeal site) can fairly be described as a significant negative building/space. Thus the appeal site detracts from the character and appearance of the area but offers the potential for enhancement.
10. The Lido and Sandford Park are located within the St Luke's Character Area of the Conservation Area. Again the Council have undertaken an appraisal of the area which sets out that the special interest of the area derives from a number of key characteristics including the fact that Sandford Park covers a large area, providing a well used open green area for recreation and that the Lido provides a popular space for recreation. I agree that both Sandford Park and the Lido act as important leisure facilities for the community.

11. Whilst both the Lido and Sandford Park have significance, given the proximity of the appeal site to the Lido, I consider it appropriate to look at this site in more detail. I heard a considerable amount of evidence about this heritage asset at the Inquiry. I also took the opportunity to visit this facility during the site visit. The appellant considers that the significance of this asset has been exaggerated. I could not disagree more.
12. PPS 5 advises that in considering the impact of a proposal on any heritage asset, the particular nature of the significance of the asset and the value that it holds for this and future generations should be taken into account. In terms of significance, Annex 2 sets out that it is the value of a heritage asset to this and future generations because of its heritage interest and that interest may be archaeological, architectural, artistic or historic. A footnote directs the reader to the accompanying Historic Environment Planning Practice Guide and explains that it expands on how one can analyse the public's interest in heritage assets by sub-dividing it into aesthetic, evidential, historic and communal values. This Practice Guide and for that matter, English Heritage's Conservation Principles document are not policy, but I have found them useful tools to aid analysis.
13. The Lido is not listed and I agree that when one just looks at the individual buildings themselves the value of the site is not immediately apparent. However, when one considers the Lido in its entirety, it is an undoubtedly special place. It clearly has historical value and provides the perception of a link between past and present people. In aesthetic terms, the Lido is a particularly attractive place which can be described as a green, spacious oasis near the centre of the town. Whilst there are views of the hospital buildings, given the distance that these are located from the boundary with the Lido, their impact is not significant. Rather, when one looks towards the hospital, there is an attractive backdrop of vegetation beyond which there is a sense of openness.
14. It is clear that many people value the Lido for many reasons beyond its utility as a swimming pool and I have formed the view that this heritage asset has a substantial communal value and many of those who appeared at the Inquiry made it absolutely plain how much the Lido meant to them both individually and collectively. Overall I find that the Lido is a heritage asset of considerable significance which has a substantial value for this and future generations.
15. As pointed out in PPS 5, not all elements of a Conservation Area will necessarily contribute to its significance. Given my findings above, I have formed the clear view that the Lido does make a substantial contribution to the significance of the Conservation Area. Conversely, the appeal site and large parts of the hospital site do not. Given, the mixed character of this part of the Conservation Area, overall in the context of this case, the Conservation Area cannot be considered to be a designated heritage asset of the highest significance.
16. I turn now to consider the impact of the proposal. I have taken full account of the fact that the Council have formed the view that the principle of a multi-storey car park at the proposed scale, mass, bulk and height is acceptable. However, I do not agree with them. In relation to their concern about the use of timber louvres, I have to say that if in all other respects the proposal had been acceptable, I would not have had a particular concern about the use of such a material. Although under certain circumstances timber weathers

unevenly, having carefully considered all of the other examples brought to my attention, it would not result in such an unattractive appearance as to justify dismissal on this ground. However, for the reasons set out below, I have formed the view that the proposal would not be acceptable and thus it has not been necessary to spend a significant amount of time dealing with this matter in my reasoning.

17. I accept that the building height would be reduced at its northern end. Consequently, I consider that in character and appearance terms, the proposal would have an acceptable relationship with the existing properties located along Orrisdale Terrace and on balance with Sandford Park. However, in my judgement, an adequately sensitive approach has not been adopted next to the Lido.
18. The proposed east elevation would be set away from the common boundary with the Lido by only about 3 metres, it would have a height for the majority of this elevation of about 14 metres and would have a length of about 86 metres. Such a structure, whatever the material or façade treatment used, would appear oppressive and in design terms would appear unacceptably overbearing and over dominant when viewed from the Lido.
19. As outlined above, even taking account of the existing buildings on the neighbouring site, when one looks towards the hospital, there is an attractive backdrop of vegetation beyond which there is a sense of openness. The introduction of the proposed car park, so close to the common boundary and with its associated, bulk, mass, scale and height would diminish that sense of openness. Consequently, contrary to Local Plan Policy CP7, the proposal would not complement and respect neighbouring development but rather would harm the character of the locality. Although, existing vegetation, the offer of planting on the Lido site and the retention of trees along the boundary may help to soften the scheme to a certain extent, it would be insufficient to overcome the significant harm caused.
20. The existing backdrop and sense of openness beyond the boundary of the Lido forms an important part of its setting. The introduction of the proposed development which would loom large above the common boundary would have a dramatic and harmful impact on the way that users experience the Lido in its setting and would unacceptably diminish the surroundings in which this heritage asset is experienced.
21. In my view, given that the Lido forms an integral part of the Conservation Area and it makes a substantial contribution to its significance, harmful development which would have such an adverse impact on the Lido would also cause substantial harm to the Conservation Area itself. Clearly, the proposed development would neither preserve nor enhance the character or appearance of the Conservation Area. Further, the proposal would cause substantial harm to the significance of both a designated and a non-designated Heritage Asset.
22. Given that finding, it is now necessary to consider whether such loss of significance is necessary in order to deliver substantial public benefits that outweigh the harm.
23. I have very carefully considered the evidence of those who have argued that the public benefits of this proposal have been overstated or that parking could

