

**CHERWELL DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING ACT 1990**

Appeals by Churchill Retirement Living against a failure by Cherwell District Council to determine two applications that sought consent for: 1) a site redevelopment to allow construction of 80 [now 78] retirement living apartments including communal facilities, access, car parking and access (21/04202/F); and 2) associated remedial works to the external elevations of Trelawn House following the demolition of the Buzz Bingo building (21/04179/LB) all at the former Buzz Bingo site, Bolton Road, Banbury OX16 5UL and neighbouring Trelawn House, 34 North Bar Street, Banbury, OX16 0TH

Appellant	:	Churchill Retirement Living
Appeal Site	:	Former Buzz Bingo site, Bolton Road, Banbury, OX16 0TH
Appellant's Agent	:	Planning Issues
LPA References	:	21/04202/F & 21/04179/LB
Planning Inspectorate Appeal References	:	APP/C3105/W/22/3296229 APP/C3105/W/22/3298661

PLANNING REBUTTAL PROOF

of

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1. PURPOSE AND SCOPE OF PROOF

- 1.1 In this rebuttal proof, in Section 2 I principally address the Planning Proof of Evidence prepared by Matthew Shellum of Planning Issues Ltd prepared on behalf of the Appellant, Churchill Retirement Living.
- 1.2 Insofar as matters relate to the planning balance, I also address in Section 3 the Design Proof of Rob Jackson, also of Planning Issues, and the Urban Design Proof of Dominic Scott of Barton Willmore (now Stantec) on behalf of the Appellant, Churchill Retirement Living.
- 1.3 In Section 4 and also in respect to planning balance matters, I address the Proof of evidence of Paul White of Ecus in respect to heritage matters.
- 1.4 For ease of reference, where I make comment on any aspect of the evidence presented, I use the paragraph reference numbers in Mr Shellum, Mr Jackson, Mr Scott and Mr White's evidence.

2. THE PLANNING PROOF OF EVIDENCE OF MATTHEW SHELLUM

- 4.4** The 2015 Local Plan policies listed at paragraph 4.4 do not totally accord with those specified in the Council's Planning Proof of evidence or the Statement of Common Ground (SoCG). The differences include reference to policies PSD1, BSC1, ESD10 and ESD17 in Mr Shellum's Proof and references to policies SLE1, SLE2, BCS10, BSC11, BSC12, ESD4, ESD5, ESD6, ESD7 and INF1 in my own Proof. The LPA has no objection to the appropriateness of references being made policies PSD1, BSC1, ESD10 and ESD17 and suggest for completeness that all the policy references made in both Mr Shellum's Proof and my own be added as an addendum to the SoCG.
- 4.9** I can confirm that as was explained at the Case Management Conference and has been reaffirmed in the agreed Planning SoCG, the original drainage concerns of Oxfordshire County Council as Lead Local Flood Authority have subsequently been overcome and the Local Planning Authority are no longer contesting its suggested second reason for refusal.
- 4.10** I can also reaffirm that as was explained at the Case Management Conference and within the agreed SoCG, the Local Planning Authority is no longer contesting its original fourth reason for refusal – viability and s.106 obligations.
- 5.10 & 6.3 – 6.6** Mr Shellum suggests that Policy BSC1 is out of date on the basis that: i) the District's housing requirement is not based on the Government's latest standard methodology for assessing housing need; and ii) because the Council cannot currently demonstrate a deliverable 5-year housing land supply. However, the current assessment of housing need across north Oxfordshire in Cherwell District is based on an Oxfordshire Growth Deal agreement that requires 100,000 new homes to be delivered across Oxfordshire, including in part within Cherwell District. It is acknowledged that based on this agreed current growth strategy for Oxfordshire, Cherwell District can only demonstrate a 3.5-year housing land supply. However, if the District Council were to adopt the Government's latest standard methodology for objectively assessing its own housing needs, as the Appellant's planning witness is suggesting and as is currently being considered as an option in the Council's latest Local Plan Review (Reg.18 due for publication in October/November 2022), then the housing land supply figure for Cherwell would be in excess of 7 years.
- 5.11** The Local Planning Authority welcomes the Appellant's support for its Policy BSC2 and we accept that Banbury and its town centre in particular are sustainable locations for accommodating development, hence its Policy Banbury 7 and 8 allocations for development on and around the appeal site. However, in order to make effective and efficient use of land and represent truly sustainable development, proposals should respect their heritage setting surroundings not harm them and should not be developed in a piecemeal fashion that could potentially prejudice the future development of adjoining land and could render future residents having to endure a poor standard of residential amenity.

