

Land to the West of Park Farm, Oldbury Lane, Thornbury

Note on Secretary of State Decision Regarding APP/H5390/V/21/3277137

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PINS Ref: APP/P0119/W/21/328 8019

LPA Ref: PT18/6450/O

1. Introduction

- 1.1 The following short note has been prepared for the appellant to draw the Inspector's attention to a recent decision from the Secretary of State for Levelling Up, Housing and Communities regarding a planning application at Edith Summerskill House, Clem Atlee Court, London, SW6 7TW for the following proposed development:
- 1.2 *'erection of a 20 storey tower (plus plant) with single storey basement and ground floor mezzanine, for residential use, ancillary community use at ground floor level, hard and soft landscaping, and associated works [20/01283/FUL]'*
- 1.3 The Secretary of State's Decision [Ref. APP/H5390/V/21/3277137] raises and addresses a number of issues which are considered relevant to the forthcoming Public Inquiry and so a copy is included here as **Appendix AC 1**.
- 1.4 However, this note is intended solely to draw the Inspector's attention to the way in which the Inspector for APP/H5390/V/21/3277137 identifies and assesses the harm which would be caused to designated heritage assets as a result of changes within their setting, and more specifically how they place that harm on the scale of less than substantial harm set out in Paragraph 202 of the National Planning Policy Framework.
- 1.5 The fact that the proposals would affect designated heritage assets solely in terms of changes to their setting (rather than directly in terms of their form and fabric), and that there are clear differences of opinion between experts regarding the identification and assessment of harm to those assets, clearly parallels the situation in respect of Land to the West of Park Farm, Oldbury Lane, Thornbury.
- 1.6 As a result, it is considered to be appropriate to submit the Secretary of State's Decision on this planning application so it can inform the evaluation of written and verbal evidence at the forthcoming Public Inquiry.

2. Summary of the Inspector's Conclusions on Heritage Matters

- 2.1 Paragraphs 12.45 to 12.54 of the Inspector's Report (IR) summarise their conclusions in respect of the harm that would be caused to designated heritage assets as a result of the proposed



development being implemented.

2.2 More specifically, these paragraphs set out the Inspector's calibration of where on the spectrum of 'less than substantial harm' (NPPF Para 202) the commonly agreed adverse impacts to the Grade II* listed Church of St. Thomas of Canterbury and the Central Fulham Conservation Area would sit.

2.3 In Paragraph 12.47 the Inspector sets out the positions of the different parties to the Inquiry as follows:

'The applicant and the Council agree that this harm would be at the lower end of the scale of less than substantial harm, whilst the analysis carried out on behalf of the Rule 6(6) party, in relation to these two designated heritage assets, puts it near the middle of that scale.'

2.4 In Paragraph 12.49, the Inspector identifies that *'the range for a finding of less than substantial harm is very wide indeed, from a harmful impact that is hardly material, to something just below that high bar [of substantial harm]'*.

2.5 This leads to the important observation in Paragraph 12.50 of the IR, when the Inspector identifies the approach to be taken to the assessment of where on this broad spectrum of less than substantial harm an individual impact is located:

'In cases where the impact is on the setting of a designated heritage asset, it is only the significance that asset derives from its setting that is affected. All the significance embodied in the asset itself would remain intact. In such a case, unless the asset concerned derives a major proportion of its significance from its setting, it is very difficult to see how an impact on its setting can advance a long way along the scale towards substantial harm to significance.'

2.6 Set within that context, the Inspector agrees with the applicant and the Council that the impact to the Grade II* listed Church of St. Thomas of Canterbury would be *'less than substantial, and very much at the lower end of the scale'* (IR 12.52) and the impact to the Central Fulham Conservation Area would be *'very minor indeed and even further towards the bottom of the scale of less than substantial harm that would be caused to the significance of the church'* (IR 12.53).

2.7 The Inspector then sums up on this matter in Paragraph 12.54, tying their assessment in with the approach set out in the Framework:

'It is often argued that such an approach leads to harm to the significance of a designated heritage asset being underestimated. However, what is under consideration is the impact of change on the significance of a designated heritage asset. If that change would come about as a result of development in the setting of that asset, then it is only the component of significance that the asset derives from its setting that would be affected. This is the outcome of the approach the Framework takes.'



2.8 The decision to grant planning permission in accordance with the Planning Inspector's recommendation was made by the Minister of State for Housing, Stuart Andrew MP, on behalf of the Secretary of State for Levelling Up, Housing and Communities and this is set out in Paragraphs 3 and 4 of the Decision Letter.

3. The Secretary of State's Decision on Heritage Matters

3.1 The Minister of State's consideration and assessment of the heritage issues identified by the Inspector is set out in Paragraphs 11 to 15 of the Decision Letter, with Paragraph 13 being of specific relevance to the above:

'For the reasons given at IR12.46-12.54, the Secretary of State agrees with the Inspector that the Church of St. Thomas of Canterbury does derive something of its significance from its setting, but the overwhelming proportion is locked into its form and fabric (IR12.51) and that the harm that would be caused to the setting and thereby the significance of the church would be less than substantial, and very much at the lower end of the scale (IR12.52). He further agrees that the harm that would be caused to the setting and thereby significance of the Central Fulham Conservation Area as a result of the proposal would be very minor indeed and even further toward the bottom of the scale of less than substantial harm than would be caused to the significance of the church (IR12.53). The Secretary of State attaches great weight to the harm to the Church of St. Thomas of Canterbury and the Central Fulham Conservation Area.'

3.2 In short, the Secretary of State clearly endorses the approach that the Inspector sets out for the identification and assessment of harm caused to designated heritage assets by the development proposals.

3.3 In other words, the Secretary of State agrees with the Inspector's reasoning that, where the majority of a heritage asset's significance is bound up in its physical form and fabric, the harm which would be caused to that asset by development proposals that affect only its wider setting (and leave that physical form and fabric unchanged) are likely to be towards the lower end of the spectrum of less than substantial harm as a consequence.

3.4 This has clear relevance for the discussion of heritage issues at the forthcoming Public Inquiry for Land to the West of Park Farm, Oldbury Lane, Thornbury because (1) any impacts to heritage assets will result from changes to their setting and not from changes to their physical form and fabric and (2) there is a pronounced difference of opinion between the parties' respective experts in terms of where the impacts from the appeal proposals would sit on the spectrum of less than substantial harm.

3.5 The Inspector's attention is therefore respectfully drawn to the Secretary of State's endorsement of the approach taken by the Planning Inspector in recommending the grant of planning permission for Planning Application Ref. 20/01283/FUL.