be provided at off site car parks. However, I accept there are public benefits associated with this proposal and that it is entirely reasonable that any additional car parking should be provided in close proximity to the hospital. The introduction of traffic regulation orders (TROs), secured by a s106 Obligation and the introduction of formal arrangements to secure a travel plan also weigh in favour of the proposal. In short, the car parking situation at the hospital is far from ideal and I support the objective of resolving these existing parking problems by the provision of additional car parking and other measures. Furthermore, I do not have any issues with the amount of car parking spaces proposed. However, I do have a significant concern about the manner in which that additional provision of car parking would be provided.

24. Any very limited benefit associated with the screening of buildings on the hospital site would be entirely outweighed by the significant harm caused by this large and incongruous building being sited too close to the common boundary with the Lido. Although I accept that the appeal site detracts from the character and appearance of the area this proposal represents a design which would be inappropriate in its context and which would fail to take the opportunity available for improving the character and quality of the area. Consequently, the proposed development in its current form should not be accepted.
25. I have no hesitation in concluding that the public benefits associated with the provision of additional car parking on the hospital site does not justify the substantial harm caused both to the Conservation Area and to the Lido.
26. I therefore conclude that the proposal would cause substantial harm to both to the Cheltenham Central Conservation Area and to the Sandford Parks Lido. Moreover, the proposed development would neither preserve nor enhance the character or appearance of the Conservation Area. Although there would undoubtedly be public benefits associated with the proposed car park, such benefits are insufficient to outweigh the harm caused. Consequently, the proposal would conflict with the objectives of the relevant development plan and with the national planning advice contained within PPS 5.
27. I have taken account of all other matters raised and I have taken these into account in the determination of the appeal including the highway and traffic implications of the proposal. I have carefully considered the criticism of the appellant's Traffic Impact Assessment. However, having reviewed all of the evidence, I agree with the Highways Authority who did not object to the proposal on traffic impact or highway safety grounds subject to the imposition of appropriately worded conditions and the execution of a s106 Obligation to facilitate the TROs.
28. I have also taken account of the concerns expressed about the impact of the proposal on the living conditions of the residents of Orrisdale Terrace. As requested I visited No 8 Orrisdale Terrace and I observed that this property is the closest to the appeal site and has windows serving habitable windows that face towards the proposed development. Although the existing view would change, given the design treatment for this part of the proposal, it would not appear unacceptably overbearing or overdominant when viewed from Orrisdale Terrace. Similarly, any potential overlooking of properties along Orrisdale Terrace and of the Lido could be addressed by ensuring that the design of the

relevant façades (including the position of louvres) would minimise any potential views. Such treatment would also ensure that there would not be an unacceptable impact caused by car headlights.

29. I have considered the concerns expressed about noise and disturbance. I find that once operational, the car park would not cause such an impact as to justify dismissal and any noise, vibration and nuisance caused during construction could be sufficiently controlled by the imposition of appropriately worded conditions. Moreover, I agree with the Council and the appellant that in relation to the impact of car fumes, there would not be such a significant impact on air quality as to justify dismissing the appeal on that ground.
30. For the reasons given above I conclude that the appeal should be dismissed. However, I sincerely hope that this is not the end of the matter. I accept that resolving the current parking problems at the hospital should be a priority. For the reasons set out above, I have formed the view that this specific proposal would not be acceptable and the public benefits of providing more parking would not outweigh the substantial harm caused. However, that does not stop the appellant from re-visiting the whole question of how parking provision could be increased at the hospital.
31. As part of the site visit I visited the alternative car parking sites considered by the appellant in consultation with the Council and English Heritage. I accept that they are also in sensitive locations. However, I have been provided with insufficient information to form a definitive view on whether it would be more appropriate to accommodate additional car parking on these sites in comparison to the appeal site, or even whether such sites could be used in conjunction with the appeal site. Much would depend on the level of car parking proposed on each site and the specific design solution proposed. Certainly, without further information and a more detailed assessment I consider that it would be premature to rule out the use of these sites at this time. In this regard, I trust that all relevant parties will take the opportunity to work together in a collaborative manner in an attempt to address the parking issues at the hospital.