5.12 The Local Planning Authority welcomes the Appellant's support for Policy BSC4 and its supporting paragraphs. However, the Appellant's development proposals, by virtue of its limited viability, is unable to provide the mix of homes envisaged and advocated by the policy. Similarly, the appeal proposals fail to provide any affordable housing, which renders the proposals non-compliant with that aspect of the policy and accompanying policy BSC3.

5.16 - 5.18 & 6.6 The Local Planning Authority notes that the Appellant has not sought to question the weight afforded to Policy ESD15, which we maintain accords fully with national legislative and planning policy guidance and therefore should be afforded full weight. The fact that the Appellant submitted a design and access statement, an urban form analysis document and heritage statement as part of its application submission is not disputed. However, a '*clear understanding of historic context and the built environment*' as claimed has not been demonstrated in the Local Planning Authority's opinion. The Appellant then and still now maintains that there would be no harm whatsoever to the neighbouring heritage assets of Grade II listed Trelawn House or Banbury's Conservation Area, which we maintain is clearly wrong and we would urge the Inspector to determine his own assessment of impact in this regard. By erroneously concluding that no harm to heritage assets would occur, the references made to NPPF Footnote 7 and the planning balance considerations have been improperly addressed. References are made to and support the policy requirements for developments to create or reinforce local distinctiveness and to respect traditional patterns of routes, spaces, blocks, enclosures and the form, scale and massing of buildings. However, the design, form, height and layout of what is now proposed for the appeal site appears similar in many respects to many of the Appellant's other developments, as advertised on its website.

5.21 & 6.11 The Appellant is correct that Policy Banbury 8 does not require a comprehensive redevelopment of the entire allocation site, although that is clearly its stated preference. The Appellant was advised at Pre-Application stage that a partial redevelopment would be acceptable given that the existing alignment of Bolton Road effectively split the whole allocation into two roughly equal development parcels. However, excluding the Tyre Depot site from the appeal proposals reduces the available site area to the west side of Bolton Road by about 15% and leaves an alien and incompatible industrial use immediately alongside the site's principal access and close to the main private residential amenity areas to the south side of the development. The proposals do not create the single integrated community and coherent development claimed.

5.26 The appeal proposals explicitly include works to a listed building – Trelawn House and saved 1996 Local Plan policy C18 is therefore relevant to these proposals. The aims and wording of the saved policy are entirely consistent with statutory listed building and national planning policy guidance and should therefore be afforded full weight, notwithstanding its age. I do, however, acknowledge that the policy itself relates to the determination of listed building applications, so ought properly to have been referenced in respect to the listed building application and appeal. The statutory, NPPF and PPG policy and guidance is nevertheless quite clear that development proposals regardless of

their application type need to preserve or enhance the character or appearance of heritage assets such as listed buildings and conservation areas.

- 6.7 - 6.9** The inference drawn by the Appellant's witness is erroneous. A Written Update report was presented by Officers to Committee Members at their Planning Committee meeting, and that report was published the day before the Committee meeting. The Committee meeting itself is available to be viewed as a podcast, so the Inspector would be able to see for himself what the views of Officers were, which were ultimately endorsed by Members. Officer's views expressed at the Committee meeting were consistent with those expressed to the Appellant at Pre-Application guidance stage.
- 6.10** The Local Planning Authority note the Tyre Depot lease of its site lasts until 2026 but the Local Plan allocation deals with development needs and proposals through to 2031. The Appellant has not sought to positively include the Tyre Depot within its proposals, nor has it designed its proposals with any particular reference to the unneighbourly nature of the industrial activities on that site in such proximity.
- 6.12** The fact that Cherwell District cannot currently demonstrate more than a 3.5-year housing land supply does not of itself render an abdication of good planning principles. On the one hand, the Appellant uses the Policy Banbury 8 allocation to support its development proposals but on the other hand, suggests that a reduced weight should be afforded to its references to comprehensive development. The Council is seeking to apply a balanced and comprehensive rather than a selective approach to its consideration of the proposals.
- 6.14 - 6.15** Clearly, the Appellant and Local Planning Authority have diametrically opposed opinions as to the likely impact that development would have upon the neighbouring heritage assets and the Inspector will have to reach his own conclusion on those impacts. However, by failing to acknowledge even any impact upon those heritage assets, the Appellant has failed to give a proper balanced consideration of the beneficial and harmful impacts of development, which we maintain the Council has properly considered.
- 6.16** The Council's evidence has correctly undertaken the weighted consideration of impacts, as advocated in the NPPF.
- 6.19 - 6.20** The scale of the three and particularly four-storey elements of the proposals are largely inconsistent with the character of the town centre surroundings. The three-storey development proposed along the North Bar Street frontage would dwarf the adjoining Trelawn House and the revised building lines proposed would not reflect either existing or historic street frontage development patterns. The proposed building designs are apparently consistent with other development proposals of Churchill Retirement Living, as referenced on its website, but are not particularly consistent with the heritage setting of this site in Banbury. Also, retaining the Tyre Depot alongside on its elevated Bolton Road site will maintain an unneighbourly activity immediately alongside the proposed residential units and that will not facilitate integration of uses or create a high-quality development or environment.

6.21 The argument advanced in this paragraph implies acceptance that the appeal proposals do not accord well Policy Banbury 8 or the SPD.

8.5 The claimed benefits listed in paragraph 8.5 should be qualified in the following respects: iii) The redevelopment proposals are only piecemeal; v) Its piecemeal nature does not assist in providing an efficient and effective use of land; vii) and viii) the claimed social and environmental benefits associated with removing the Buzz Bing building and providing some limited landscaped open space would be offset by the provision of a single use activity, at a scale inconsistent with its surroundings or heritage and the harm caused in particular to Trelawn House and the Conservation Area would substantially outweigh any modest social and environmental benefit, particularly bearing in mind that this scheme would not providing any affordable housing or any other form of community or transport infrastructure enhancement that would normally be expected; and ix) there is no particular evidence that the release of under occupied housing stock will be a particular benefit in the local housing market, as future residents could come from near and far.

3. THE DESIGN & URBAN DESIGN PROOFS OF ROB JACKSON & DOMINIC SCOTT

- 3.1 The design and urban design evidence of Messrs Jackson and Scott focus largely on the unsympathetic nature of the existing Buzz Bingo buildings and the form and height of neighbouring modern developments, with relatively little consideration afforded to heritage matters, which they have left to Mr White.
- 3.2 Their evidence suggests that the design approach resulted from a detailed analysis of the site and its surroundings and the creation of a bespoke design that reflects and complements those surroundings. However, the Council's pre-application guidance raised specific design concerns with respect to height, massing and harmful impacts on both Trelawn House and the Conservation Area and a failure to include the Tyre Depot site within the redevelopment site. Those concerns were reiterated throughout the application processing period by the planning case officer, but the Appellant chose not to engage in that respect or modify the design proposals.
- 3.3 Whether the proposed form and design is appropriate for the site is largely a matter of subjective judgement and individual taste, which the Inspector can reach his own conclusions on. However, by way of comparison with the proposals now being considered, I have taken some visual extracts from the Appellants own website of many of its other developments across the UK, which are attached as a separate Appendix to this Statement. It can be seen that the design approach advocated for this site in Banbury is similar in many respects to those other developments. That may be coincidental, but it does not suggest to me a particularly site-orientated approach to design.

4. THE HERITAGE EVIDENCE OF PAUL WHITE

2.2.6 - 2.2.8 The witnesses summary references to the Bramshill judgement are correct and they emphasise the balanced judgements that need to be made in instances where the setting of heritage assets can be affected by development proposals and the weight that should be afforded to harmful impacts.

4.1.5 No consideration has been given in this paragraph to the heritage impact of the development proposals upon the character and appearance of the adjacent conservation area when viewed from Castle Street once the Buzz Bingo buildings have been removed. Reference is directed solely to urban design considerations.