S.M Rawle

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Miss Sarah Clover of Counsel	Instructed by the Borough Solicitor and Monitoring Officer, Cheltenham Borough Council
She called	
Ruth Clare MSc	The Environment Agency
Licentiate Member RTPI	
Karen Radford BA	Cheltenham Borough Council
(Hons) Dip Arch. IHBC	
Paul Smith BA (Hons)	Consultant for Cheltenham Borough Council
BSc (Hons) Dip.	
DesBltEnvnt, MRTPI	

FOR THE APPELLANT:

Mr Peter Goatley of Counsel	Instructed by Beachcroft LLP Solicitors
He called	
Paul Brookes BSc,	Paul Brookes Architects
BArch, RIBA ACI Arb	
Paul Ellingham MA,	Alliance Planning Ltd
MRTPI	

FOR SANDFORD LIDO:

Miss Bridget Forster of Counsel	Instructed by Charles Russell LLP Solicitors
She called	
Nigel Morton, Solicitor	Chairman of the Trustees, Sandford Lido Ltd
Edmund Booth BA(Hons)	The Conservation Studio
Dip UD, MRTPI, IHBC,	
FSA	
Mark Baker BSc C Eng	MBC Traffic Engineers and Transport Planners
MICE FILT FCIT Eur Ing	

INTERESTED PERSONS:

Mr Cannon	Local Resident ¹
Cllr Garth Barnes	Ward Councillor
Cllr Lloyd Surgenor	Ward Councillor
Fiona Wild	Local Resident
Paul Holliday	Local Resident
Ross Graham	Local Resident
Cllr Klara Sudbury	County/Borough Councillor
Heather Pritchard	Local Resident
Kevin Anderson	Local Resident

¹ In the interests of convenience I have referred to the majority of those who gave evidence as local residents although I appreciate that some, especially those concerned about the impact on the Lido, may live some distance from the appeal site.

Malcolm Sheppard	Local Resident
Chris James	Local Resident
Iain Dobie	Local Resident
Mark Coote	Local Resident
Sylvia Fry	Local Resident
Jeremy Lake	Local Resident

DOCUMENTS SUBMITTED DURING THE INQUIRY

- 1 Letter of Notification of Inquiry and a list of those notified
- 2 Appellant's Appearances
- 3 Council's Appearances
- 4 Appellant's Opening Submissions
- 5 Council's Opening Submissions
- 6 Supplementary Information (including amended key views photographs)- Paul Brookes
- 7 E mail 17/1/2008 Godson to Ellingham
- 8 March Report on 08/01253/FUL
- 9 Photograph - New Green Wall Construction, East India Dock, London
- 10 Letter from Graham Marsh to neighbours dated 30 June 2008
- 11 Statement - Cllr Garth Barnes
- 12 Statement - Cllr Lloyd Surgenor
- 13 Statement - Heather Pritchard
- 14 Statement - Kevin Anderson
- 15 Statement - Ross Graham
- 16 Statement and Supporting documents - Malcolm Sheppard
- 17 Statement - Chris James
- 18 Statement - Mark Coote
- 19 Statement - Cllr Klara Sudbury
- 20 Statement - Jeremy Lake
- 21 Letter of Objection - Mrs Karen Szarowicz
- 22 Supplementary Proof of Evidence - Paul Brookes
- 23 Supplementary Proof of Evidence - Paul Ellingham
- 24 Supplementary Proof of Evidence - Karen Radford
- 25 Supplementary Proof of Evidence - Edmund Booth
- 26 Photo-montage with trees to be retained/removed indicated
- 27 List of Agreed Conditions
- 28 Extract from Circular 11/95
- 29 Conservation Principles Policies and Guidance
- 30 Copy of Executed Unilateral Undertaking
- 31 Amended Version of Appendix 4 of Mr Ellingham's Supplementary Proof of Evidence.
- 32 Committee Report - Extension to the Oncology Department
- 33 Extract Circular 1/2006
- 34 Evidence submitted in support of Questions put by Mr James
- 35 Evidence submitted in support of Questions put by Mr Sheppard
- 36 Plan Showing Part of Bus Service 99 - TPA
- 37 Document titled - Angles of Louvres
- 38 Decision and Extract of Report - 1 Brook Street Nottingham
- 39 Closing Submissions - Sandford Lido

- 40 Closing Submissions – The Council
- 41 Closing Submissions – The Appellant