4.1.6 Some consideration has been made to the heritage setting of Trelawn House and this part of the Conservation Area in this paragraph, as the witness has highlighted the demarcation that would be created between the modern and historic built forms resulting from the taller building height proposed, which is reinforced by the natural sloping topography in North Bar Street. However, whilst some consideration is given to reduced heights relative to No.42 North Bar Street, the witness fails to address the impact of increased massing of three storey development on Trelawn House, which we maintain to be harmful, though Mr White considers to be neutral.

4.1.7 The witness fails to acknowledge in this paragraph that all the properties on the north side of Castle Street that directly face towards the proposed 4-storey development proposals are within Banbury's Conservation Area.

4.1.8 The support offered in the Banbury Vision and Masterplan SPD for 3 and 4-storey development relates to the whole of the Banbury 8 allocation site. The Appellant has chosen to interpret that guidance as permitting 3 and 4-storey development all along the redeveloped Castle Street and North Bar Street frontages rather than more limited landmark features. No heritage assessment has been undertaken within this element of Mr White's evidence.

4.1.9 Mr White correctly acknowledges that historic buildings in the locality are predominantly 2 and 3-storey. Whilst there is 3 and 4-storey modern development to the west, on the opposite side of North Bar Street, that does not '*consequently*' determine, as Mr White suggests, that from a heritage perspective any new redevelopment proposals alongside Trelawn House and the Conservation Area should all be 3 and 4-storey proportioned.

4.1.10 - 4.1.13 None of this evidence references any heritage considerations, it relates directly to urban design considerations instead.

4.1.14 - 4.1.15 Mr White's evidence emphasises the importance of creating space around Trelawn House and is presumably a reference to the open space to be created alongside the northern flank gable wall. However, no reference has been made to the lack of space that will exist between Trelawn House and the proposed development on its southern and eastern sides. The Local Planning Authority accept that the blank northern gable to Trelawn House was revealed for a period prior to development of Buzz Bingo. However, the northern and

southern flank walls to Trelawn House were only ever designed to be blank, with principal elevations to the front (and originally) to the rear also.

4.1.17 Retaining the existing passageway between the proposed development site and neighbouring No.42 North Bar Street is not a positive benefit of development. Its retention is simply a neutral impact.

4.1.18 - 4.1.22 These are design not heritage considerations and therefore are irrelevant to this evidence.

4.2.1 - 4.2.3 These paragraphs are headed as 'Impact upon the Identified Heritage Assets' but reference design rather than heritage considerations.

4.2.3 Whilst the Local Planning Authority acknowledges that the historical integrity and character of Trelawn House and this part of the Conservation Area was compromised by the Buzz Bingo development, replacing one uncomplimentary development with an even larger and similarly uncomplimentary development does not justify such a proposal.

4.2.4 Ensuring the long-term conservation of heritage assets is a statutory requirement and should not be considered a heritage benefit of the proposals. Revealing a blank northern flank elevation and creating narrow and virtually inaccessible gaps to the south and east sides would do little if anything to reveal the heritage asset of Trelawn House. Mr White has failed to give any substantive consideration to the massing impact of three storey development in such close proximity to Trelawn House on North Bar Street and Castle Street, so it is unsurprising that he concludes that 'no harm has been identified'.

4.2.6 - 4.2.8 Mr White's evidence in respect to Conservation Area impacts in these paragraphs is again focussed primarily on design rather than heritage considerations.

4.2.9 Redevelopment would be perceived directly from North Bar Street to the east, from Castle Street to the north and from Bolton Road to the south all from within the Conservation Area. Whilst the Conservation Area is extensive, with no inter-relationship with the appeal site, where it is viewed, the perception will be of considerable change.

4.2.10 Redevelopment does indeed represent an opportunity for regeneration, but this proposal does not take advantage of such opportunities and would replace one unsympathetic structure with another unsympathetic built form which the Local Planning Authority maintains would be even more harmful to its heritage setting and surroundings. Such impacts do not appear to have been addressed in Mr White's evidence, which concentrates more on urban design rather than heritage matters.